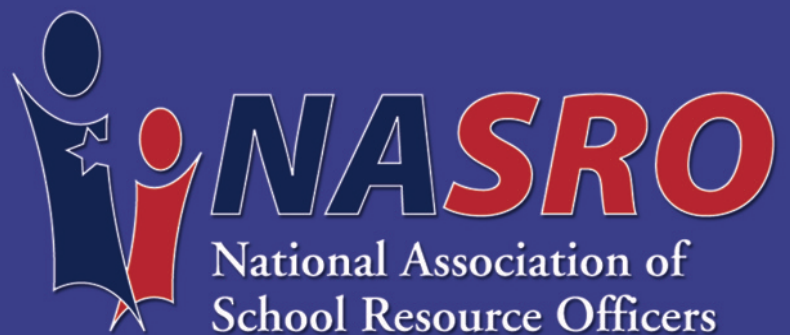




TO PROTECT & EDUCATE:

**The School Resource Officer and the
Prevention of Violence in Schools**



THE world's leader in school-based policing

NASRO's Mission

The mission of the National Association of School Resource Officers (NASRO) is to provide the highest quality of training to school-based law enforcement officers in order to promote safer schools and safer kids. NASRO is an organization for school-based law enforcement officers, school administrators, and school security/safety professionals working as partners to protect students, faculty and staff, and their school community. NASRO, the world's leader in school-based policing, is a not-for-profit organization founded in 1991 with a solid commitment to our nation's youth.

NASRO was founded on the "triad" concept of school-based policing which is the true and tested strength of the School Resource Officer (SRO) program. The triad concept divides the SRO's responsibilities into three areas: *Educator, Informal Counselor, and Law Enforcement Officer*. By training law enforcement to educate, counsel, and protect our school communities, the men and women of NASRO continue to lead by example and promote a positive image of law enforcement to our nation's youth.

SRO programs across the nation are founded as collaborative efforts by police agencies, law enforcement officers, educators, students, parents, and communities. The goal of NASRO and SRO programs is to provide safe learning environments in our nation's schools, provide valuable resources to school staff, foster a positive relationship with our nation's youth, and develop strategies to resolve problems affecting our youth with the objective of protecting every child so they can reach their fullest potential.

School-based policing is one of the fastest growing areas of law enforcement. With thousands of NASRO members around the globe, NASRO takes great pride in being the first and most recognized organization for law enforcement officers assigned in our school communities. NASRO is available to assist communities and schools districts around the world that desire safe schools and successful community partnerships in developing the most effective program for their community.

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Summary

"Overwhelmingly, individuals in the law enforcement community got into this profession to help people; there is no greater opportunity to help someone than in the role of school resource officer. These law enforcement officers are presented with opportunities on a daily basis to help a child out of a bad situation or to help a child turn their lives around." ¹

This Report, *To Protect and Educate: The School Resource Officer and the Prevention of Violence in Schools*, addresses recent criticism of policies by public school officials to fashion campus safety plans around interagency partnerships, not the least of which involve the use of law enforcement personnel known as school resource officers (SRO). This aspect of education law, now commonly known as “school safety law,” has been the subject of considerable and thoughtful development over the last thirty years. However, recent criticism has called into question the fairness and effectiveness of this type of interagency collaboration in the school context. By focusing on child welfare reform, student rights, victim’s rights, and liability, the Report corrects misimpressions about the purpose and use of school resource officers as an integral part of school safety teams, primarily by documenting the success of public educators maintaining a safe campus climate using the team approach.

The goal of the Report is to provide uncluttered reference points for school policymakers as they conduct needs-assessments in response to legitimate, local safety incidents. The arguments set forth by the critical commentary muddle policymaking, suffering from an inherently superficial and flawed methodology. Therefore, the focus of this Report is to more accurately explain school resource officers and the role they play in supporting educational objectives. School resource officers experience a distinctive and welcomed role in the campus community and enjoy an effective relationship with the school officials with whom they serve. The main points addressed are straightforward:

- Educators are succeeding in maintaining a safe campus climate;
- Local interagency partners are all in on the goal of balancing campus safety alongside student rights and the rights of victims;
- Attacks against the school resource officer are superficial and polemical; and
- SROs are effective in reducing campus disruptions while enhancing feelings of school safety by educators, parents, and students.

