

**IN LIEU OF
DIRECTORS' MEETING
Monday, May 21, 2018**

I. DIRECTORS CORRESPONDENCE

II. CONSTITUENT CORRESPONDENCE

1. Homelessness - Ron Hindmann
Staff response provided by - Lin Quenzer, City Ombudsman and Jason Stille, LPD
2. Proposed MOU between the City and LPS, opposition - Jeannette Eileen Jones-Vazansky
3. Proposed JPA, opposition - S Wayne Smith
4. Proposed JPA, opposition - Dean O'Bryan
5. Proposed JPA, opposition - Richard Evans
6. Open Harvest - Isaiah Krutak
7. Proposed JPA, opposition - Dennis Wertz
8. Proposed SRO's - Doug Marthaler
9. Staff response to Mr. Vanous cardboard for trash vs recycling provided by Donna Garden, Assistant Director
Public Works & Utilities

III. MEETINGS/INVITATIONS

See invitation list.

IV. ADJOURNMENT

Angela M. Birkett

From: Lin Quenzer
Sent: Monday, May 14, 2018 1:45 PM
To: Jane Raybould; 'rhindmand@hotmail.com'
Cc: Cyndi Lamm; Jon Camp; Carl B. Eskridge; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe; Jeffrey Bliemeister
Subject: RE: InterLinc - Contact

Dear Mr. Hindmand:

Thank you for contacting the City with your concerns about the homeless in downtown Lincoln. Homeless people face repeated victimization on the streets from other homeless, predators and the snipes and jibes of often inebriated bar patrons. Additionally, they face critical health risks posed by exposure to the elements, used needles and human waste. These issues pose health risks that put the rest of the community in danger as well. The Lincoln/Lancaster County Health Department has to be called out to deal with biohazards in some of these instances in order mitigate negative public health vectors. To address these real problems, the City is proactively engaged in assisting people who are homeless and living on our streets. To that end, the City has partnered with CenterPointe and the Downtown Lincoln Association (DLA) to create a multi-faceted approach to help get the homeless off the downtown streets.

After much research into viable approaches to reduce the numbers of homeless individuals, the City and community helping organizations have been assured that a "housing-first" approach is the most effective tack to take. CenterPoint and DLA have worked together to get federal grant funding for a full-time (FTE) street outreach coordinator that has been matched by the DLA to provide and additional one-half FTE street outreach staff to build rapport and establish relationships with the homeless. Through the outreach coordinators' evaluations, homeless individuals are referred to community resources with a focus on finding housing first with underlying issues to be addressed after the people are stabilized in their own place.

The City participates in a Most Vulnerable Review Team (MVRT) that meets weekly to further the goals of getting homeless people housed. The MVRT is a community collaboration led by CenterPointe with LPD, the Veterans Administration, Mental Health Association, Matt Talbot Kitchen, The Bridge, Region V Services, UNL Center on Children, Families & the Law and Lancaster County Corrections. You might find this information useful on the work that is being done currently: http://journalstar.com/news/local/in-plan-to-end-homelessness-matt-talbot-will-find-pay/article_62533d61-5f16-5331-bab9-4d9f234e700a.html?utm_medium=social&utm_source=email&utm_campaign=user-share

We are optimistic that these efforts will help to end homelessness and not propagate it. Certainly, donations to any of these community partners would be welcomed as we all work together to maximize our limited resources to get and keep people housed and safe. Your concerns are appreciated and we are doing our best to address them. Let me know if you have other questions or concerns.

Sincerely,

Lin Quenzer

Ombudsman, LGBT Liaison
Title VI/ADA Co-Coordinator
Office of the Mayor
City of Lincoln, Nebraska 68508
402.441.7511



"All acts of kindness are lights in the war for Justice"
~Joy Harjo

From: Jane Raybould
Sent: Sunday, May 13, 2018 9:44 PM
To: Lin Quenzer
Subject: FW: InterLinc - Contact

Lin,

Who do you think Ron should contact about this? I would think the landlord of the property would like to know this. Hoping you would suggest one of the agencies that might initiate outreach.

Thank you.

Jane

From: WebForm [none@lincoln.ne.gov]
Sent: Sunday, May 13, 2018 2:09 PM
To: Cyndi Lamm; Jon Camp; Jane Raybould; Carl B. Eskridge; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe
Subject: InterLinc - Contact

City Council - Contact

Date : 5/13/2018 2:09:34 PM

name Ron Hindmand
address 128 North 13th Steet, Apt 408
city Lincoln
state NE
zip 68508
email rhindmand@hotmail.com

comments Hi, I grew up in Lincoln and graduated from the University of Nebraska, served 21 years as an Army Officer and spent the last 19 years on a contract with the US Army living and working in Saudi Arabia. I recently took up residence at University Towers in Lincoln. Just a question about the homeless situation in Lincoln you may be able to give me some background on. There are for the couple days or so three people (two men and a lady) camping below our windows on P Street between 13th and 14th Street. What is city policy about people camping on the streets? I recently gave a considerable amount of clothes and other items to the City Mission and found that to appear to be a great option for homeless. Would I be wasting my time talking to the police? I have visions of this situation growing worse. I would think no one likes this camping on their doorsteps.
Thank you,

Ron Hindmand

IP: 70.121.241.73

Form: <https://www.lincoln.ne.gov/city/council/contact.htm>

User Agent: Mozilla/5.0 (Macintosh; Intel Mac OS X 10_13_4) AppleWebKit/605.1.15 (KHTML, like Gecko) Version/11.1 Safari/605.1.15

Angela M. Birkett

From: Jason Stille
Sent: Monday, May 14, 2018 4:06 PM
To: rhindmand@hotmail.com
Cc: Jeffrey Bliemeister; Jane Raybould; Cyndi Lamm; Jon Camp; Carl B. Eskridge; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe; Lin Quenzer; Tonya L. Peters; Brian Jackson; Tom K. Casady; Jason Stille
Subject: Fw: Homelessness

Follow Up Flag: Follow up
Flag Status: Flagged

Mr. Hindmand,

Your recent email to the city council regarding homelessness found its way to me in order to provide some context on our policing response to this issue. I currently command the Lincoln Police Department's Center Team which oversees policing in the downtown area.

