

# **Children, Not “Offenders”:**

## **Why Jacksonville Sheriff’s Office’s “MARS” Program is Inappropriate**

\*

Center for Race & Juvenile Justice Policy  
University of North Florida

**Michael Hallett**  
**Center for Race & Juvenile Justice Policy**  
**University of North Florida**

Prepared for a joint meeting of the Jacksonville Chapters of the  
ACLU and the NAACP.

March 24, 2004

Report also available online at: [www.unf.edu/coas/crjpp](http://www.unf.edu/coas/crjpp)

In 1954, the Supreme Court case *Brown vs Board of Education* famously rejected the legality of “separate but equal” schools, ruling that “separate” is by definition *unequal*. Statewide in Florida, minority children today dominate the public schools by a slight percentage, while white children are more likely to attend *private* schools. In Duval County, white children are more likely than black children to attend private schools. Are there School Resource Officers in private schools? No, just in public schools. And so, “failure to follow directions” gets your child on a *police* list in the public schools, but not in the private schools. Today, 50 years after *Brown*, many see school segregation as a renewed reality in American education.

### **What Does MARS Actually Do? Easy Targets**

The Monitoring At Risk Students “MARS” program run by the Jacksonville Sheriff’s Office in Duval County, Florida, utilizes an unprecedented comprehensive weekly download of student classroom conduct violations from the Duval County Public Schools to the Jacksonville Sheriff’s Office. Every conduct violation that occurs in all middle and high schools is downloaded to a crime analyst in the Sheriff’s Office—who then uses them, among other things, to run criminal history checks on children and generate a ranking of top student conduct “offenders” for further interaction with SRO’s. An as-yet-undefined “weighting” process is said to occur, in which the most “serious” offenders are ranked, presumably through the calculation of an “offender score” based on behavior. The data provided by JSO on the MARS program, however, reveals that the top “offenses” of the “top offenders” are not serious crimes or felony arrests—but “failure to follow directions,” “classroom “disobedience,” and “disruption in class.” Serious behaviors—fighting, drug crime, or events warranting parental notification—are rare occurrences, even for MARS “top offenders” (see data below).

Please examine the following letter, published in the Florida Times Union March 15, 2004, defending the MARS program. Highlighted are several statements within the letter that are troublesome, because they equate both race and the behaviors monitored by the MARS program as indicators of *criminality*. Says the author: “*I wish someone would have intervened in my life when I was first arrested and fell into drug addiction.*” 99% of children on the MARS list, however, have never been arrested at all! Out of 3,130 incidents Fall Semester 2003—just for the so-called MARS “top offenders”—only 12 MARS cases actually involved drugs.

### **MARS PROGRAM: Students need early intervention**

The articles regarding the Monitoring At-Risk Students program greatly disturb me. **No one makes black kids misbehave.** Black preachers should use more of their resources (church funds) to address the social ills that many of these kids have to face. **The number of students targeted for the MARS program reflect the number of young black men who are in jail now.** The number of black young men in jail is scary. No one made these men commit crimes. **Perhaps, if the names of these men had shown up on a list like MARS, they would have been spared the jail experience.** These students need early intervention. They need to be targeted so they can get the attention they need. I know what it is like. I was there. **I wish someone would have intervened in my life when I was first arrested and fell into drug addiction.** Now 10 years and 10 arrests later, I'm finally better. I suggest black preachers take a tour of the jails. It should not be to accuse the sheriff of targeting black males, but to look at the staggering number of black young men who are accused of committing felonies. Look at the number of young black males who are about to lose their voting rights and who are going to have a hard time getting a decent job. If they really want to help young black boys from ending up in jail, they should take the MARS list and mentor the kids on it. They should fund Betty Burney of Project Reach so she can enlarge the program she now does for free. She goes to the Duval County jail every Thursday morning and works with juveniles while she teaches the program. The kids love it and her. They should call Pastor Gary Wiggins of Evangel Temple Assembly of God who sends 100 of his members (mostly white) into state prisons to try and change the hearts of men and women (mostly black). They should get involved in the Ready4Work program, which is administered locally by Kevin Gay of Operation New Hope. History tells me that after the attention goes away from this MARS issue, and the cameras are gone, the preachers will be gone, too.