The emphasis herein is pragmatic: public educators are too purposeful and committed to child welfare to confuse juvenile justice with the education mission. Therefore, campus safety policies are dependent on and interactive with the education mission. The collaborative approach to campus safety is a proven means to fulfill the statutory and constitutional duty to maintain a safe and effective learning environment.

The language of the Report is evidentiary: it presents the history of community-oriented, collaborative reform as a context for seeing its school-based component as a successful model, tailored to preserve the educational climate while looking after the needs of all students. The interagency model is not itself a substantive policy. Rather, it combines core competencies logically and proactively, enhancing both assessments and decision-making. Seen in this way, the effective use of the school resource officer is an object lesson in the public school context: merging information and resources to eliminate disruptions, reduce victimization, increase school attendance, and improve the learning environment.

This school safety law model does not foster a “school-to-jail pipeline.” Interagency teamwork does not divest any participating agency of functions and duties given by law that enable its specific mission. Nor does it foster aggrandizement of the authority of other agencies. This criticism of school resource officers reflects a fundamental misunderstanding of comprehensive interagency reform.

The “school-to-jail pipeline” rhetoric is also misled as to juvenile law and victims’ rights, giving insufficient weight to the truth that as the gravity of a campus incident increases, the authority of collaborating agencies to exercise discretion decreases sharply. Therefore, future discussions of school safety policy reform should proceed along two predictable, but separate branches of inquiry. The first branch looks at the degree to which the campus team applies the interventions, remedies, and consequences required by law for serious misconduct on campus. This is a ministerial duty of the highest order. Should this branch fail to hold its weight, then the campus safety enterprise collapses for lack of sincerity, commitment, and goodwill. The second branch looks to the firm science of child-welfare reform law: how well the team collaborates to produce outcomes that balance the duty to preserve the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. The welfare of children compelled to attend public schools is not compromised by school resource officers, but is at-risk without them.

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Introduction

"Our nation's schools should be safe havens for teaching and learning, free of crime and violence. Any instance of crime or violence at school not only affects the individuals involved, but also may disrupt the educational process and affect bystanders, the school itself, and the surrounding community."²

Over the past two decades, America's public schools have become safer and safer. All indicators of school crime continue on the downward trend first reported when data collection began around 1992. In 2011, incidences of school-associated deaths, violence, nonfatal victimizations, and theft all continued their downward trend.³ This trend mirrors that of juvenile arrests in general, which fell nearly 50% between 1994 and 2009—17% between 2000 and 2009 alone.⁴

This period of time coincides with the expansion of School Resource Officer programs as part of a comprehensive, community-oriented strategy to address the range of real and perceived challenges to campus safety. The "school resource officer," (SRO) also known as a "school safety liaison," or "campus police," refers to commissioned law-enforcement officers selected, trained, and assigned to protect and serve the education environment. The first SRO program was instituted in 1953 in Flint, Michigan,⁵ and later spread, in 1968, to Fresno, California.⁶ Programs expanded slowly at first, then more quickly during the 1990s. For some school officials, this expansion was prompted by the 15 deadly, highly-publicized campus rampages that occurred from 1993–1999.⁷ Other educators had equally compelling data in hand to influence the decision: their own campus incident reports and the perceptions of school personnel, students, and parents.

In the year of this Report, school resource officers have become a vital component in school safety planning. The SROs are seen as effective resources in reducing campus disruptions and in enhancing educators' and students' feelings of safety while at school. Today, the school



safety team is an established partnership that is expanding its focus beyond low-probability/high-consequence shootings, to new data that highlight the current challenges to preserving the educational climate.⁸