First off, I appreciate your lengthy service to our country and welcome you back to Lincoln. Thanks for reaching out to the council regarding homelessness in an attempt to understand all of the associated issues it presents.

Combatting homelessness is a community problem however one in which the police, unfortunately, takes a leading role. The police department actively tries to address safety issues created by the homeless population when there is a violation of law and without infringing on the Constitutional rights of that individual. Since January 2014, the Center Team has conducted 21 documented individual Problem Oriented Policing projects aimed at solving hotspot issues created by transients in the heart of our city. This team, which is responsible for the entire downtown area, continues to address these on-going issues through a variety of approaches which includes citation/arrest as well as through the involvement of other entities/resources designed to help homeless individuals with mental health and addiction issues.

Common citations that homeless individuals receive downtown are: consuming in public, urinating in public, littering, assault, aggressive panhandling, and obstructing a public way (sidewalk). These citations/arrests are, regrettably, somewhat commonplace. As such, we fundamentally believe that we can't arrest our way out of this issue alone so we work with a variety of entities such as The Bridge, Mental Health Association, Matt Talbot Kitchen and Outreach, CenterPointe, U.S. Department of Veteran's Affairs, and the Peoples City Mission (to mention only a few) and connect at-risk individuals with resources to get them off the streets. To stand by this ideology, we have members of the police department serving as board members for some of these organizations as well as volunteering in the community and participating in committees aimed at providing resources and /or outreach for the homeless population.

I believe that this multi-pronged approach is working. While officers are citing/arresting offenders for clear law violations when appropriate, far more often you will find the women and men of the Lincoln Police Department interacting with the homeless, recommending resources, and passing along information (that doesn't violate confidentiality) to street outreach workers working for CenterPointe and/or Downtown Lincoln Association. Within the last 2 years, both Matt Talbot Kitchen and Outreach and CenterPointe have kicked off

campaigns with a 'housing first' model of care focusing on providing the basic human necessity of housing in order to support additional wrap-around services tailored to that individual's root cause for being homeless. We were also able to declare an end to homelessness in the Lincoln veteran population for the first time. It certainly doesn't mean that there will never be another homeless veteran but it does mean that we have the capacity to rapidly re-house any veteran that is discovered homeless. Our goal is to attain that same level of capacity for the entire homeless population in Lincoln and we are making great strides toward that end.

http://journalstar.com/news/local/a-significant-drop-homelessness-in-lincoln-cut-in-half-since/article_2590e1e9-c8d1-521c-92b5-ded8366f6a2a.html

Now, with respect to your specific situation. I'm aware of the person(s) you speak of 'living' outside your building. One year ago, it was a different female who occupied this same space. (She was eventually housed due to our consistent collaboration with the above mentioned groups). I empathize with you and, if in your situation, wouldn't like to have someone lying on the sidewalk outside my home either. My officers are required to operate within the framework of laws currently provided (and in accordance with the guidance our legal advisor has recommended) and have written citations, or in certain circumstances, made arrests for blocking a sidewalk for those sleeping on it. In discussions with the city attorney's office, we have a framework for the elements that need to be present to write that citation with success (i.e. perpendicular to the building, creating an obvious impediment to others using the sidewalk, etc.).

Believe it or not, sleeping on the sidewalk is considered a 1st amendment issue. There is slim difference between a homeless person sitting, lying, or sleeping and the sit-in protestor exercising their freedom of speech rights. As such, we steer clear of walking too close to this line--often seen as a police effort to criminalize homelessness--and opt to impact the associated deviance when it presents itself such as consuming (alcohol) in public, littering, urinating, etc.

Lastly, to your question on whether it would be a waste of time talking to the police. In a word, no. We rely on the community voice to better coordinate our response to these issues. You make us aware of hotspots we may not know about or bring up a perspective we may not have considered. I always appreciate being contacted and given the opportunity to discuss issues that impact the residents on our team area. Homelessness was a problem when I started at the Lincoln Police Department and will be long after I retire....but it won't be because of lack of will or effort on the part of the police. We will continue to do the best we can in improving the quality of life for ALL residents and appreciate others, such as yourself, in partnering with us toward that goal.

Best,

-Jason

Captain Jason Stille
Center Team
Lincoln Police Department
1501 N. 27th
Lincoln, NE 68508
402-441-7751 (o)
jstille@lincoln.ne.gov

Angela M. Birkett

From: Ronnie Hindmand <rhindmand@hotmail.com>
Sent: Monday, May 14, 2018 4:22 PM
To: Jason Stille
Cc: Jeffrey Bliemeister; Jane Raybould; Cyndi Lamm; Jon Camp; Carl B. Eskridge; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe; Lin Quenzer; Tonya L. Peters; Brian Jackson; Tom K. Casady; Paula Clancy
Subject: Re: Homelessness

Follow Up Flag: Follow up
Flag Status: Completed

Jason,

Thank you for the very complete explanation and response to my questions on this situation. Having grown up in Lincoln prior to entering the military in 1975 I was unaware of any homeless issues downtown or pan handling on the streets. I now understand some of the extensive efforts to deal with the challenges on the streets; and I do realize causes of the problem are not simple to address.