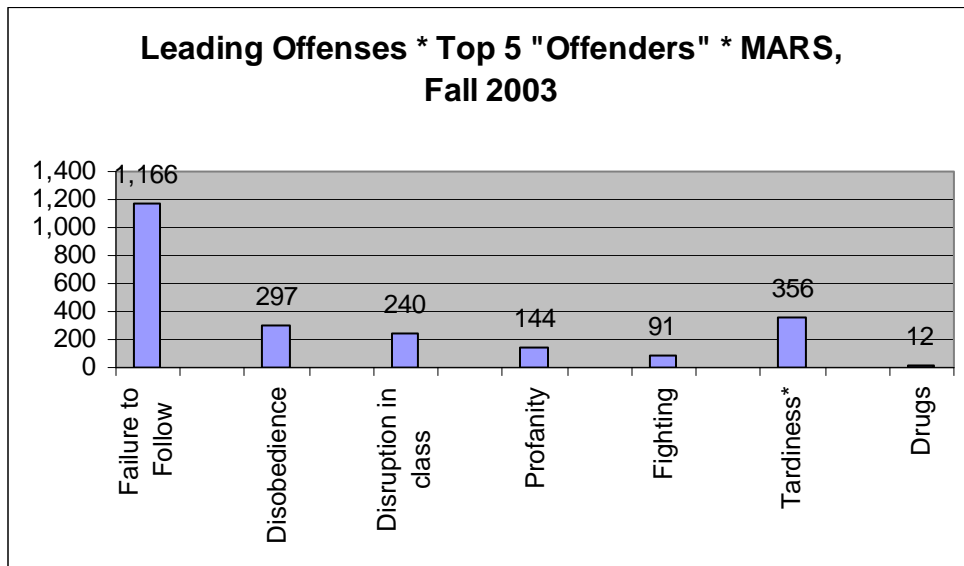
*KENNETH A. ADKINS*

*Jacksonville*

As demonstrated throughout this report, while the MARS program claims to deal with “top offenders,” it actually inappropriately targets ordinary child behavior while inappropriately labeling children as “offenders.” The program uses an invalid weighting scale by comparing classroom behavior with criminal behavior on the same scale. In point of fact, JSO’s own data reveal that the MARS program does not actually target “at risk” children—even though it labels them “at risk.” While records show that JSO is paid more than \$1.7 million annually for the School Resource Officer Program, the MARS program itself spends its resources “demonstrating success” on a population of mostly African-American children.

Whatever else this is, MARS is certainly a new kind of police power—and a new kind of police/community relationship. **Citizens have both the right and the need to examine whether they approve of this type of police intervention in the lives of their children and their families.** Parents, after

all, are held responsible for their children’s behavior. **Moreover, none of the purported goals of the MARS program require this comprehensive download of conduct information. SROs should work with students while utilizing statutorily authorized and appropriate information on students.**



\*Not used to calculate "top offenders," but tracked by MARS

As a member of the City of Jacksonville’s Subcommittee investigating sources of Disproportionate Minority Contact with the criminal justice system, I have serious concerns about the operating assumptions of the MARS program. After all, what does it take to get on the MARS list? *Five instances **per year*** of “failure to follow directions,” “classroom disruption,” or student “disobedience” render a child worthy of police monitoring. Failure to follow directions was, in fact, the single largest and leading “offense” of MARS so-called “top offenders” in the data provided by JSO. Serious behaviors like fighting or drugs constituted less than 3% of “top offender” incidents. **In fact, most “top offenders” on these lists of schoolchildren being kept by the police department—have, in fact, never broken a law.** Until recently, JSO was not even consistently informing parents of their children’s placement on the list.