- There were 33 school-associated violent deaths during the 2009-10 school year. In 2010, among students ages 12–18, there were about 828,000 nonfatal victimizations at school, including 470,000 victims of theft, and 359,000 victims of violence. In 2009–10, about 74% of public schools recorded one or more violent incidents of crime, 16% recorded one or more serious violent incidents, and 44% recorded one or more thefts.⁹ The National School Safety Center reports that as to violent deaths on campus from 1999–2008, no clear trend up or down is evident.¹⁰
- The Centers for Disease Control reports that in 2009, the most recent year for which statistics are available, 5.6% of children nationwide carried a weapon on to school property at least one day in the 30 days before the survey, 7.7% were threatened or injured with a weapon on school property during the 12 months before the survey, 11.1% were in a physical fight on school property during the 12 month period, 19.9% were bullied, 5% did not go to school at least one day in the month before the survey because they felt it was unsafe to be at school or to travel to and from school, 4.5% drank alcohol and 4.6% used pot on school property at least once in the 30 days before the survey, and 22.7% were offered, sold, or were given illegal drugs on school property in the 12 months before the survey.¹¹
- The National Center for Education Statistics reports that 28% of 12 to 18 year-old students reported having been bullied at school during the previous 6 months.¹² This compliments an independent study that reports a 50% increase in the percentage of youth who were victims of online harassment from 2000 to 2005.¹³

It is the thesis of this Report that a proper assessment of school resource officers and the implications of their participation on the campus safety team is dependent on a knowledge of comprehensive interagency reform, now deeply-rooted at the state and local level. Since 1980, public policies on child welfare and juvenile justice have been carefully studied and revised around the collaborative theme, including:

- Interstate compacts and intrastate agency collaboration on missing, endangered, and exploited children;¹⁴
- State and local multi-jurisdictional and multi-disciplinary teams on delivery of services to children and families;¹⁵
- Local jurisdictional interagency agreements on juvenile delinquency and at-risk youth;¹⁶ and
- Collaborative campus safety plans for public schools and universities.¹⁷

The successes of interagency collaboration, in all of its applications, are well-documented, including its downstream effect on reform in other areas of law. Most notable in this regard are the changes in federal and state records-privacy laws, amended to authorize and promote more effective communication by agencies with a common interest in child protection.¹⁸ The school safety team is an object lesson of this collaborative approach. By now, all 50 states as well as local authorities authorize—and often mandate—a version of the team approach to insure that public schools are safe, secure environments where educators can teach and students can learn.¹⁹

In recent years, criticism has called into question the fairness and effectiveness of interagency collaboration in the school context. The sole focus of much of the analysis has been the school resource officer.²⁰ The SRO has been impugned for being ill-suited to the education environment, a source of confusion and intimidation on campus, and responsible for an increase in the number of referrals from schools to the juvenile justice system. Critics dispute any correlation between the presence of an SRO on campus and crime reduction and go so far as to associate the presence of the SRO with an increase in crime on campus.

Representative of this commentary is a 2011 report by the Justice Policy Institute (JPI) in which it is argued that use of the SRO is a failed enterprise that has resulted in a “school-to-prison pipeline” that is a direct result of SRO programs.²¹ JPI’s specific criticisms of public educators’ use of school resource officers include charges that “SROs directly send youth into the justice system, which carries with it a lifetime of negative repercussions and barriers to education and employment”²² and “SROs create the fearful environment that they are supposed to prevent.”²³

It is the intention of the Report to address commentary of this type. Seen as a cohort, the commentaries suffer, as does the JPI report, from an inherently superficial and flawed methodology. The proposition that a dozen randomly selected cities can render conclusive evidence on decades of policymaking by thousands of school districts in 50 States strains credulity. Not



only does this methodology raise questions of statistical significance, it also reveals a latent assumption by critics that the safety needs of local school districts are basically fungible.

In the case of the JPI commentary, this methodological flaw is evident in its choice of a single school district in one state, Philadelphia, Pennsylvania, to represent the diversity of all school districts when it concludes that SRO's foster violent crime.²⁴ Its conclusion that three urban school districts, New York City, Philadelphia, and Los Angeles can effectively rep-

resent all school districts for the assertion that there are too many police in schools is surpassed in reductionism only by JPI's assumption that five selected factors can account for all school safety variations among the states.²⁵ Additionally, it is somewhat incongruous that the JPI commentary ignores correlations and perceptions in studies and reports that attempt to objectively measure the impact of the current interagency school safety model, while JPI, at the same time, presents no data showing that its alternative school safety approaches are incompatible with SRO programs.²⁶ Finally, JPI's assertions are counterproductive to the policy debate when it levels charges of race-biased, disparate juvenile arrests only to admit to lacking data that correlates this to SROs.²⁷

