



SCHUBERT CENTER FOR CHILD STUDIES

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The Honorable Steven M. Dettelbach
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801 West Superior Avenue, Suite 400
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March 12, 2015

Dear Mr. Dettelbach:

Thank you for this opportunity to provide comment on the important issue of community police relations, particularly as it relates to children and young people. The Schubert Center for Child Studies at Case Western Reserve University (Schubert Center) bridges research, education, policy and practice for the well-being of children and adolescents. The fatal shooting of 12 year old Tamir Rice coupled with findings of the U.S. Department of Justice's Investigation of the Cleveland Division of Police (USDOJ Investigation) and the creation of the Ohio Task Force on Community Police Relations has stimulated collective reflection and requires an informed response. We submit this letter to bring attention to the unique concerns of children and young people in the context of police involvement.

The first two sections of this letter presents some of the background data and findings concerning youth encounters with the police and justice system, as well as a brief summary of the scientific literature regarding how children and young people are developmentally different from adults and as such present distinct challenges to law enforcement, as well as require appropriate protections. Policy change recommendations are presented in the third section, focusing on recruitment, training, core activities, tactical decision-making and strategies and oversight of our police and dispatchers, particularly in their interactions with young people, to advance community safety and well-being for all citizens.

I. Police Encounters with Children and Youth

While uniform data collection and reporting on children and youth encounters with police is limited, young people make up a significant portion of the population. In Ohio, there were 28,507 juvenile arrests in 2012.¹ Nationally there were 1.3 million arrests of children under the age of 18 in 2012; the vast majority of which were for property related offenses rather than violent crime.² The number of police-youth encounters are considerably greater than arrests alone. For instance, a recent report by the International Association of Chiefs of Police notes that nationally between 4 to 5 million youth ages 16-19 have face-to-face encounters with police each year, and these estimates do not include those children under 16 years of age.³ These estimates also do not include the millions of children who experience police encounters simply by attending their public school, due to the major increase in the

placement of school-based law enforcement officers in elementary, middle and high schools throughout Ohio and the nation.

Racial disproportionality in arrest rates and incarceration have been well documented.⁴ These patterns also exist for juveniles. Nationally, the 2012 arrest rate for black youth ages 10-17 was more double the rate for white youth.² Major arrest databases at the state, county and metropolitan area include data by race and by age separately, but not by race and age combined, preventing the tracking of juvenile racial disproportionality.^{1,5} Locally, of the 3,574 Cuyahoga County Juvenile Court dispositions (sentencing of delinquency and unruly adjudications) in the last reported year, 73 percent were Black youth and 24 percent were White youth.⁶ While the majority of Cuyahoga County juvenile dispositions involved youth 15 years or older, the total includes 81 Black and 23 White children 12 years and under.⁶ Disproportionate minority youth involvement with the criminal justice system contributes to minority adolescents' perceptions of the criminal justice system as unjust.⁷

Information regarding racial disparities in the use of police force, including police homicides, is hindered by a lack of standard collection of data regarding use of force locally and nationwide.⁸ The USDOJ Investigation provides a number of examples, however, demonstrating that the pattern of excessive force use within the Cleveland police department also extends to interactions with juveniles. One case example involves an officer punching a handcuffed 13 year-old boy "Harold" in the face and another incident involved the use of a Taser on a youth called "Ivan" when the two officers present could have controlled him using lesser force.⁹ As noted in the USDOJ Investigation, the cases described in the report "only comprise a small subset of the total number of incidents that we found problematic"⁹ and are indicative of broader patterns of force use.

II. How an Understanding of Child and Adolescent Development Informs Effective Policing

Principles of child and adolescent development provide critical insight on potential interactions between police and young people, especially in highly charged situations, and offer guidance on how to best interact, as well as defuse and de-escalate volatile or otherwise potentially dangerous situations. An assessment of the implications of recent advances in behavioral and neuroscience research presented in a 2013 report by the National Research Council emphasizes the importance of a developmental approach to justice system involved youth.¹⁰ Adolescents differ from adults at the neurological and psychosocial levels.¹¹⁻¹⁴ Adolescent brains are more prone to immediate pleasure/reward seeking and less capable of advanced self-regulation and impulse control, resulting in a greater amount of reckless behavior during this period.^{11,13} In other words, immaturity causes youth not only to underestimate the level of risk but also to downplay the threat of punishment that is oriented toward the future rather than the present. Intellectual and psychosocial deficits caused by developmental delays, mental illness, and drug dependency can also impair or skew rational calculations of risk and reward made by adolescents.