I appreciate the time it took to give such a complete response and I thank you for your service in the police force. I think the Police and US military are part of the same service family.

Warm Regards,

Ron

From: Jason Stille <LPD1210@cjis.lincoln.ne.gov>
Sent: Monday, May 14, 2018 4:06 PM
To: rhindmand@hotmail.com
Cc: Jeffrey Bliemeister; Jane Raybould; Cyndi Lamm; Jon Camp; Carl B. Eskridge; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe; Lin Quenzer; Tonya L. Peters; Brian Jackson; Tom K. Casady; Jason Stille
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Best,

-Jason

Captain Jason Stille
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Angela M. Birkett

From: Jeannette Eileen Jones <drjeannette1970@gmail.com>
Sent: Monday, May 14, 2018 4:16 PM
To: Council Packet
Cc: NAACP
Subject: NAACP Statement on MOU for RSOs in LPS
Attachments: NAACP_Statement_Lincoln_City_Council_MOU_RSOs.pdf; Letter-from-Legal-Strategies-Collaborative-re-SROs.pdf

Dear Members of the City Council,

Thank you for allowing me to testify today at the public hearing on the Memorandum of Understanding between the City and LPS establishing how school resource officers and LPS staff should interact with LPS students in certain situations. Please find attached my written statement and a 2016 letter from the NAACP Legal Defense Fund, et al to Dr. John B. King, Jr. then Secretary of Education.

Best regards,

Jeannette Eileen Jones-Vazansky, PhD
President, Lincoln Branch NAACP



NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
LINCOLN BRANCH P.O. BOX 81322 LINCOLN, NEBRASKA 68501-1322
VOICE MAIL (402) 475-4700

May 14, 2018

Dear Members of the Lincoln City Council,

Please find below some comments on the MOU between the City and LPS establishing how school resource officers and LPS staff should interact with LPS students in certain situations.

Back in 2016, [Sherrilyn Ifill](#), President and Director-Counsel of the NAACP Legal Defense and Educational Fund (LDF) issued a statement welcoming “the Ed Department and DOJ guidelines, **to state and local governments that have or plan to create school-based law enforcement officer policies and practices**, but urged both departments to go further.” She remarked: “While the new guidelines state that any agreement between school districts and law enforcement agencies must comply with civil rights laws, they do not offer guidance to school resource officers on their federal legal obligation to carry out their duties in a nondiscriminatory and constitutional manner. This is critical information in the wake of stark racial disparities in school resource officers' use of excessive force against students of color.”

“In the past several years, news reports have revealed incidents of police excessive use of force against students of color in K-12 public schools across the country, including Baltimore, Maryland, San Antonio, Texas and Richland County, S.C. Additionally, national data released by the Ed Department’s Office for Civil Rights revealed that in 2013-2014, African-American students were 2.3 times as likely to receive a referral to law enforcement or subjected to a school-related arrest than white students.”

“We know that when police have a regular presence in schools, not only are students of color arrested at disproportionate rates, these arrests are often for minor infractions, such as disorderly conduct,” said [Monique Dixon](#), Deputy Director of Policy and Senior Counsel at LDF. “With highly-publicized incidents of police violence against communities of color in and out of the classroom, and increasing public distrust of law enforcement, school districts should investigate whether school resource officer programs do more harm than good, and consider eliminating them.” Education Secretary John King was right to state in his Dear Colleague letter about the new guidelines that states and local

governments can empower their schools, educators, and staff ***with the skills to avoid relying on school resource officers in the first instance,***” Dixon added.

“For years, LDF has urged the federal government to require law enforcement agencies to engage in certain data collection and training as a condition of receiving federal funds. We applaud the DOJ’s Community Oriented Policing Services (COPS) Office’s announcement that it will require law enforcement agencies that receive COPS funding to hire school police to comply with the SECURE Rubrics.” (See <http://www.naacpldf.org/press-release/federal-guidelines-police-schools-welcome-dont-go-far-enough>)

In addition, the NAACP Legal Defense Fund and Educational Fund, Inc., along with Center for Civil Rights Remedies, The Civil Rights Project at UCLA, JustChildren Program, Legal Aid Justice Center, American Civil Liberties Union, Texas Appleseed, Education Law Center, Advocates for Children of New York, Children’s Law Center, Inc., Southern Poverty Law Center, and National Center for Youth Law wrote a joint letter to Secretary of Education, Dr. John B. King, Jr. on September 19, 2016. (Please see attached.) Below, I have listed verbatim the 8 recommendations listed in the letter.

- 1. Prohibit the use of SROs to address non-violent student code of conduct violations and other non-law enforcement related matters, and prohibit the use of SROs to assist with classroom management, including, but not limited to, responding to disruptive students;**
- 2. Detail legal standards relating to stops, searches, arrests and the use of force by SROs;**
- 3. Require that school officials use alternative measures to resolve a situation before involving an SRO;**
- 4. Require local school districts use adequate hiring criteria for SROs, including prohibitions on the hiring or assignment of SROs that have a history of discriminatory conduct;**
- 5. Require adequate training for all SROs on de-escalation and on how to effectively engage with students, including those with disabilities and of color;**
- 6. Require local schools districts, their state partners, and law enforcement agencies to annually collect and publicly report use-of-force and other complaints regarding a SRO’s treatment of a student;**
- 7. Require local school districts and their state partners to collect and annually report for public release the number of SROs in each district, including actual enforcement officers and private security personnel, disaggregated by school level; and**

8. Require local school districts and their state partners to annually evaluate whether the presence of SROs is necessary to a legitimate educational goal, and if so, whether the goal can be satisfied by a reasonable alternative means.