This Report addresses this and other weaknesses in the critical commentary by letting the data speak for itself, in detail, in order to demonstrate numerous rebuttals to the ultimate conclusion that the use of school resource officers is a failure. By examining court decisions and legislation, along with the correlations and perceptions of published reports and studies, the materials contained within this Report will demonstrate that school resource officers are more likely to experience a distinctive and welcomed role in the campus community and enjoy an effective relationship with the school officials with whom they serve. The Report will illustrate that the team model of school safety is a positive development in which dedicated professionals are engaged in a balanced discourse about student rights and the education mission in the public schools. It will accomplish this objective by examining four areas of education law reform: interagency child welfare reform, student rights, victim's rights, and liability.

Part I of the Report is historical. It traces the deep roots of child-welfare interagency reform and points forward to the branch that pertains to school safety and the school resource officer. It defends the premise that any discussion about reform in school-safety law has to take into proper account the model by which communities and institutions share their duties and responsibilities to children, right down to the public school campus and the school resource officer. Part I proves the truth that child-welfare reform law has fundamentally changed the

nature of the juvenile-justice and child-welfare systems from a solitary task to a collaborative process that improves assessments and outcomes.

Part II of the Report analyzes the scope of involvement by the school resource officer in campus safety, as a matter of law and policy, and science. Of particular significance is the relationship between courts and legislators, whose scrutiny of the school resource officer has sped its acceptance as a best practice that enhances good results. The science is reflected in the studies on school safety, the critical mass of which reinforces the views held by judges and policymakers. Part II also introduces the NASRO triad of SRO responsibility in which officers ensure a safe and secure campus, educate students about law-related topics, and mentor students as counselors and role models.

Part III of the Report concludes that the policy reforms under consideration in school safety law are dynamic and deserve more than a superficial attack on school resource officers as the lower-hanging fruit in a perennial debate on law and order in America. The proper starting point for making assessments should focus on the fairness of outcomes in light of legitimate, concurrent interests in which the welfare of all children—both victims and actors—is paramount. For example, research has identified a legitimate issue regarding the training of teachers and administrators on the uses to which an SRO should be put in the resolution of subjective disorderly conduct incidents, to which an arrest is not the only option. The scholarship on this matter suggests that the school safety team must exercise better discretion for these offenses given the wide range of interventions that the education mission and resources of other local agencies place in-hand.

The Report does not attempt to resolve this matter, nor other policy debates on the numerous legitimate local issues confronting our public schools. Instead, the Report concludes that coherent solutions to unique, local needs should emerge from the existing interagency model in which the school resource officer is an essential asset. Child welfare on campus is not compromised by school resource officers, but is at-risk without them. Erection of the ancient barriers would be catastrophic and debilitating to the interests of children: creating the appearance of deliberate indifference to student victims, formalizing selective enforcement of conduct codes, violating the right of students to an education, and inducing obstruction of justice whenever crimes are covered up on campus.





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Interagency Collaboration:

From Child Welfare Reform Law to the School Safety Team

"Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff."²⁸

The major experience of public schools in the last quarter-century in America has been about relationships—from isolation to involvement—through interagency reform. The integration of this model of assessing and providing for the needs of students, including their safety, is a version of comprehensive child welfare reform law. When critics of school disciplinary policies attempt to link their criticism to the mere inclusion of an interagency partner, it reflects a fundamental misunderstanding of both child welfare law and education law. Therefore, any discussion about reform in school safety law has to take into proper account the model by which communities and institutions share their duties and responsibilities to children, right down to the public school campus and the school resource officer.

Evolution of the Collaborative Model of Child-Welfare Law

Early development of the interagency model focused on child victimization, neglect and abuse. In 1984, the United States Department of Justice began to encourage coordination of units of state and local government.²⁹ Shortly thereafter, Congress added its voice by passing The Child Abuse Prevention and Treatment Act, which conditioned federal funding on the effective use by states of multidisciplinary teams and coordinating councils.³⁰ The focus of collaborative programs on child victimization, abuse and endangerment remains the most compelling feature of child welfare reform law and, understandably, heavily influence school safety programs.³¹