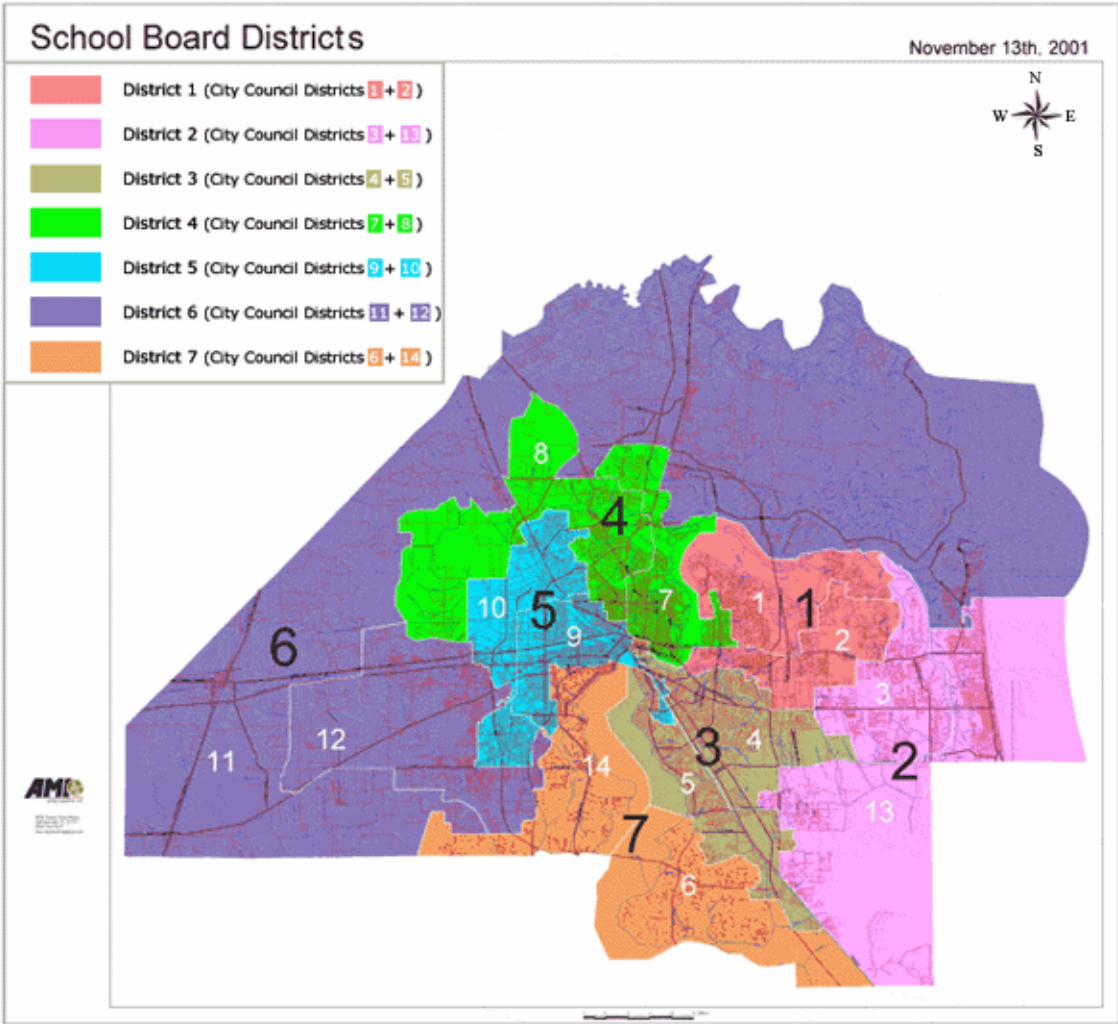
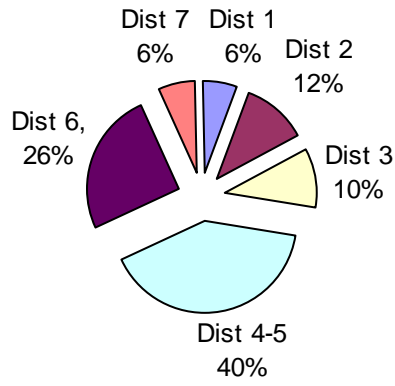
## **Disproportionate Minority Contact (“DMC”): Why Is There Concern?**