If you have any questions or concerns, please do not hesitate to contact me.

Best regards,

Jeannette Eileen Jones-Vazansky
President, Lincoln Branch NAACP
drjeannette1970@gmail.com
402-417-5889 (cell)

September 19, 2016

Dr. John B. King, Jr.
Secretary
U.S. Department of Education
400 Maryland Ave., S.W.
Washington, D.C. 20202

Vanita Gupta
Principal Deputy Assistant Attorney General
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Request for Legal Guidance on Law Enforcement Activities in Public Schools

Dear Secretary King and Principal Deputy Assistant Attorney General Gupta:

On behalf of the Legal Strategies Collaborative (LSC) – a nationwide coalition of education advocates and litigators addressing discriminatory disciplinary policies and practices in public schools, we would like to thank you for releasing guidelines to state and local governments on how to responsibly include law enforcement officers, also known as school resource officers (SROs), in public educational environments. We appreciate the Safe School-based Enforcement through Collaboration, Understanding and Respect (SECURE) Rubrics that detail steps school districts should take to ensure that police in schools have a limited and defined role, and their activities comply with civil rights laws. While the guidelines represent a productive first step, we urge the Departments of Education and Justice (Ed Department and DOJ) to go further by releasing a Dear Colleague letter detailing SROs’ legal obligations under constitutional and civil rights laws.

The Ed Department and DOJ released a similar legal guidance in January 2014 which outlined, in great detail, public elementary and secondary schools’ obligation to administer student discipline in a nondiscriminatory manner under Titles IV and VI of the Civil Rights Act of 1964.¹ The guidance noted that both Departments could hold schools accountable for discriminatory conduct of SROs.² However, it did not detail SROs’ legal obligations under Title VI, other civil rights laws and the U.S. Constitution. Such a legal guidance is warranted for the reasons stated below.

I. Over-Reliance on School Resource Officers Has a Disproportionate Impact on Students of Color.

¹ See U.S. Department of Education and U.S. Department of Justice, Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, Jan. 8, 2014, <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.pdf>.

² *Id.* at 6.

The presence of police in schools disproportionately impacts students of color. As discussed below, these disparities raise serious concerns under civil rights laws, such as Title VI of the Civil Rights Act.³ Title VI prohibits discrimination on the basis of race, color, or national origin by any program that receives federal financial assistance.⁴ The Departments' effective enforcement of Title VI is critical to addressing issues of systemic discrimination, particularly in response to policies and practices that have a discriminatory impact based on race, color, or national origin.⁵

Nationwide, police presence in schools has become ubiquitous. Nearly a quarter of elementary schools and 42% of high schools have SROs.⁶ According to DOJ, 19,000 police officers are stationed in schools across the United States.⁷ Over three in four high schools and the vast majority of schools with 1,000 or more students have armed security staff.⁸ Schools where at least half of the students are of color, as well as high-poverty schools (meaning those where at least 75% of students are eligible for free or reduced-price lunch), are home to the highest percentages in the country of K-12 school law enforcement.⁹

Consequently, African-American students are 2.3 times as likely to receive a referral to law enforcement or be subject to a school-related arrest as white students.¹⁰

In the past several years, parents and education advocates have confronted and challenged SRO violence against students of color. Examples of such incidents include:

- In October 2015, a cell phone video captured a South Carolina SRO violently flipping a female student who was seated at a desk, despite the fact that she posed no threat to the officer or her fellow students.¹¹ After the assault, the student's

³ 42 U.S.C. §§ 2000d *et seq.*

⁴ 34 C.F.R. § 100.

⁵ See *Alexander v. Sandoval*, 532 U.S. 275, 289-90 (2001) (holding that only federal agencies have the authority to enforce Title VI's disparate impact provision).

⁶ Maya T. Miller and Walter Jean-Jacques, *Is School Policing Racially Discriminatory?*, The Century Foundation, June 14, 2016, <https://tcf.org/content/commentary/school-policing-racially-discriminatory/>.

⁷ Mark Keierleber, *Why So Few School Cops Are Trained to Work with Kids*, THE ATLANTIC, Nov. 5, 2015, <http://www.theatlantic.com/education/archive/2015/11/why-do-most-school-cops-have-no-student-training-requirements/414286/>.

⁸ Melinda Anderson, *When Schooling Meets Policing*, THE ATLANTIC, Sept. 21, 2015, <http://www.theatlantic.com/education/archive/2015/09/when-schooling-meets-policing/406348/>.

⁹ *Id.*

¹⁰ *Id.* at 4.