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State legislators quickly embraced this focus to expand reform to the juvenile justice and child welfare systems, creating a comprehensive model for improving assessments. First, concepts and terminology began to change. Terms like “child victimization,” “abuse,” “at-risk,” and “neglect” broadened to empower the efforts of a wider range of public and private community-based, interagency programs.³² In this manner, agencies were encouraged to overcome barriers that separated the juvenile-justice and child-welfare systems. In place of barriers, state legislation authorized collaboration with the goal of improving outcomes in light of the risk factors and the protective factors of children.³³

By now, the collaborative emphasis in child welfare reform law is comprehensive in the sense that few, if any, area of child welfare is left unaffected. Interagency collaboration is expressed through:

- Interstate compacts and intrastate agency collaboration on missing, endangered, and exploited children;³⁴
- State and local multi-jurisdictional and multi-disciplinary teams on delivery of services to children and families;³⁵
- Local jurisdictional interagency agreements on juvenile delinquency and at-risk youth;³⁶ and
- Collaborative campus safety plans for public schools and universities.³⁷

The various branches of this reform have a common root: to improve the lives of children through a continuum of alternatives based on communication across the child welfare and juvenile justice systems. The focus on appropriate outcomes is the bridge that merges different traditions and interests, particularly between juvenile justice and child welfare agencies.³⁸



The Child-Welfare Team's Focus on Collaborative Assessments and Improving Outcomes

Child-welfare reform law has fundamentally changed the nature of the juvenile-justice and child-welfare systems from solitary ritual to an integrated process based on collaborative assessments. If ever an approach to protecting children has fallen from grace, it is the idea of autonomous, self-directed agency action. Two decades of scholarship before and after 9/11 underscore the connection between the failure of agencies to collaborate and adverse outcomes.³⁹

Today, in place of isolation and barriers, the collaborative model thrives in the numerous statutory provisions relating to the welfare of children. These laws authorize or require some aspect of interagency teamwork in providing services to children and their families. While each public or private agency on the “team” remains distinct as to its statutory obligations, each operates upon the science that, when collaborating, children have much better outcomes.⁴⁰

The shift occurred after years of debate about the benefits and harms of interagency collaboration, agency accountability, and privacy of youth records.⁴¹ Its success is reflected everywhere: in the revisions of program titles, mission statements, and daily procedures, shifting the focus to the quality of assessments by local agencies that share an active and common interest in improving outcomes.⁴²

Interagency collaboration should not be confused with substantive policy. It is a proven, effective procedure by which policymakers gather information as a means to improve assessments and outcomes. Therefore, perfect outcomes are not self-executing because of interagency cooperation. However, the science of improving outcomes through multi-disciplinary assessments is, by now, so well established that all studies and reports assessing the merits of government performance presume it to be a best practice.⁴³ Autonomous, self-directed agency action is so soundly discredited, that it would be odd, if not fatal, for a policymaker—for any reason—to reject the proven, community-oriented approach to serving and protecting children.

A recent study notes:

The biggest variance between the juvenile justice and child welfare systems rests in each system’s view of the young person and whose interest the agency seeks to serve. In the juvenile justice system, the young person is often seen as a perpetrator or someone who puts society at risk, and historically, the services provided seek to remediate the delinquent behavior. On the other hand, the child welfare system views the young person as a victim and works to nurture and protect him or her. This difference in views often translates into the organizational culture—affecting how an agency functions, how youth and families are engaged, and how services are provided. The reality is that [children] need to be protected and their behavior needs to change so that they do not harm others. At issue is not how we label the youth—as “victim” or “perpetrator”—but how we serve the youth both to protect them and effect behavioral change.⁴⁴

The success of this merger of interests is well documented.⁴⁵ It has prompted significant downstream reform, most notably in amendments to federal and state records-privacy laws.⁴⁶ The significance of privacy law reform-mandated interagency reporting and disclosure requirements is difficult to overstate and impossible to ignore. The information sharing provisions operate as exceptions to the typical confidentiality of agency records, enacted solely for the purpose of improving multi-disciplinary needs assessments. Records-privacy laws continue to serve as the fuel for on-going development of child welfare reform law.⁴⁷

The School-Safety Team: A Collaboration That Protects Child Welfare and Supports Public Schools' Education Mission