Jacksonville is currently one of three jurisdictions in Florida undertaking a localized DMC study. All states receiving federal dollars for criminal justice programming are now required by the US Justice Department to identify sources of DMC and develop a means to reduce it. The DMC Subcommittee, of the larger Jacksonville Juvenile Justice Comprehensive Strategy Steering Committee, is charged with identifying sources of DMC in Jacksonville and developing and implementing intervention strategies to combat DMC. After completing initial research, the DMC Subcommittee has recommended an intervention plan and has identified two key sources of DMC in the City: 1) children who witness domestic violence and show up in police reports; and 2) children who come into “contact” with police through the School Resource Officer (SRO) unit of Jacksonville Sheriff’s Office. In both cases, there is clear disproportionate minority contact with the police, largely concentrated in the poorest neighborhoods of the City—which also happen to be predominantly African-American. Well over half of all SRO arrests come from predominately black schools.

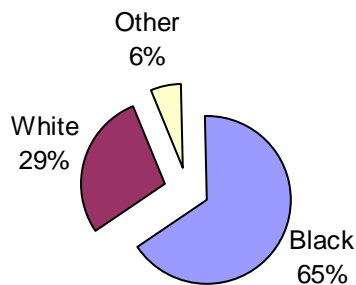
Research on the sources of DMC demonstrates that disproportionate minority *confinement* actually results from criminal justice processes that **begin with the initial encounter with the police**. African-Americans are more likely to come under police surveillance and to be arrested than whites (Chambliss, 2001). For this reason, the US Justice Department shifted its focus in this research to all sources of minority “*contact*” with the criminal justice system rather than confinement. To quote a recent Justice Department report: “A substantial body of research suggests that disparity is most pronounced at the beginning stages” (Bilchik 1999, p3). A key source of this elevated level of contact include a “lack of adequate diversion programs for minority juveniles, the lack of culturally appropriate juvenile services, a lack of cultural understanding among juvenile justice system staff, and perceived barriers to parental advocacy” (Devine, Coolbaugh, & Jenkins, 1998).

As shown below, the SRO program is clearly a key source of DMC in the City of Jacksonville.

### SRO Arrests by District Percentage



**MARS Top 5 "Offenders" by Race, Fall 2003**



### **“Risk Factors?” & Legal Issues**

The US Department of Justice “Safe and Drug-Free Schools” program utilizes the following indicators for identification of an “at risk” child: a child who has been abused, maltreated, or neglected; a child exposed to violence; a child who has been homeless; a child exposed to parental depression or substance abuse; a child from a family living below the poverty line; a child of low birth weight; a child with cognitive or developmental disability. Clearly, these are quite different than those utilized by the MARS program.

Florida Statute 985.08, titled “Information Systems,” authorizes sharing of information on children in schools for those students “at risk of becoming serious juvenile offenders.” The Statute specifically defines this risk in the following way: "A juvenile who is at risk of becoming a serious habitual juvenile offender means a juvenile **who has been adjudicated delinquent and who meets one or more of the following criteria**" (see footnote 1 below):<sup>1</sup>

<sup>1</sup> 1. Is arrested for a capital, life, or first degree felony offense or sexual battery. 2. Has five or more arrests, at least three of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period. 3. Has 10 or more arrests, at least 2 of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period. 4. Has four or more arrests, at least one of which is for a felony offense and occurred within the preceding 12-month period. 5. Has 10 or more arrests, at least 8 of which are for any of the following offenses:  
a. Petit theft;