Adolescents are particularly susceptible to poor judgment in the presence of peers and under stressful conditions, both of which are common factors in police-youth encounters. Adolescents are socially and emotionally immature, and are more likely to respond to peer pressure.^{11,14}

The importance of adolescent development on law enforcement is highlighted in a March 2015 paper entitled “The Effects of Adolescent Development on Policing” released by the International Association of Chiefs of Police.³ It notes a number of characteristics of youth thinking and behavior that lead to greater risk-taking and dangerous behavior, such as feeling invulnerable, placing more value on the present than the future and easy distraction.³ The report provides key developmentally-informed strategies for law enforcement interactions with youth.³

The March 2015 report by the President’s Task Force on 21st Century Policing further expresses the necessity of a developmental approach to law enforcement’s interaction with juveniles.¹⁵ Recommendation 4.6 from the report states “Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.”¹⁵ This includes reducing the number of youth transferred into the adult system and zero tolerance policies that increase policing in schools.¹⁵ Recommendation 4.7 emphasizes the importance of prioritizing youth leadership: “Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.”¹⁵

III. Policy Recommendations to Improve Outcomes Between Police and Children/Young People

In addition to the recommendations put forth by the USDOJ Investigation letter regarding policies for use of force, crisis intervention training in working with the mentally ill, protocols for evaluating the use of force, and improved data collection and monitoring measures, we suggest policy changes in four areas directly impacting children and adolescents: (1) incorporate developmentally-informed law enforcement strategies; (2) adopt trauma-informed policing; (3) address implicit bias; and (4) reevaluate the role of police in the school setting.

(1) Incorporate Developmentally-Informed Policing

Training on child development is essential for law enforcement officers to understand the differences between children, youth, and adults and how to appropriately respond to young people. Ensuring that officers understand key features of normal adolescent development, such as impaired long-term decision-making and challenging authority as a natural feature of healthy development, is important for ensuring the best possible outcome from police-youth interactions. In order to do so, we recommend the following:

- (a) **Include at least one member with child development expertise on the Ohio Peace Officer Training Commission** in order to emphasize the importance of providing development training as a component of standard police training.
- (b) **Incorporate specific training on adolescent development into the standard police recruit training program and require all existing officers to receive training on adolescent development.** Several existing training curriculums address aspects of adolescent development relevant to police. The “Policing the Teen Brain” program developed by the Massachusetts Bay Transit Authority teaches officers about neuroscience, developmental differences, mental health differences, trauma, demographic and cultural factors, and juvenile law.¹⁶ A number of evaluations have found dramatic reductions in juvenile arrests and improved police understanding of adolescent behavior.¹⁶ The “Police Interactions with Youth” program targets disproportionate minority contact and police attitudes towards young people by training officers on development and equal treatment of minority youth.¹⁷ This program significantly improves police knowledge of youth development and attitudes towards youth.¹⁷ The goal is also to improve police tactical decision-making in the field during interactions with young people.
- (c) **Adopt model juvenile *Miranda* warnings and interviewing techniques as a matter of best practice.** A fundamental understanding of adolescent development is essential to give adequate *Miranda* warnings when questioning a child. A review of 122 juvenile *Miranda* warnings found that many warnings are beyond the cognitive capacity of most juveniles and that *Miranda* warnings should be tailored to a 4th grade or below reading level.¹⁸ The International Association of Chiefs of Police has produced a training key for giving *Miranda* warnings to a juvenile, recommending that officers read rights one at a time, have child repeat back the meaning in their own words, use specific suggested language at an appropriate reading level, and tape *Miranda* warnings.¹⁹ A developmentally-informed approach to interviewing has benefits for both law enforcement and youth, as appropriate interview procedures can ensure that statements will hold up as voluntary in court.¹⁹ Lessons from child victim interviewing on building rapport, open-ended questions, honesty and avoidance of influence can be applied to questioning juvenile suspects.¹⁹ The International Association of Chiefs of Police recommends that juvenile interview procedures include: (1) recording interviews from start to finish, (2) the presence of a friendly adult, such as a parent or guardian, in the interview, (3) avoiding leading questions, (4) avoiding any coercive statements, even subtle ones such as “Everything will be okay if you talk to me,” and (5) taking breaks after every hour.¹⁹
- (d) **Require parental notification prior to interviewing or placing a child in detention and consider policy changes limiting waiver of counsel for juveniles in custodial interviews.** A review of *Miranda* warnings found that a number of adolescents do not fully understand their legal rights, including the role of counsel during interrogations and the consequences of waiving their *Miranda* rights.¹⁸ Ohio

Rule of Juvenile Procedure Rule 3 provides guidelines and some limits on waiver of counsel by children²⁰; however, the Rule does not extend to the initial custodial interrogation and should be reviewed and revised to ensure adequate protections for children and adolescents in these circumstances.

