

Testimony in Support of H. 328
“An Act decriminalizing non-violent and verbal student misconduct”
Joint Committee on Education
June 6, 2017

As a former staff person in the Holyoke Public Schools, I write this testimony to **strongly support** H. 328, “An Act decriminalizing non-violent and verbal student misconduct.” I was the Full Service Community School Manager at the Peck Middle School and Lawrence Elementary School in Holyoke from August 2014- March 2015. I am currently a Staff Attorney at Massachusetts Advocates for Children.

It is difficult to capture in words my level of shock and concern at the depth and extent of punitive discipline and harm to students that I personally witnessed during my time in Holyoke. The majority of students in Holyoke are low-income and Latino. Students, many of whom had histories of trauma and emotional disabilities, were harshly punished, aggressively and unlawfully physically restrained, placed in dark closets, verbally abused, and in some cases, arrested. Student arrests were used as part of a school culture and climate in which the relationship of students to authority figures was one of control, rather than support for learning and students’ development. During my time in Holyoke, police were called to the middle school to manage routine, non-violent student discipline matters, at a great cost to students and their families. Twelve and 13-year-old children were taken out of the school in handcuffs, as crowds of their peers stood by and watched.

In one instance, police were called to manage a 12-year-old student who did not speak English and who was not listening to staff directives, being disruptive and running around the school building. The student was arrested on trespassing and disturbing school assembly charges after he ran out of the school building, and re-entered the building (he had been suspended so was deemed to have “trespassed”). As a 12-year-old child, this was the first time he had been arrested. His frightened and confused mother, who also did not speak English, reported to juvenile court for her son to be arraigned in what would be the start of her child’s permanent record.

In another instance, I witnessed a 13-year-old female student taken out of the school in handcuffs, even though there had been no incident in school, apparently because she had not reported to her probation officer as required.¹ Her peers crowded around and watched. On

¹ A number of organizations have developed sample Memoranda of Understanding (MOUs) between school districts and police departments which generally include a provision providing that students should be arrested at school only as a last resort. An example of such model language: “Absent a warrant, students should be arrested at school only as a last resort, such as where the child poses a real and immediate threat to student, teacher, or public safety, where the child poses a flight risk, or where the child could not practicably be served with a warrant or delinquency petition at another location. School principals should be notified prior to an arrest of a student where practicable.” ACLU Sample MOU 2009. H. 328 would require the development of MOUs between school districts and police departments to establish this type of guidance.

another occasion, I stepped into the school hallway to find a student, of approximately 11 years old, sobbing. I vividly recall him saying, “Why did they call the police? I’m just a little kid.”

To this day, I maintain contact with staff still working in the Holyoke schools. Staff have reported to me that students are still arrested for minor student discipline matters. In several instances this school year, police arrested high school students who were swearing, yelling, and making a scene, but not a threat to anyone’s safety. Students have been arrested for minor fights, when there was no weapon and the incident could have been de-escalated without police involvement. Staff have reported to me that school resource officers have full discretion and often take the position that they are *obligated* to arrest if they are in the building and see any conduct which could constitute an offense (even if there is no real threat to safety).

H. 328 is vitally needed to eliminate the use of arrest for routine disciplinary matters that should be handled by the school community. I have witnessed first-hand the deeply harmful effects of the over-use of arrest in schools, on the students who are arrested, the students’ families, and on the entire school community. The experience of being arrested in front of one’s peers is traumatizing and humiliating. Moreover, school-based arrest damages relationships between peers and between staff and students, and creates a punitive school climate in which students are seen as “others” who need to be controlled by authorities, rather than supported to learn. In Holyoke, students expressed to me that they felt like school was like a jail. (See Appendix A, poem written by a Holyoke middle school student.)

Once a child is arrested and arraigned in juvenile court, that child has a juvenile record that will likely never be expunged. Data also show that being arrested in school increases the likelihood of dropping out and becoming further involved in the criminal justice system.² School-based arrest, and the trajectory that follows, disproportionately affects low-income students, black and Latino students, and students with disabilities, in short, the Commonwealth’s most marginalized and vulnerable students.³ On behalf of these children, their families and communities, I ask that you report out H. 328 favorably.

Sincerely,

Liza Hirsch
Staff Attorney, Massachusetts Advocates for Children
Former Holyoke Public Schools employee

² Gary Sweeten, Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement, Justice Quarterly, vol. 23, Issue 4 (2006).

³ U.S. Department of Education Office of Civil Rights, *Civil Rights Data Collection: Data Snapshot (School Discipline)*, March 21, 2014, available at <http://blogs.edweek.org/edweek/rulesforengagement/CRDC%20School%20Discipline%20Snapshot.pdf>.