School-safety law represents an object lesson on the successes of the child welfare reform model. Using collaborative tools, today's safe-schools team avoids the demise that befell their isolated predecessors. Previous educators found themselves stuck in the middle of the juvenile-justice and child-welfare systems' efforts to serve and protect children. Without collaboration, these secluded educators accepted the risk of rampages by, and victimization of, students without any hope of prior notice. Even the identities of children purposefully placed into classrooms by juvenile-justice and child-welfare officials were routinely kept private from school officials. With collaboration, the cloud that forced school officials to peer into the dark and assume risks without information has been removed. Today's educators have the tools to implement a version of the child welfare reform model that nurtures and protects students as well as prevents disruptive behavior.

The school safety law model evolved quickly during the 1990s, prompted by 15 deadly, highly publicized campus rampages from 1993–1999.⁴⁸ Most public educators had equally compelling data in-hand to recommend the model: their own campus incident reports and the perceptions of school personnel, students, and parents. This period of time coincides with the addition of school resource officers as part of a comprehensive, community-oriented strategy to address the range of real and perceived challenges to campus safety. The school safety law model is designed to adapt to the unique variety of special needs on the local campus. Today, the school resource officer is an established partner on the campus safety team whose focus has broadened well beyond the low probability/high consequence shootings, to the array of challenges to the educational climate.

Critics of school safety who disagree with specific policy outcomes are mistaken when the interagency model is selected as the lower-hanging fruit in the debate. This is particularly true when critics who traditionally target law enforcement for criticism stumble upon the school resource officer. Child welfare on campus is not compromised by school resource officers, but is at-risk without them. Erection of the ancient barriers would be catastrophic and debilitating to the interests of children: creating the appearance of deliberate indifference to student victims, formalizing selective enforcement of conduct codes, violating the right of students to an education, and inducing obstruction of justice when crimes are covered up on campus.

School resource officers assist educators in protecting students and the education mission by being an active part of at least three educator-initiated strategies:

- **Safe School Crisis Training:** Planning and implementing procedures that (1) train and drill all campus personnel to respond to crisis events; (2) control access to the school during the school day; and (3) close or partially close the campus after students arrive.
- **Purposeful Use of Technology:** Integration of metal detectors, surveillance video, and other devices to cover and document more real-time activities. This policy lawfully enhances supervision of events occurring in parking lots, hallways, classrooms, auditoriums, and open areas that do not involve reasonable expectations of privacy.
- **Effective Use of Interagency Partners:** Sharing information to (1) identify risk and protective factors of students (2) coordinate nurturing, intervention, and prevention efforts; and (3) designate “first” and “primary” responders to incidents and threats to school safety.

The weight of the evidence show that collaboration between school officials and school resource officers is an example of these strategies put to effective use in preserving the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. When critics accuse educators of being indifferent to, or hostile toward, the rights of students under the banner of school safety, it is not surprising that the data fail to support the assertion. This is not because of an absence of data. Data on school safety are inherent in the activity. School safety is incident-driven. The record speaks for itself. What the data of school discipline under the school-safety model reflect is the exercise of discretion by educators in light of both their heightened legal duties and broadened legal authority. And while there are many uses to which the data may be put in assessing the correctness of outcomes in light of this discretion, one assertion has been taken away from the debate by the data itself: collaboration between school officials and school resource officers is an effective component to preserving the right of boys and girls to attend schools that are secure and peaceful.





The SRO's Role on Campus:

Keeping Students Safe and Supporting the Education Mission as Law Enforcement Officer, Teacher and Counselor

“Sometimes when kids grow up they are taught cops aren’t there to help them, but having school resource officers like Bill Rosario in the schools makes it really easy to see they are there to give us guidance and show that you can change your life.”⁴⁹

The Triad of SRO Responsibility

Effective SRO programs recognize and utilize the special training and expertise law-enforcement officers possess that is well suited to effectively protect and serve the school community. SROs contribute to the safe-schools team by ensuring a safe and secure campus, educating students about law-related topics, and mentoring students as counselors and role models. This is the Triad Model of SRO responsibility: *educator, informal counselor, and law enforcer*.