- (e) **Adopt measures to ensure procedural justice, in combination with substantive due process protections, to strengthen the relationship between law enforcement, youth and the broader community.** Procedural justice is “the notion that people are more likely to comply with law and policy when they believe that the procedures utilized by decision-makers are fair, unbiased, and efficient.”²¹ We urge the Cleveland Division of Police, as well as the broader criminal justice system (prosecutors, judges, defense counsel, detention administrators, etc.) to promote a culture of law enforcement and community safety that emphasizes fairness and justice. Adolescence is marked by a heightened sensitivity to perceived unfairness, and teenagers are particularly prone to seeing the world in white and black terms. Furthermore, longitudinal research on high-risk adolescents demonstrates that a low proportion of youth offenders go on to be serious adult offenders.^{22,23} The goal of the juvenile justice system should be intervention to reintegrate offending youth into the community, rather than simply punishment.²²

Legal socialization, the process by which individuals acquire attitudes and beliefs about the law, legal authorities, and legal institutions, informs how children and adolescents learn cooperation with or resistance to legal authority.²⁴ Childhood legal socialization is directly tied to children’s evaluations of the law as fair or unfair, shaping their behavior through adulthood.²⁵ Ensuring more positive interactions with police can improve attitudes concerning legal cynicism and legitimacy, lead to more positive perceptions of police, and assist in gaining long-term trust of young people.

For instance, the USDOJ Investigation highlights an officer who exemplified this kind of positive community relationship building who “during a ride-along greeted many residents by name and stopped to speak with some of them. Children in the neighborhood called out to him and waved as he drove by.”⁹ While so important to his role and effectiveness as an officer, the officer noted that he got to know the neighborhood due to his own concern and interest rather than any direction from command staff or as part of his job requirement. Efforts to promote positive interactions with the community should be a core expectation of law enforcement and the broader justice community.

Ronald Davis, Director of the U.S. Department of Justice Office of Community Oriented Policing Services (COPS), noted recently at a National Initiative for Building Community Trust and Justice meeting in Columbus, Ohio: “Public safety is measured not simply by the absence of crime but also by the presence of fairness and justice.” Procedural justice requires community participation; giving a voice to those in the legal process; fairness, objectivity, and transparency in decision-making; dignity and respect for rights throughout the legal process; ensuring those involved

understand the process; and sincerity and good intentions from legal authorities.^{26,27} Procedural justice benefits both the community and law enforcement, as “people are more likely to police themselves if they believe that laws are fair, legitimate, and ought to be followed.”²¹ Youth should be an explicit focus to any procedural justice efforts.

The use of call in strategies also have the potential for teaching young people that they are valued by the community and have greater potential than engaging in criminal activity. These strategies, piloted in the Drug Market Intervention Strategy, High Point Intervention, and Operation Ceasefire^{28,29}, aim to dismantle criminal organizational structures by working with community leaders and family members to intervene with youth committing minor offenses, while still holding them accountable for their actions. These strategies help reframe both law enforcement’s understanding of high crime communities and community understanding of the role of law enforcement, enhancing the legitimacy of the criminal justice system. The Murrieta Youth Accountability Team intervention is a program similar to this call-in strategy targeted at juvenile offenders.³⁰

- (f) **Reframe police recruitment strategies to attract potential officers whose primary goal is public service**, with strong social, conflict resolution and communication skills and an interest in positive youth interactions and role modeling.

