



THE SCHOOL TO PRISON TO DEPORTATION PIPELINE

The relationship between school delinquency and deportation explained

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School to Prison to Deportation Pipeline

Schools across the country are working to protect their students and students' families from immigration enforcement activities on campus.^a Teachers, administrators, and staff are developing and passing safe haven policies to limit ICE's access to school property and student records. They are learning about their rights and the rights of their students and parents in order to be a better resource for the community. However, the school to prison to deportation pipeline is often overlooked in efforts to keep students safe. As schools work to keep ICE off campus, they should also review their disciplinary policies to ensure schools are not, at the same time, sending students to ICE.

School to Prison Pipeline

Physical safety can be a real concern for many school staff, students, and their families, and many schools have taken measures to increase the presence of law enforcement on campus for protection. One way they have done this is by having School Resource Officers (SROs) on campus. SROs are uniformed law enforcement officers assigned to work at a school on a full-time basis. In the past twenty years, this practice has grown significantly from approximately 12,500 SROs in 1997 to more than 19,000 in 2007, reflecting a more than 50% increase.¹ Meant to protect the campus from potential threats, SROs are not supposed to be involved in disciplining students unless an incident rises to the level of a criminal matter.² In addition to SROs, some schools have police or other law enforcement officers on campus at certain times.

There is no uniform training for SROs on how to work with youth and de-escalate school disruptions. As a result, SROs may be more likely to see criminal conduct in what teachers or school staff might consider a classroom disruption or other behavior that does not pose a legitimate threat to school safety. In fact, schools with SROs are likely to have a greater level of law enforcement involvement and arrests than schools without SROs.³ The result is an intensifying of the school to prison pipeline, which can have far-reaching consequences for youth, including noncitizen youth. Although there are some circumstances where law enforcement assistance may be necessary, it is important to understand the consequences of calling law enforcement, or having police on campus, for the students involved.

Immigration Consequences of Law Enforcement Contact

When SROs get involved in school discipline, youth may end up being arrested for behavior that otherwise would have been handled by school staff. An arrest may or may not lead to the youth being charged in delinquency or adult criminal proceedings. However, even a simple arrest can negatively impact a noncitizen youth: the arrest will become part of the youth's record whether or not they are ultimately charged. If the youth is charged in delinquency or criminal proceedings

^a For the most recent version of this Fact Sheet please visit www.ilrc.org. For questions or more information regarding this document, please contact Nikki Marquez at nmarquez@ilrc.org or Rachel Prandini at rprandini@ilrc.org.

and is adjudicated or convicted of an offense, this will negatively impact their ability to apply for immigration status, and in the case of adult convictions may completely bar them from being eligible to get immigration status or cause them to lose their legal status and be deported.

Moreover, once a youth has been arrested and/or found guilty of an offense, anytime a background check is conducted—including for a noncitizen youth if they apply to get immigration status—the arrest may show up. A record is bad for any kid, making it difficult to move on from the incident. For noncitizen youth though, a record can mean federal immigration agencies will see the arrest(s), adjudication(s), or conviction(s) in the results of a biometrics search if the student applies for an immigration benefit such as a U visa or Special Immigrant Juvenile Status (SIJS). This can result in complications or denials of the youth's application for a U visa, SIJS, and other paths to legal status. Even if the arrest does not show up when a background check is performed (in some cases, due to protective state confidentiality laws), the student must disclose the arrest on any immigration application, where it will be considered for discretionary purposes and could even be used as evidence of bad conduct in order to deny the youth's application for status.

Potentially even worse is that once a child is arrested, their fingerprints are taken and entered into a database that ICE can access. This could lead to ICE issuing an immigration detainer or hold (a request from ICE to local law enforcement to tell them when the child is to be released or keep the child in custody longer so ICE can detain them), or the local probation department could affirmatively refer the child to ICE. In California, prior to a 2016 clarification of state confidentiality laws, it was common for probation departments to refer youth to ICE; this continues to happen in some other states.