The MARS download, however, includes data on every child with a conduct violation in the system to the Sheriff's Office—going well beyond the scope of what is authorized by Florida law. North Carolina—a state with one of the oldest and best-developed SRO programs in the country, strictly prohibits use of student education records by SROs. Another interesting thing about the North Carolina program, is that the School Board was involved with the development of the program—and annually evaluates the SROs in their schools. In the Duval County Public Schools, however, the SRO unit currently operates on a contract that hasn't been updated in more than 13 years (MARS is only 1.5 years old), says not a single word about the MARS program, and offers no provision for School Board involvement in the MARS process. In fact, the DCPS has repeatedly stated that MARS is a “JSO program” and that JSO handles all aspects of the MARS program without any involvement from the School Board (JJCS, Meeting Minutes, from February 19, 2004). Clearly, teachers and principals (and parents?) might appropriately help evaluate any police program in which officers interact with children in the public schools. A copy of the full model agreement for North Carolina is available at: [www.ncdjjdp.org/cpsv/sro/sroagree.htm](http://www.ncdjjdp.org/cpsv/sro/sroagree.htm)

The other statute being used by the Duval County Public Schools (DCPS) to justify the MARS download is FL statute 1002.22, “*Student records and reports; rights of parents and students; notification; penalty.*” DCPS suggests this comprehensive information download of students’ conduct records is legal because it is being used “for the purposes of reducing juvenile crime.” **Clearly, however, every child with a conduct violation is not “at risk for becoming a serious juvenile offender.” Unless police knowledge of every conduct violation in the school system is used for reducing juvenile crime, therefore, the comprehensive download of every violation is unreasonable and fails to appropriately balance parental rights of privacy while inappropriately labeling children “offenders.”**

- 
- b. Misdemeanor assault;
  - c. Possession of a controlled substance;
  - d. Weapon or firearm violation; or
  - e. Substance abuse.

Four of such arrests must have occurred within the preceding 12-month period.

- 6. Meets at least one of the criteria for youth and street gang membership.

FL S 1002.22 ironically states in its opening paragraph:

(1) PURPOSE. –The purpose of this section is to protect the rights of students and their parents with respect to student records and reports as created, maintained, and used by public educational institutions in the state. The intent of the Legislature is that students and their parents shall have rights of access, rights of challenge, and rights of privacy with respect to such records and reports, and that rules shall be available for the exercise of these rights.

Finally, the federal **Family Educational Rights and Privacy Act (FERPA)** defines conduct records as private education records—and strictly regulates what can be done with this confidential information. Parents trust school officials to maintain the confidentiality of their children’s education records. The US Department of Education and the Florida Department of Education are both currently evaluating the legality of the MARS program. The NAACP has called for the temporary suspension of the MARS download pending this evaluation, however, this request has been denied. Finally, Curtis Lavarello, Executive Director of the National Association of School Resource Officers—who sits on the US Dept of Education SRO Advisory Committee—stated that the MARS download is a violation of FERPA and inappropriate for SRO’s to deal with. He may be contacted at (888) 316-2776 or [resourcer@aol.com](mailto:resourcer@aol.com).

### **Conclusion: Making Normal Behavior Seem “Criminal”**

In his famous book titled *Search and Destroy: African-American Males in the Criminal Justice System*, criminologist Jerome Miller researched the hyper incarceration of black males in the Duval County jail in the early 1990s (Miller, 1996). About the Duval County justice system, Miller writes:

That system seemed to be disproportionately concentrating its considerable power on African-Americans charged with relatively minor offenses. The best face one could put on these patterns was that the criminal justice system was being inappropriately applied to the wide range of personal and social problems that afflict the poor and minorities” (at pps 13-14).