¹¹ Sarah Aarthun and Holly Yan, *Student's Violent Arrest Caught on Video; Officer Under Investigation*, CNN, Oct. 27, 2015, <http://www.cnn.com/2015/10/26/us/south-carolina-spring-valley-high-school-student-video/>.

arm was placed in a cast and she reported neck and back injuries.¹² In April 2016, DOJ reached an agreement with Richland County requiring the Sheriff's Department to provide intensive annual training for officers working in schools.¹³

- A video from November 2015 documented a SRO in Florida grabbing a 13-year old African-American youth, slamming him to the ground, and then twisting his arm for approximately 40 seconds, while the student writhed in pain.¹⁴ As police documents revealed, the student “never showed any aggression towards [the officer].”¹⁵
- In October 2015, a SRO in Oklahoma City, Oklahoma was charged with punching a student in the face after a dispute over a hall pass.¹⁶ A video of the incident captured the officer approaching the student at a drinking fountain.¹⁷ After the student walked away from the officer, the officer pursued the student and punched him multiple times.¹⁸
- In April 2016, the parents of three children filed a lawsuit alleging that a SRO in Abilene, Texas violently assaulted them on three separate occasions without justification.¹⁹ The SRO “used a ‘pain compliance’ maneuver called an arm-bar against a six-year-old kindergarten student, a chokehold against a twelve-year old student, and repeatedly slammed a fifteen-year old student against the wall and to the ground.”²⁰

¹² Craig Melvin and Erik Ortiz, *South Carolina Deputy Ben Fields Fired After Body Slamming Student*, NBC News, Oct. 28, 2015, <http://www.nbcnews.com/news/us-news/south-carolina-deputy-ben-fields-fired-job-sheriff-n452881>.

¹³ Similarly, in 2013, DOJ entered into a consent decree with the Meridian Municipal Separate School District limiting the use of SROs in the District and requiring appropriate training. See Consent Decree, *Barnhart, et al. v. Meridian Municipal Separate School District, et al.*, No. 4:65-cv-1300 (S.D. Miss. Mar. 22, 2013), available at <http://www.naacpldf.org/document/barnhardt-and-us-v-meridian-joint-consent-order>.

¹⁴ Tobias Salinger, *Video Shows Florida Police School Resource Officer Slamming 13-Year-Old Boy to the Ground, Twisting His Arm*, N.Y. DAILY NEWS, Nov. 11, 2015, <http://www.nydailynews.com/news/crime/video-shows-florida-officer-slamming-boy-13-ground-article-1.2430410>.

¹⁵ *Id.*

¹⁶ Alfred NG, *Oklahoma City School Resource Officer Charged After Punching Student Over Hall Pass*, N.Y. DAILY NEWS, Oct. 29, 2015, <http://www.nydailynews.com/news/crime/okc-school-resource-officer-charged-punching-student-article-1.2417075>.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Press Release, University of Texas School of Law, *Three Students File Lawsuit Alleging Excessive Use of Force by Abilene ISD School Resource Officer*, April 28, 2016, <https://law.utexas.edu/clinics/2016/04/28/lawsuit-force-against-schoolchildren/>.

²⁰ *Id.*

- In March 2016, three Baltimore SROs were placed on administrative leave after a video captured one of the officers slapping a young man three times – one slap loud enough to hear a pop – and then kicking him while yelling profanities.²¹ Baltimore Mayor Stephanie Rawlings-Blake stated that “[t]he behavior . . . is certainly something you never want to see. . . . Certainly not a school officer acting in this way, particularly with a young person.”²²
- A video from March 2015 captured a Louisville, KY SRO picking up a 13-year old by his neck and choking him until he went limp, after the youth playfully attempted to push the officer.²³ After the incident, the middle-schooler dropped to the ground, where he didn’t move for more than 20 seconds.²⁴ Another officer later testified that the officer’s actions were “consistent with strangulation.”²⁵
- In April 2016, a SRO in San Antonio, TX was fired after a video captured him body-slammng a sixth grade girl.²⁶ After he slammed the girl down, a loud crack was heard and the surrounding crowd grew silent.²⁷ After the incident, the officer attempted to justify his actions, but the video of the incident directly contradicted his report.²⁸
- In 2010, the Southern Poverty Law Center filed a lawsuit on behalf of eight high school students in Birmingham, Ala., all of whom had been pepper-sprayed by SROs.²⁹ In October 2015, a federal judge ruled that the officers had used excessive and unconstitutional force when they pepper-sprayed students for minor misbehavior at school.³⁰ The Court rejected the “eyebrow-raising position that

²¹ Ray Sanchez, *Baltimore School Officers on Leave Over Slapping Video*, CNN, Mar. 2, 2016, <http://www.cnn.com/2016/03/02/us/baltimore-slap-video/>.

²² *Id.*

²³ *LMPD Officer Chokes Teen Until His Body Goes ‘Limp’*, WDRB.com, Mar. 12, 2015, <http://www.wdrb.com/story/28405362/lmpd-officer-accused-of-assaulting-students-appears-in-court>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Lindsey Bever, *School Officer Fired After Video Showed Him Body-Slamming a 12-Year-Old Girl*, WASH. POST., April 12, 2016, <https://www.washingtonpost.com/news/education/wp/2016/04/11/school-officer-fired-after-video-showed-him-body-slamming-a-12-year-old-girl/>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ Emma Brown, *Judge: Police Can No Longer Pepper-Spray Students for Minor Misbehavior at School*, WASH. POST, Oct. 1, 2015, <https://www.washingtonpost.com/news/education/wp/2015/10/01/judge-police-can-no-longer-pepper-spray-students-for-minor-misbehavior-at-school/>.