(2) *Adopt Trauma-Informed Policing*

In addition to employing a developmentally informed strategy for policing, we also suggest training on the impact of trauma during childhood and potential police interactions. Adverse childhood experiences (ACE) such as childhood abuse, neglect, witnessing domestic violence, poverty, and parental incarceration have lifelong health consequences, such as the increased risk of alcohol and substance abuse, depression, heart disease, sexually transmitted diseases, and unintended pregnancies.³¹ Minimizing child trauma during interactions with law enforcement should be a core goal of policies related to children and adolescents. With this goal, in addition to the above recommendation concerning police training on child and adolescent development, we recommend:

- (a) **Incorporate strategies to minimize child trauma during parental arrest.** Parental arrest is a key point for police interactions with children. Witnessing the arrest of a parent can be a traumatic experience. Positive impressions of police during this process enforce children’s trust and respect for law enforcement, while negative interactions with police can damage trust and cause trauma.³² 52% of state inmates and 63% of federal are parents of minor children.³³ The International Association of Chiefs of Police (IACP) and Strategies for Youth (SFY) have both produced model arrest protocols for minimizing trauma as well as example policy language.^{32,34} The model arrest protocols include having dispatchers ask if children are present, minimizing trauma by keeping handcuffing and questioning out of sight of children and ensuring children are placed with a safe caregiver following arrest.^{32,34}

The example policy language produced by IACP includes:

*“Whenever possible, the child should be diverted from official custody and be placed with a responsible caregiver. The primary goal of this policy is to minimize trauma experienced by the child who witnesses a parent’s arrest and the separation caused by the arrest while maintaining the integrity of the arrest and the safety of officers, suspects, and other involved individuals.”*³²

We recommend that the Cleveland Division of Police adopt similar language and policies in order to minimize children’s trauma during interactions with the police. SFY also provides information regarding child development informed reactions to parental arrest. We recommend that this information be incorporated into officer training on child development.

- (b) **Minimize the use of “Stop and Frisk” and unnecessary stops of adolescents.** A study recently published in the American Journal of Public Health which surveyed more than 1,200 men between the ages of 18 and 26, found higher rates of reports of stress, anxiety and trauma in those who experienced multiple or intrusive stop and frisk encounters with police than among young men who had fewer or no such interactions.³⁵ While not a specific focus of the USDOJ Investigation it nevertheless noted concerns regarding “stops, frisks, and full searches without the requisite level of suspicion.”⁹ Surveys of youth in high crime communities in New York City document high levels of repeated stops, use of force during stops and an association between stops and decreased likelihood of reporting a crime to the police.³⁶

In addition to trauma and related effects, adolescent experiences of being unfairly stopped by police or arrested may unintentionally increase future delinquency, as adolescents perceive that they are likely to be viewed as guilty.³⁷ While there are certainly circumstances that warrant adolescents being stopped by police, we recommend that they be limited to when officers have the appropriate level of reasonable suspicion of illegal activity. Furthermore, during these stops, officers should be attentive to how adolescent development may influence their behavior or understanding and aim to prevent escalations whenever possible.³⁶

- (c) **Educate officers on the experience of microaggressions and racism as trauma.** Public health researchers studying health disparities have conceptualized the lifelong experiences of racism and daily microaggressions as trauma having long-term health consequences. Microaggressions are “brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults toward people of color.”³⁸ Experiences of racism may result in elevated stress hormones causing long-term damage leading to a lifetime of negative health outcomes, such as increased risk for premature birth, obesity and early death.^{39,40} We recommend that officers receive appropriate training to better understand how life experiences of discrimination can

be trauma-inducing and unconsciously influence interactions in order to improve encounters with minority populations.

(3) Address Implicit Race Bias

Implicit bias is the unconscious and often unintentional “positive or negative mental attitude towards a person, thing, or group.”⁴¹ Importantly, everyone experiences implicit biases even where they may conflict with one’s expressed beliefs. Many argue that implicit biases persist and are powerful determinants of behavior precisely because people lack personal awareness of them and they can occur despite conscious non-prejudiced attitudes or intentions.⁴² While implicit biases of all kinds are common, police officers should be aware of how implicit biases concerning race can unconsciously influence their decision-making. For example, research shows that Black children are viewed as older and less innocent than White children, and this association is directly linked to racial disparities in policing.⁴³ Officers aware of this implicit bias and who receive training to counteract this bias may be more likely to engage in more appropriate tactics.