Thus, the MARS program arguably perpetuates an already well-documented pattern of disproportionate concentration on minorities by the criminal justice system—only this time focused on children—in Duval County (Miller, 1996). The MARS program does not actually deal with top offenders, but chooses the easiest but unproblematic “targets” in order to demonstrate program success. A program’s self-selection of “the most ‘success prone’ targets” is often referred to as “creaming” (Rossi, Freeman, & Lipsey, 1999, p. 208). Since MARS does not actually deal with top offenders, any claim that the program “works” with top offenders is simply incorrect. Three specific concerns are the most serious:

- \* **The blending of legal and extralegal data** (e.g. outside police contacts, arrests, and school conduct violations) into one hybrid “profile” is quite possibly beyond the purview of current law and may result in inappropriate and inaccurate labeling. A serious examination of the “weighting process”—which is said to exist but remains undefined—needs to be undertaken. The question of parental notification of this new SRO activity is also a serious concern, since adequate parental notification is required by law.
- \* **Obvious disparities** in terms of arrests already exist between SRO schools themselves. A full examination of the weighting criteria used to assign students to the “top offender list” is warranted by the DMC Subcommittee and we are trying to complete this. A series of recommendations on the MARS program passed by the Steering Committee have yet to be forwarded to the Sheriff and the School Board, but we have been assured they will be. A draft list of these is attached. If consistent and objective criteria are not used, the potential for subjective assignment and punishment exists. Moreover, since the School Board is now sharing individual student conduct information with the police department, a full scale analysis of the School Board’s disciplinary processes is also necessary.
- \* **Psychological Message:** Finally, if children sanctioned in any way through the SRO unit, are in fact also those children from disadvantaged and troubled homes—and there is every early indication that this is the case—then arguably the children who need the most *help* are also coming under a higher level of

police control. From the perspective of reducing DMC, resources separate from the criminal justice system would be more appropriate for dealing with the problems experienced by these children. Moreover, the use of SROs in public but not private schools raises serious traditional minority concerns about the problem of disproportionate levels of law enforcement and surveillance targeted at disadvantaged citizens (e.g. the use of student conduct records to run criminal history checks on children in public but not private schools).

## References

Bilchik, Shay (1999). *Minorities in the Juvenile Justice System*. Washington, D.C.: U.S. Department of Justice.

Chambliss, William (2001). *Power, Politics & Crime*. Boulder, CO: Westview Press.

Devine, P., K. Coolbaugh, & S. Jenkins (1998). *Disproportionate Minority Confinement: Lessons Learned From Five States*. Washington, D.C.: U.S. Department of Justice.

Miller, Jerome G. (1996). *Search and Destroy: African American Males in the Criminal Justice System*. Cambridge University Press.

Rossi, P.H., H. Freeman & M. Lipsey (1999). *Evaluation: A Systematic Approach*. Thousand Oaks, CA: Sage Publications.

Recommendations from the Disproportionate Minority Contact (DMC) Sub-  
Committee to the  
Juvenile Justice Comprehensive Strategy (JJCS) Steering Committee on the  
Monitoring At-Risk Students (MARS) program

1. Increase the number of out of school suspension sites in targeted zip codes with resources.
2. Require all teachers with 3 or less years of training to attend sensitivity training classes.
3. Require all teachers who have more than 75 referrals per year to attend discipline classes and any teacher who writes over 30 referrals per semester.
4. Require the SRO to attend annual sensitivity training courses.
5. Find additional resources to deal with the root problem of domestic violence and behavior modifications.
6. Build upon and develop additional community nurturing sites that have all the community resources wrapped around them to meet the social and psychological needs of the family.
7. Publish all alternatives to youth and families to deter misbehaviors.
8. Make a paradigm shift in budget priorities throughout the city to deal with community youth problems for prevention and intervention throughout the city.
9. Purge all lists of chronic offenders from all less offenders in the school class of 1, 2, and possibly some 3's.
10. Define and redefine all objectives of the MARS program to be objective rather than subjective.

11. Request referral rates by teachers from the school which will show that we have some problems in the classroom management and we should not elevate those problems to the SRO.

12. Suspend the MARS system temporarily until a full legal review can be conducted and determine the legality.

\*\*Revised versions of all these except numbers 8 and 12 were recently passed by the Steering Committee.