³⁰ *Id.*

school children are less deserving of protection from harm at the hands of overzealous law enforcement officers than adults.”³¹

- Since 2011, there have been at least 84 incidents in which SROs tasered students, some of whom were as young as 12. Students were tasered for, among other things, “mouthing off to a police officer” and “trying to run from the principal’s office.”³²

Additionally, even when excessive force is not used, SROs have arrested and ticketed African-American and Latino students at disproportionate rates. For example, an analysis of police officers assigned to schools in McKinney, Texas found that officers ticketed African-American students at an extremely high and unequal rate.³³ Although African-American students account for only 13% of the population, they represent 39% of arrests by SROs in the district.³⁴ The disparities identified in McKinney have been documented in districts across the state.³⁵

Reliance on SROs compounds these disparities by ignoring the root causes of alleged student misconduct. Rather than identifying and developing the supports necessary to assist students with behavioral problems, SROs exacerbate these problems and significantly alter the role of education in students’ lives. SROs are more likely to interpret minor behavior such as interrupting class or being disrespectful to teachers as criminal behavior.³⁶ This results in unnecessary arrests that increase the likelihood that a child will end up in the juvenile-justice system, and later, prison.

II. Over-Reliance on School Resource Officers Has a Disproportionate Impact on Students with Disabilities.

Likewise, any guidance to SROs on their legal obligation to engage in nondiscriminatory law enforcement practices should include provisions regarding compliance with Title II of the Americans with Disabilities Act³⁷ (ADA) and Section 504 of the Rehabilitation Act.³⁸ The ADA

³¹ *Id.*

³² Rebecca Klein, *Set to Stun*, Huff. Post, Aug. 11, 2016, <http://data.huffingtonpost.com/2016/school-police/tasers>.

³³ Letter from Texas Appleseed and NAACP Legal Defense Fund, Inc. et al., to Dr. Rick Donald, Superintendent, McKinney Independent School District, Aug. 11, 2015, <http://www.naacpldf.org/press-release/school-police-mckinney-texas-arrest-and-ticket-african-american-students-excessive-and#McKinney-letter>.

³⁴ *Id.* at 2.

³⁵ See Texas Appleseed, TICKETING AND ARREST DATA UPDATE (2013), at 20, 22, 30, 67, 69, 106, 116, 118, 121, <https://www.texasappleseed.org/sites/default/files/156-STPP-TicketingandArrestDataUpdated-LOWRes.pdf>.

³⁶ Justice Policy Institute, EDUCATION UNDER ARREST: THE CASE AGAINST POLICE IN SCHOOLS (2011), at 13-14, http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf.

³⁷ 42 U.S.C. § 12131 *et seq.*

³⁸ 29 U.S.C. § 701 *et seq.*

provides that no “individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.”³⁹

Despite these protections, students with disabilities are more likely to be suspended, expelled, or arrested at school. Although they represent only 12% of the total student population nationwide, students with disabilities comprise a quarter of students arrested and referred to law enforcement; 75% of students who are physically restrained at school; and 58% of students placed in seclusion or involuntary confinement.⁴⁰ According to the Ed Department’s most recent data, students with disabilities served by the Individuals with Disabilities Education Act (IDEA)⁴¹ (11%) are more than twice as likely to receive one or more out-of-school suspensions as students without disabilities. These disparities persist despite the fact that the IDEA requires positive behavioral supports and prohibits discipline for behavior that is a product of a student’s disability.⁴²

The presence of SROs significantly increases the chances that students with disabilities will suffer illegal and discriminatory treatment. As the Department of Justice recently noted in a statement of interest it filed in support of two students with disabilities who were assaulted by a SRO, children with disabilities “risk experiencing lasting and severe consequences if SROs unnecessarily criminalize school-related misbehavior by taking a disproportionate law enforcement response to minor disciplinary infractions.”⁴³

At issue in that case was the conduct of a SRO in Kenton County, Kentucky who handcuffed two students, an eight-year-old and a nine-year old, on three separate occasions for conduct that was the result of the students’ disabilities.⁴⁴ At the time of the first incident, the nine-year-old weighed merely 56 pounds⁴⁵ and had been diagnosed with attention deficit hyperactivity disorder, which is recognized as a disability under the ADA.⁴⁶ After the student, as a result of her disability, failed to comply with an order from the principal to remain in the room, the officer handcuffed her.⁴⁷ In response to the incident, the student suffered a severe mental health crisis.⁴⁸ Three weeks later, the same officer handcuffed the student again after she ran away from the officer upon seeing him.⁴⁹

III. Recommendations

³⁹ 28 C.F.R. § 35.130; (b)(3)(i), (ii).

⁴⁰ Keierleber, *supra* note 7.

⁴¹ 20 U.S.C. § 1400 *et seq.*

⁴² 20 U.S.C. § 1414(d)(3)(B)(i); 34 CFR § 300.530(f).

⁴³ Statement of Interest, *S.R., et al., v. Kenton County, et al.*, No. 2:15-CV-143, (E.D. Ky. 2015), *available at* <https://www.justice.gov/opa/file/780346/download>.

⁴⁴ *Id.* at 7-8.

⁴⁵ *Id.* at 8.

⁴⁶ *Id.*

⁴⁷ *Id.* at 9-10.

⁴⁸ *Id.* at 10.

⁴⁹ *Id.*

Sadly, the excessive use of force and discriminatory policing practices by SROs is not surprising given that only 12 states require school police to receive training before placement in schools.⁵⁰ Furthermore, the training that officers receive is frequently inconsistent or inadequate.⁵¹ Some states require SROs to receive training to deal with a situation in which there is an active shooter; fewer require training related to the special needs of children.⁵²

Compounding matters, publicly available data on the use of SROs and their effect on students is limited. Often, schools and districts fail to accurately report data on school based arrests and referrals to law enforcement to the public, as the Ed Department and the Every Student Succeeds Act (ESSA)⁵³ require.⁵⁴

While the SECURE Rubrics recently issued by the Ed Department and DOJ provide guidelines for implicit-bias and use-of-force training, these guidelines alone will not protect students from abusive police practices. School districts and SROs could benefit from legal guidance detailing their obligation to comply with civil rights laws and constitutional laws relating to stops, searches, arrests and the use of force in school settings.