Furthermore, as the current administration has placed an increased emphasis on deporting alleged gang members or associates,⁴ new concerns about SROs and their relationship with local law enforcement have arisen with respect to surveillance of students and information sharing around gang investigations.^{5 6} Students may be accused of gang affiliation because of who they talk to at school or even because of the clothing they wear.⁷ In response to these types of unsubstantiated allegations that have resulted in school suspensions and immigration detention, the ACLU filed a class action lawsuit, *Saravia v. Sessions*, for illegally detaining immigrant teens in Suffolk County, New York.⁸ In November 2017, a federal court judge held it unconstitutional to detain these teens without providing a prompt hearing.⁹ Since that ruling, twenty-two of the thirty-four teens have been ordered released.¹⁰

Thus, what may have started out as a minor incident in school (or no incident at all), may lead to dire consequences for noncitizen youth, even though it could have been handled without the involvement of law enforcement.

Case Example: Armando's Story

Armando grew up in Mexico and came to the U.S. when he was 17 years old. He fled from an abusive home situation and violent threats from narco-traffickers because he refused to work for them. Once he arrived in California, he started attending a public high school and applied for SIJS. While his application was pending, he continued to attend high school. However, Armando struggled to adjust to the new language and culture at his high school and was often the victim of bullying.

One day, while at school, a teacher found Armando with a small amount of marijuana. The SRO was called in and arrested Armando. The SRO issued a ticket for an infraction since Armando had recently turned 18 years old and was no longer eligible to be treated as a minor through the delinquency system. Armando must now disclose this arrest and the outcome of the citation in his application for SIJS, and U.S. Citizenship & Immigration Services will see information about the arrest and citation when conducting biometrics for Armando.¹¹ His application for a green card is at risk of being denied based on this incident. If the school had handled this issue informally, his chances of staying in the U.S. lawfully would not be in jeopardy.

End Notes

- ¹ Nathan James & Gail McCallion, *School Resource Officers: Law Enforcement Officers in Schools*, Congressional Research Service, 4-7 (June 2013), available at <https://fas.org/sgp/crs/misc/R43126.pdf>.
- ² *Bullies in Blue, The origins and consequences of school policing*, American Civil Liberties Union, 1-10 (April 2017). See also Nathan James & Gail McCallion, *School Resource Officers: Law Enforcement Officers in Schools*, Congressional Research Service, 1-4 (June 2013), available at <https://fas.org/sgp/crs/misc/R43126.pdf>.
- ³ *Id.* at 8-9.
- ⁴ *Press Gaggle by Director of Immigration and Customs Enforcement Tom Homan, U.S. Attorney for the State of Utah John Huber, and Principal Deputy Press Secretary Sarah Sanders*, The White House Office of the Press Secretary (June 28, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/06/28/press-gaggle-director-immigration-and-customs-enforcement-tom-homan-us>.
- ⁵ Sarah Gonzalez, *MS-13 Gang Crackdown Relies on 'Questionable' Evidence from Schools*, WNYC (August 7, 2017), available at <http://www.wnyc.org/story/ms13-gang-police-crackdown-schools/>.
- ⁶ For more information on how the Department of Homeland Security uses allegations of gang affiliation in deportation proceedings, please see the Immigrant Legal Resource Center's *Understanding Allegations of Gang Membership/Affiliation in Immigration Cases*, available at <https://www.ilrc.org/understanding-allegations-gang-membershipaffiliation-immigration-cases>.
- ⁷ *Id.*
- ⁸ Sarah Gonzalez, *Trump Administration Accused of Falsely Saying Immigrant Teens Have Gang Ties*, NPR (August 11, 2017), available at <http://www.npr.org/2017/08/11/542960660/trump-administration-accused-of-falsely-accusing-immigrant-teens-of-gang-ties>.
- ⁹ *Twenty-two Immigrant Teens Freed after Wrongful Arrests by the Trump Administration*, ACLU of Northern California (December 20, 2017), available at <https://www.aclunc.org/news/twenty-two-immigrant-teens-freed-after-wrongful-arrests-trump-administration>.
- ¹⁰ *Id.*
- ¹¹ While recreational marijuana use is legal in California, it is not legal on school premises and is still a federal offense.



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About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.