Just as it would be difficult to describe all the tangible and intangible ways an experienced, caring teacher or administrator contributes to his or her school; it is also difficult to inventory all that an SRO can do for a campus and its surrounding community. Law enforcement's specialized knowledge of the law, local and national crime trends and safety threats, people and places in the community, and the local juvenile-justice system combine to make them critical members of schools' policy-making teams when it comes to environmental safety planning and facilities management, school-safety policy, and emergency response preparedness.

Officers' law-enforcement knowledge and skill combine with specialized SRO training for their duties in the education setting. This training focuses on the special nature of school campuses, student needs and characteristics, and the educational and custodial interests of school personnel. SROs, as a result, possess a skill set unique among both law enforcement and education personnel that enables SROs to protect the community and the campus while supporting the educational mission. In addition to traditional law-enforcement tasks, such as searching a student suspected of carrying a weapon or investigating whether drugs have been

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brought onto campus, SROs' activities can include a wide range of supportive activities and programs depending upon the type of school to which an SRO is assigned:

- Meeting with principals each morning to exchange information gathered from parents, community members, and social media to detect potential spill-over of threats, drug activity, and other behavior onto campus.
- Meeting with campus and community social workers to understand when and how at-home issues may be motivating a student's disruptive behavior in order to work with school staff to ensure effective and supportive responses.
- Carrying two radios: one for school and one for the sheriff's department to watch for spill-over onto campus and be a familiar face if one of their students is involved in an incident off campus.
- Listening to students' concerns about bullying by other students and taking those problems to school administrators to help develop solutions.
- Providing counseling and referrals when sex-abuse victims turn to them for help because of the relationship of trust officers have built with the students.
- Coordinating additional law enforcement resources to assist with large public events on school campuses such as athletic events, dances and community functions.
- Working with school administrators to keep the Schools Emergency Management Plan updated.
- Scheduling emergency drills in conjunction with other local agencies.
- Coordinating a Crime Scene Investigator to speak to Biology classes.
- Instructing students on technology awareness, domestic violence, traffic-stop education, and bullying.
- Developing intervention, skills-development, and healthy-lifestyle programs for elementary and middle-school students so they are prepared to succeed in high school.
- Conducting home visits to contact parents of at-risk students and assisting those families.
- Helping students with their homework, playing basketball, and sharing dinner together during extended school-day programs.
- Creating and conducting a distracted driving course for students in the school district.
- Hosting summer "bike rodeos" for students that includes the donation of bicycles by local merchants and the police department.
- Implementing a "Doing the Right Thing" program where educators select one student each month for lunch with the SRO and a photo in the local paper in recognition of their leadership skills.

- Hosting summer “Jr. Police Academies”: free programs that give students something positive to do after the school day and during their summer vacation, including camping, bull riding, archery, baseball, life-skills, and musical theatre.
- Conducting intervention programs for the purpose of counseling victims and friends of victims of campus violence.
- Providing unique classroom instruction to students in programs such as the “Eddie Eagle Gun Safe” Program, the “Too Good for Drugs & Violence Program,” and the “Protecting Kids Online” Program.
- Coordinating and funding programs for students-in-need that provide rides to school, school uniforms, school lunches, supplies for the home, food, and holiday gifts.
- Coordinating a variety of community service activities with students that include spending time with the elderly at local nursing homes, running soup kitchens for the needy, hosting dances with student groups, and weekend field trips.

The SRO's Role in Creating A Safe and Secure School Environment and Community

Bringing Specialized Skills to Bear on School Safety

SROs are sworn police officers trained to serve and protect the community. As such, they have a duty to serve and protect schools within their jurisdiction as part of a total community-policing strategy. This duty persists and remains paramount when an officer is assigned to a school.

Most of an SRO's time is typically spent on school-safety and law-enforcement activities, from assisting with their school's emergency-response plan to arresting students selling illegal drugs on campus to monitoring the school entrance and parking lot before and after school. As to school discipline, the particulars of the essential Memorandum of Understanding between the local law-enforcement agency and school district defines the role the SRO will play in assisting school personnel with discipline issues that do not involve law violations or threaten campus security. A best practice for discipline issues has emerged nationally over the past decade and has been endorsed by the courts: an SRO who observes a violation of the school code of conduct, preserves a safe and orderly environment by taking the student(s) to where school discipline can be determined solely by school officials.⁵⁰