For the reasons above, we strongly urge you to issue comprehensive legal guidance to state and local governments that utilize school police. Each of the recommendations below would significantly reduce the discriminatory impact of SROs on students of color and students with disabilities. The guidance should, at a minimum:

- 1. Prohibit the use of SROs to address non-violent student code of conduct violations and other non-law enforcement related matters, and prohibit the use of SROs to assist with classroom management, including, but not limited to, responding to disruptive students;**
- 2. Detail legal standards relating to stops, searches, arrests and the use of force by SROs;**
- 3. Require that school officials use alternative measures to resolve a situation before involving an SRO;**
- 4. Require local school districts use adequate hiring criteria for SROs, including prohibitions on the hiring or assignment of SROs that have a history of discriminatory conduct;**
- 5. Require adequate training for all SROs on de-escalation and on how to effectively engage with students, including those with disabilities and of color;**

⁵⁰ Keierleber, *supra* note 7.

⁵¹ *Id.*

⁵² *Id.*

⁵³ 20 U.S.C. § 6301 *et seq.*

⁵⁴ See e.g. Allison Ross and Matthew Glowicki, *JCPS' 117 Student Arrests Only Part of the Story*, LOUISVILLE COURIER-JOURNAL, Sept. 3, 2016 available at <http://www.courier-journal.com/story/news/education/2016/09/03/jcps-117-student-arrests-only-part-story/87998298/>.

- 6. Require local schools districts, their state partners, and law enforcement agencies to annually collect and publicly report use-of-force and other complaints regarding a SRO's treatment of a student;**
- 7. Require local school districts and their state partners to collect and annually report for public release the number of SROs in each district, including actual enforcement officers and private security personnel, disaggregated by school level; and**
- 8. Require local school districts and their state partners to annually evaluate whether the presence of SROs is necessary to a legitimate educational goal, and if so, whether the goal can be satisfied by a reasonable alternative means.**

Thank you for considering this request. We welcome the opportunity to meet with you to discuss our concerns further. Please do not hesitate to contact Ajmel Quereshi (aquereshi@naacpldf.org) and Deborah Gordon Klehr (dklehr@elc-pa.org) with any questions.

Sincerely,

NAACP Legal Defense and Educational Fund, Inc.

Center for Civil Rights Remedies
The Civil Rights Project at UCLA

JustChildren Program, Legal Aid Justice Center

American Civil Liberties Union

Texas Appleseed

Education Law Center

Advocates for Children of New York

Children's Law Center, Inc.

Southern Poverty Law Center

National Center for Youth Law

CC: Catherine Lhamon
Assistant Secretary, Office for Civil Rights
U.S. Department of Education

Ronald Davis
Director, Community Oriented Policing Services
U.S. Department of Justice

Roy Austin
Deputy Assistant to the President for Urban Affairs
Domestic Policy Council

Angela M. Birkett

From: S Wayne Smith <swaynes1__windstream.net@grassroots.quorum.us>
Sent: Tuesday, May 15, 2018 9:27 AM
To: Jon Camp
Subject: Do better for Lincoln student, families, and residents.

Dear Official:

The safety of our children at school is a top priority for me. I support doing what is necessary to ensure it. But I do not think creating an two unaccountable government entities is the best way to provide safety programs.

I'm concerned that the Lincoln City Council and Lincoln Board of Education are considering creating a joint public agency to fund more school resource officers. This public agency would have the power to impose a property tax increase on Lincoln residents.

Nebraska – and Lincoln in particular — is paying some of the highest property taxes per capita in the country. Creating an unnecessary bureaucracy that has the power to raise taxes even more is the wrong approach.

I ask you to do better for Lincoln student, families, and residents.

Sincerely,

S Wayne Smith
6345 S 35th Ct
Lincoln, NE 68516

Angela M. Birkett

From: Dean O'Bryan <dean.obryan__gmail.com@grassroots.quorum.us>
Sent: Tuesday, May 15, 2018 9:42 AM
To: Jon Camp
Subject: Do better for Lincoln student, families, and residents.

Dear Official:

The safety of our children at school is a top priority for me. I support doing what is necessary to ensure it. But I do not think creating an two unaccountable government entities is the best way to provide safety programs.

I'm concerned that the Lincoln City Council and Lincoln Board of Education are considering creating a joint public agency to fund more school resource officers. This public agency would have the power to impose a property tax increase on Lincoln residents.

Nebraska – and Lincoln in particular — is paying some of the highest property taxes per capita in the country. Creating an unnecessary bureaucracy that has the power to raise taxes even more is the wrong approach.

I ask you to do better for Lincoln student, families, and residents.

Sincerely,

Dean O'Bryan
9232 Rockland Circle
Lincoln, NE 68526

Angela M. Birkett

From: Richard Evans <randcevans__hotmail.com@grassroots.quorum.us>
Sent: Tuesday, May 15, 2018 9:42 AM
To: Jon Camp
Subject: Do better for Lincoln student, families, and residents.

