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U.S. HOUSE OF REPRESENTATIVES  
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January 19, 2021

The Honorable Mitchell Zais  
Acting Secretary  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202

Dear Acting Secretary Zais:

I write to you about my deep concern regarding reports a public-school district was transmitting student educational records to a local sheriff's office, so that the sheriff's office could develop a list of students "destined for a life of crime." Reports indicate that this sheriff's office would excessively monitor, and in some cases harass, these students.

As you know, the *Family Educational Rights and Privacy Act* (FERPA) is the central federal legal protection for students' privacy.<sup>1</sup> FERPA generally prohibits schools from disclosing student records to individuals that are not a student's parents.<sup>2</sup> These requirements apply to all educational organizations that are recipients of federal funds, covering virtually all public schools in America.<sup>3</sup> This use of student records goes against the letter and spirit of FERPA and risks subjecting students, especially Black and Latino students, to excessive law enforcement interactions and stigmatization. Further, instead of helping at risk students, pre-criminal categorization merely makes more concrete the schools-to-prison pipeline that is a result of institutional bias. Therefore, I request that the U.S. Department of Education (Department) investigate this school district's disclosure of student data and take steps to ensure that all school districts are appropriately managing student information.

FERPA prohibits schools from disclosing students' "education records" to third parties without parental permission.<sup>4</sup> Education records include any files, documents, or other materials that contain information directly related to a student and are maintained by a school.<sup>5</sup> This would include students' grades, attendance records, and disciplinary records. FERPA does allow

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<sup>1</sup> 20 U.S.C. § 1232g.

<sup>2</sup> See 20 U.S.C. § 1232g(b)(1).

<sup>3</sup> See 20 U.S.C. § 1232g(a)(3).

<sup>4</sup> See 20 U.S.C. § 1232g(b)(1).

<sup>5</sup> See 20 U.S.C. § 1232g(a)(4)(A).

schools to disclose student records to “school officials” to whom it has outsourced certain functions, including school resource officers (SROs).<sup>6</sup> However, those officials must have a “legitimate educational interest” in the records, perform “an institutional service or function for which the school or district would otherwise use employees,” and must only use those records to perform that service or function.<sup>7</sup>

Despite these clear restrictions, a recently uncovered “Intelligence-Led Policing Manual” indicates that a public school district has been releasing FERPA-protected education records to its local sheriff’s office, so that the sheriff can “identify at-risk youth who are destined to a life of crime.”<sup>8</sup> The sheriff’s office collects information from FERPA-protected records on “student’s grades, attendance, and behavior.”<sup>9</sup> Using these records, the sheriff categorizes students by what it claims is their likelihood of “becoming prolific offenders” effectively creating a school to prison pipeline and determining their outcomes for them.<sup>10</sup> Additionally, the sheriff collects data from other state agencies on children’s social networks and whether children have experienced abuse or other trauma, which it claims “significantly increase[s] their likelihood of developing into serious, violent, and chronic . . . offenders.”<sup>11</sup> To be clear, though the sheriff’s intelligence report refers to these children as “potential offenders,” this is not a list of juvenile offenders, but a list of children that may have committed no crimes.<sup>12</sup> Setting the FERPA compliance issues aside, this raises serious questions about the ethics of law enforcement agencies identifying law-abiding children for enhanced policing.

Reporting further indicates that this sheriff’s office has used a similar “intelligence” algorithm to identify county residents it believes are likely to break the law.<sup>13</sup> Former sheriff’s officers who implemented this policy have publicly stated that their supervisors ordered officers to contact individuals on this list and “[m]ake their lives miserable until they move or sue.”<sup>14</sup> This included harassing individuals who had not committed a specific offense by excessively monitoring them and citing them with menial, but costly, fines.<sup>15</sup> These abuses highlight the real dangers of this form of policing, especially as applied to students.

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<sup>6</sup> See 20 U.S.C. § 1232g(b)(1)(A); see also U.S. Department of Education, Privacy Technical Assistance Center, *School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act (FERPA)*, 10-11 (issued Feb. 2019),

[https://studentprivacy.ed.gov/sites/default/files/resource\\_document/file/SRO\\_FAQs\\_2-5-19\\_0.pdf](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/SRO_FAQs_2-5-19_0.pdf).

<sup>7</sup> See 20 U.S.C. § 1232g(j)(1); see also U.S. Department of Education, Privacy Technical Assistance Center, *School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act (FERPA)*, 11-12, 16-17 (issued Feb. 2019),

[https://studentprivacy.ed.gov/sites/default/files/resource\\_document/file/SRO\\_FAQs\\_2-5-19\\_0.pdf](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/SRO_FAQs_2-5-19_0.pdf).

<sup>8</sup> Pasco Sheriff’s Office, *Intelligence-Led Policing Manual* 14 (2018),

<https://beta.documentcloud.org/documents/20412739-psoresponseatriskyouth>.

<sup>9</sup> *Id.* at 13.

<sup>10</sup> *Id.* at 13 and 71.

<sup>11</sup> *Id.* at 13.

<sup>12</sup> *Id.* at 13, 18, 37, 45.

<sup>13</sup> Neil Bedi and Kathleen McGrory, *Targeted*, Tampa Bay Times (Sept. 3, 2020),

<https://projects.tampabay.com/projects/2020/investigations/police-pasco-sheriff-targeted/intelligence-led-policing/>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

Of additional concern is the racial bias that necessarily feeds this or any similar system. Data from the Civil Rights Data Collection has established that schools suspend or expel Black and Latino students more frequently than their white peers and more than half “of students who were involved in school-related arrests or referred to law enforcement are [Latino or Black].”<sup>16</sup> Research indicates that such disproportionality is not due to more frequent misbehavior by Black and Latino students but are due in part to discriminatory practices.<sup>17</sup> Therefore, any law enforcement system that uses FERPA-protected school discipline data to identify children as potential criminals would not only be illegal, but also racially biased.

Considering the negative effects that can stem from excessive law enforcement contacts and the likely racial bias in the modeling system used by this sheriff’s office, I request the Department investigate this case and ensure adequate enforcement and monitoring of FERPA requirements at local educational agencies to prevent similar abuses from occurring.

Please send all official correspondence and information relating to this request to the Committee's Clerk, Mariah Mowbray, at [Mariah.Mowbray@mail.house.gov](mailto:Mariah.Mowbray@mail.house.gov).

Sincerely,



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**ROBERT C. “BOBBY” SCOTT**  
Chairman

Cc: The Honorable Virginia Foxx, Ranking Member

Cc: The Honorable Sandra Bruce, Acting Inspector General, U.S. Department of Education

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<sup>16</sup> See Joint Dear Colleague Letter, U.S. Department of Education, U.S. Department of Justice, *Nondiscriminatory Administration of School Discipline* (January 8, 2014) (on file with author), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>.

<sup>17</sup> Russell J. Skiba, *Race is not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 *School Psychology Review* 85–107 (2011).