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Complaint Filed with the U.S. Department of Justice Details Criminalization of Students in the Wake County Public School System

RALEIGH, N.C. – [A complaint](#) filed Wednesday, January 22 by Legal Aid of North Carolina’s Advocates for Children’s Services (ACS) and a coalition of local, state and national advocacy organizations alleges a pattern of discrimination and unlawful criminalization caused by school policing policies and practices in the Wake County Public School System (WCPSS).

“Law enforcement officers are routinely being used in WCPSS schools to address minor school discipline matters,” said Jennifer Story, an attorney for ACS. “This largely unregulated practice contributes to a particularly devastating school-to-prison pipeline because North Carolina is the only state that sends all 16- and 17-year-old students directly into the adult criminal system with no opportunity to return to the juvenile system, even for offenses as minor as throwing water balloons.”

The complaint was filed against the Wake County Sheriff’s Department, eight police departments in Wake County and the WCPSS, alleging violations under the U.S. Constitution, Titles IV and VI of the Civil Rights Act of 1964, Title II of the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. All eight students named in the Complaint are African-American and seven are students with disabilities (SWD). The complaint is one of the most comprehensive complaints ever filed about school policing and gets to the heart of a civil rights crisis impacting schools and communities across the country. It is being filed as a last resort after years of grievances, internal affairs complaints, meetings and other ignored pleas and unsuccessful advocacy measures.

As the number of law enforcement officers patrolling WCPSS schools on a full-time basis – called school resource officers or SROs – has increased, so too has the percentage of delinquency complaints in Wake County that are school-based. During 2012-13, 42 percent of all delinquency complaints were school-based.

Worse yet, students are routinely becoming court-involved for typical adolescent behavior, such as disorderly conduct. During 2011-12, 90 percent of the 763 school-based delinquency complaints to juvenile court were based on alleged misdemeanor offenses. Notably, neither the district nor local law enforcement agencies maintain or publish data regarding the number of students age 16 and older who are sent directly into the adult criminal system for minor school-

based misbehavior. Thus, the full extent of the harm being perpetrated against students is even greater than can be captured by available data.

Students who unnecessarily become court-involved for childish behavior at school often face tremendous negative collateral consequences, including stigmatization, increased risk of academic failure and school drop-out, mental health issues, eviction from public housing, deportation and difficulty finding employment. Even worse, they are more likely to re-offend and taxpayer money is wasted on prosecution and incarceration. The practice of unnecessarily filing school-based court referrals continues despite significant research indicating that limited resources are better spent on alternatives, such as community service, counseling, and restorative justice.

“They took everything from my son – his dignity, his trust in the school system, his trust in law enforcement and his chances of getting the music scholarship to college for which he has worked so hard for,” said the mother of an SWD named in the Complaint. “I had to sell my car, miss mortgage payments and almost lose everything to pay the attorney and court fees needed to defend my son from being unfairly criminalized. The WCPSS has invested its resources not in my son’s academic record, but instead in a criminal arrest record that will follow him for the rest of his life.”

The discriminatory impacts of current school policing policies and practices on African-American students and SWD in particular are staggering. Over the past five years, African-American students represented only about one-quarter of the total student population, but received as high as 74.4 percent of the school-based delinquency complaints. SWD also face harsher impacts of school policing as law enforcement officers, who are not trained to recognize and appropriately prevent and deescalate disability-related conduct, are deployed to manage the behaviors of these students through the use of excessive force and arrests.

While no data is formally kept regarding law enforcement practices in interrogating, searching, or using force against students, the Complainants’ stories shed light on the type of treatment that students routinely face, including being handcuffed after cutting in the lunch line or being assaulted and handcuffed after attempting to call a parent prior to being interrogated. Some particularly alarming incidents of excessive and unreasonable force in recent years include:

- One student, named in the Complaint, was pepper sprayed by an SRO as the SRO attempted to break up a fight at school. At the time he was sprayed, the student was already incapacitated as two other students held him on the ground and punched him. He experienced near blindness and burning pain for several hours after the incident. Other students in proximity of the incident also reported injuries related to the pepper spray being discharged in a crowded area.
- Another student Complainant with a severe disability was assaulted by an SRO while at least five school administrators – two of whom were aware of the appropriate special education interventions for the student – failed to intervene, even as the SRO pushed the student and then threw him over a railing.
- Another WCPSS student was physically attacked as he fled from a water balloon fight. A police officer grabbed the student, knocked him down, and then pushed his head into the concrete sidewalk at least twice. There was no allegation that the student was engaged in any unlawful behavior at the time he was attacked.

While not every law enforcement officer uses excessive force or arrests students for minor misbehavior, the lack of consistent policies and oversight in the WCPSS creates a culture in

which those SROs and security personnel who do violate students' rights and damage the learning environment can do so with little to no accountability. On January 8, U.S. Departments of Justice and Education jointly released new federal guidance and recommendations regarding school discipline, racial disparities and zero tolerance policies. The guidance stresses the importance of school policing programs being well-regulated and makes clear that school districts are responsible for the discriminatory actions of school-based law enforcement and security personnel. U.S. Attorney General Eric Holder aptly noted upon release of the guidance, "[a] routine school discipline infraction should land a student in a principal's office – *not* in a police precinct."

"What clearly emerged from our years of focused work with low-income families in Wake County, as well as the students' narratives and data we assembled for this Complaint, was the lack of clear, comprehensive policies detailing the roles, limitations, training requirements and accountability for security personnel, particularly SROs," said Jason Langberg, an attorney for ACS. "This Complaint and the recommendations from the Departments of Education and Justice come at a critical time when we're increasingly seeing counterproductive and destructive criminalization of students, particularly students of color and students with disabilities."

The following organizations join ACS as co-complainants: Advancement Project, American Civil Liberties Union Foundation, American Civil Liberties Union of North Carolina Legal Foundation, [Center for Civil Rights Remedies](#) of the [Civil Rights Project at UCLA](#), Coalition of Concerned Citizens for African-American Children, Dignity in Schools Campaign, Duke University School of Law's Children's Law Clinic, Education Justice Alliance, Justice Served, Inc., North Carolina Central University's Juvenile Law Clinic, North Carolina Heroes Emerging Among Teens (NC HEAT), North Carolina Justice Center, North Carolina State Conference of the NAACP, Raleigh-Apex Branch of the NAACP, University of North Carolina's Center for Civil Rights, University of North Carolina School of Law's Juvenile Justice Clinic, and Wendell-Wake County Branch of the NAACP. Additionally, Lawyers' Committee for Civil Rights Under Law, Southern Juvenile Defender Center and Southern Poverty Law Center are filing endorsement letters with DOJ.

To read the full Complaint, please visit www.legalaidnc.org/ACS

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Legal Aid of North Carolina is a statewide, nonprofit law firm that provides free legal services in civil matters to low-income people in order to ensure equal access to justice and remove legal barriers to economic opportunity. Advocates for Children's Services is a statewide project that works for education justice and to dismantle the school-to-prison pipeline through legal advocacy, community education, and collaboration. Learn more at www.legalaidnc.org and www.legalaidnc.org/acs