Dear Official:

The safety of our children at school is a top priority for me. I support doing what is necessary to ensure it. But I do not think creating an two unaccountable government entities is the best way to provide safety programs.

I'm concerned that the Lincoln City Council and Lincoln Board of Education are considering creating a joint public agency to fund more school resource officers. This public agency would have the power to impose a property tax increase on Lincoln residents.

Nebraska – and Lincoln in particular — is paying some of the highest property taxes per capita in the country. Creating an unnecessary bureaucracy that has the power to raise taxes even more is the wrong approach.

I ask you to do better for Lincoln student, families, and residents.

Sincerely,

Richard Evans
5932 S 82
Lincoln, NE 68516

Angela M. Birkett

From: WebForm <none@lincoln.ne.gov>
Sent: Wednesday, May 16, 2018 6:54 AM
To: Cyndi Lamm; Jon Camp; Jane Raybould; Carl B. Eskridge; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe
Subject: InterLinc - Contact

City Council - Contact

Date : 5/16/2018 6:54:22 AM

name Isaiah Krutak
address 632 N. 25th Street
city Lincoln
state NE
zip 68503
email ikrutak@huskers.unl.edu
comments To whom it should concern,

I'm appalled that Open Harvest did not get a liquor license, especially considering its location and clientele. If a Brewskie's can be right there, where I've seen people leave the premises intoxicated, to which I have called police, then surely someone, buying a beverage to take home to enjoy is acceptable. If this isn't evident, then there is a problem.

I have lost a lot of faith in what it is y'all are suppose to do. This has riled something inside me, because I can't stand for nonsense, so I will have more of a voice in the future.

Disappointingly,

Isaiah Krutak

IP: 76.84.223.78

Form: <https://www.lincoln.ne.gov/city/council/contact.htm>

User Agent: Mozilla/5.0 (Windows NT 10.0; Win64; x64; rv:60.0) Gecko/20100101 Firefox/60.0

Angela M. Birkett

From: WebForm <none@lincoln.ne.gov>
Sent: Wednesday, May 16, 2018 9:04 AM
To: Cyndi Lamm; Jon Camp; Jane Raybould; Carl B. Eskridge; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe
Subject: InterLinc - Contact

City Council - Contact

Date : 5/16/2018 9:04:22 AM

name Dennis Wertz

address 7208 Shirl Dr.

city Lincoln

state NE

zip 68516

email nebden1@hotmail.com

comments I would urge you to vote against the LPS JPA if it involves the spending of City Funds. LPS recently received a windfall of \$18 million when property values were increased and did not share any of the windfall with taxpayers. They also are receiving more state aid. Let LPS spend some of their new found wealth without involving City funds.

IP: 97.98.129.173

Form: <http://lincoln.ne.gov/city/council/contact.htm>

User Agent: Mozilla/5.0 (Windows NT 10.0; Win64; x64) AppleWebKit/537.36 (KHTML, like Gecko) Chrome/66.0.3359.139 Safari/537.36

Angela M. Birkett

From: WebForm <none@lincoln.ne.gov>
Sent: Wednesday, May 16, 2018 11:16 AM
To: Cyndi Lamm; Jon Camp; Jane Raybould; Leirion Gaylor Baird; Roy A. Christensen; Bennie R. Shobe
Subject: InterLinc - Contact

City Council - Contact

Date : 5/16/2018 11:15:46 AM

name Doug Marthaler

address 7500 Rutledge Avenue

city Lincoln

state NE

zip 68507

email dm50321@yahoo.com

comments I just want to comment on the proposed plans for school resource officers, etc. I have no objection to using public tax dollars for this purpose, but I think this should be applied equally to non-public schools. It seems to me this service and protection should be given to children at all schools, not just public schools. This goes beyond the right to a free public education and so if these police services which are beyond a free public education are to be given to schools using tax dollars, then those same services using tax dollars should be given to all elementary and high school grades in a manner similar to the public schools. But all we hear about is the public schools. I did hear on the radio recently that there is a LPD officer who is assigned to two parochial schools and visits a couple times a month. But whatever services are given to public schools should be given in equal measure to other private schools.

IP: 173.198.143.146

Form: <http://lincoln.ne.gov/city/council/contact.htm>

User Agent: Mozilla/5.0 (Windows NT 10.0; Win64; x64; rv:59.0) Gecko/20100101 Firefox/59.0

Angela M. Birkett

From: Donna K. Garden
Sent: Thursday, May 17, 2018 3:11 PM
To: 'Jim.Vanous@lincolnindustries.com'
Cc: 'Jon Camp'; Miki M. Esposito; Angela M. Birkett
Subject: Cardboard for Trash vs Recycling

Dear Mr. Vanous,

Thank you for your e-mail concerning cardboard recycling and the drop-off sites.

Your thoughts on what is recyclable cardboard are good ones. We have learned a great deal from our first month of experience with the ban and we continue to gather examples of what is and what is not recyclable. The picture you attached clearly shows cardboard contaminated with paint that would not be recyclable. Since this is a learning curve for all of us, we will share these pictures with the haulers in the community and in the meantime, if this should happen again, we encourage you to mark the contaminated cardboard and return it to the trash.

As for the cardboard on the ground at East High on Saturday, our staff was at the site at 11 AM and was able to place all cardboard into the containers. The collection service contractor arrived at the site to service the containers at approximately that same time. We apologize if there was any inconvenience to you.

Again, thank you for your comments and please feel free to let us know if you have other concerns.

Donna K. Garden
Assistant Director
Department of Public Works and Utilities
402.441.8605