- (a) We recommend that all officers be provided with training on implicit bias and implicit bias reduction strategies.** The National Center for State Courts provides seven evidence-based strategies for reducing implicit bias in the courtroom.⁴⁴ many of which could be translated to police work. Other research supports additional bias reduction strategies such as, stereotype replacement, counter-stereotypic images, perspective taking and increasing opportunities for contact with a group to counteract implicit bias.⁴² We recommend that the Cleveland Division of Police require all recruits, patrol officers, and first line supervisors to undergo implicit bias training. The Fair and Impartial Policing (FIP) training program provides a number of law enforcement training options and a “Train the Trainer” program targeted at both patrol officers and first line supervisors.⁴⁵

(4) Reevaluate the Role of Police and Exclusionary Discipline Practices in the School Setting

By virtue of their status as a minor and public school student, certain segments of the population regularly encounter police in their school environment. Despite the fact that juvenile violent crime and the rate of nonfatal victimizations against students both at and away from school is at its lowest in the last two decades⁴⁶, schools across the country, and in Ohio, have seen an increase in law enforcement presence in schools in an effort to improve school safety. However, increased security measures, including guards, are associated with more incidences of school-based crime, even when controlling for other school factors, such as size, SES and location⁴⁷. Another study found that while the presence of school resource officers (SROs) is significantly associated with fewer incidents of serious school violence, school violence was significantly higher when security officers carried firearms⁴⁸.

There is some debate over whether the increased placement of law enforcement officers in schools fosters greater trust and understanding between children and authorities or leads to increased criminalization of student conduct and removal of children from school.⁴⁹ As

school officials and law enforcement work more directly together, the increasingly interdependent relationships between school officials and law enforcement authorities, coupled with the proliferation of zero tolerance policies in public schools, has led to the increased criminalization of youth behavior.⁴⁹ In addition to arrests and criminal charges, the use of out-of-school suspensions (OSS) for misbehavior better handled through in-school interventions has resulted in large numbers of young people being alienated from school. The vast majority of OSS are for non-violent conduct. For instance, in Ohio, the combined number of OSS in 2012-2013 for truancy (7,161) and "disobedient/disruptive behavior" (113,615) was greater than the total OSS for every other reason combined (fighting, weapons, drugs, alcohol, harassment/intimidation/bullying, etc.). This is particularly concerning given that students removed from school for disciplinary reasons are more likely to drop out or become involved in the juvenile justice system.^{50,51}

- (a) **Given the concerns raised and the high stakes for children and youth to be successful in school, we recommend a comprehensive review of the use and impact of police in our community's public schools and related discipline policies, including the Cleveland Metropolitan School District and throughout the state of Ohio, in order to make public recommendations for appropriate school-police policy and practice improvements.** Such a review should include a literature review, data collection and analysis of multi-year school-level discipline data including: number of school security and police officers, school-based arrests, referrals to juvenile court, charges for school-related behaviors, OSS and expulsions by category and student demographic data (age, gender, race, special education, etc.), as well as attendance, graduation and drop out data. The Council of State Governments released a comprehensive report on school-police partnerships that offers research and practice-informed strategies that should serve as guidelines this review.⁵² The review should be co-chaired by high level public leaders and conducted by a workgroup composed of diverse stakeholders, including school district administrators, school security and law enforcement, child and adolescent behavioral health professionals, student counselors, parents and students, community-based and afterschool providers, researchers and other community leaders, such as Family and Children First Council members, faith-based leadership, and academic institutions. The review should be completed within a reasonable time but no later than six to nine months, and include specific findings and recommendations for policy and practice improvements related to police presence, security and school safety.
- (b) **School districts which choose to have school-based police officers (whether municipal, school district or private security) should have a memorandum of understanding to clarify roles and expectations of law enforcement and the parameters of the school-police partnership.** The MOU should be developed in partnership with school and police leaders with input from teachers, parents, students and other stakeholder. At a minimum, the MOU should ensure that officers are not utilized to respond to minor misbehavior that can be appropriately addressed through

school discipline and should minimize arrests or formal referrals to the court when possible.⁵²

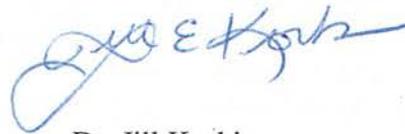
Together these recommendations will lead to a more informed and effective police force, particularly in its interactions with children and young people, that will better serve the public's shared interest in safe communities, fair administration of justice and positive community relationships. The Schubert Center for Child Studies is ready and willing to be helpful in whatever capacity we can to best advance this important work.

Thank you for your consideration of these comments and your commitment to improving the quality of life for all of our citizens.

Respectfully,



Gabriella Celeste
Director, Child Policy



Dr. Jill Korbin
Director

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