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As law-enforcement specialists, SROs bring a level of expertise to the school setting that promotes effective and efficient investigation and resolution of crimes occurring on campus. For example, when rumors spread that a student is carrying a weapon, the SRO puts his or her investigative expertise to use to recognize any suspicious behavior the student may be engaged in, interview staff and students who might have knowledge of the situation, and check the student's record. The SRO's training in searches and weapons-neutralization then allows the weapon to be confiscated in the safest way possible, protecting the student, classmates, and staff. Additionally, the SRO's familiarity with the law allows the search, seizure, and any corresponding interrogation and arrest to be conducted according to applicable legal standards, thereby protecting the students' rights and the school from liability.

The SRO's coordination of community resources can be invaluable when threats larger than an isolated fight or theft threaten a school. As a conduit for information sharing between social services agencies, juvenile justice departments, and community organizations, the SRO stays apprised of a student's activities and challenges in a variety of settings and can step in when a pattern of suspicious behavior emerges—a pattern that would not be seen by a social worker or teacher alone. This early identification of safety threats is the key to preventing both small and large-scale incidences on campus.

The presence of an SRO, as a result of their law-enforcement activities and day-to-day visibility to and interaction with students and staff, supports a safe and orderly environment where students can feel safe and educators can feel supported in their determination to protect their students during the school day. As opportunities for violence are greater in disorderly environments, the SRO's contributions to the general order of the school cannot be overlooked.

Reducing Crime and Disciplinary Infractions on Campus and Beyond

Drops in the number of school-based arrests and disciplinary infractions have paralleled the establishment of SRO programs in school districts around the country. Varied structures of SRO programs and the inconsistency in local record-keeping practices prevent review of the impact of every SRO program nationwide; however, national juvenile-crime and school-based crime statistics, as well as state statistics and studies of county and local SRO programs show how dramatically SROs can reduce crime on campus and beyond.

As SRO programs came to prominence in the early 2000s, juvenile arrests declined 17% across-the-board between 2000–2009 (the most recent year for which data was available).⁵¹ The violent-crime index fell 13% and the property-crime index fell 19% during this period.



And other assaults, vandalism, weapons, drug, DUI, and curfew and loitering offenses all fell as well. In 2011, incidences of school-associated deaths, violence, nonfatal victimizations, and theft all continued their downward trend that began in 1992.⁵²

Supporting these national statistics is a 2009 study by Matthew T. Theriot, comparing 13 high and middle schools that had an SRO and 15 schools without an SRO within one school district in the Southeastern United States over a three-year period—2003-04, 2004-05, and 2005-06.⁵³ When the results were controlled for economic disadvantage, the presence of an SRO led to a 52.3% decrease in the arrest rate for assaults and a 72.9% decrease in arrests involving possession of a weapon on school property.

Theriot observed that these dramatic reductions in assaults and weapons offenses may be attributable to SROs' deterrence of delinquent behaviors and because SROs may make students feel safer so they don't feel the need to carry a weapon. He opines, "These enhanced feelings of safety also might contribute to better feelings about school in general, a stronger sense of connection to the school, and a better school environment that could lead to decreased aggression and fewer fights among students."⁵⁴ In fact, when significant in the analyses, regression coefficients for the interaction showed that arrest rates declined as poverty increased at schools with an SRO.⁵⁵

Beyond issues of statistical significance, other studies and reports confirm a range of positive outcomes when school safety programs actively involve SROs. At Kettering Fairmont High School in Ohio, disruptive behavior, expulsions, suspensions, office referrals, and arrests all decreased over two-year study relative to pre-SRO data. Further, the SRO program's development of better relationships with students resulted in more attention being paid to crime and more tips being reported by young people outside of school—leading to more arrests in the community.⁵⁶ In a southern city, intermediate and major offenses in high and middle schools decreased, as well as suspensions between the 1994-95 and 1995-96 school years after an SRO was permanently assigned to the schools.⁵⁷

A study that interviewed police chiefs and SROs in 16 Massachusetts school districts during 2008-2009 found that placement of officers in school rather than keeping them on-call, in the opinion of law enforcement, will reduce the number of school-based arrests over time because it allows the SRO, students, and administrators to become more familiar and comfortable with one another.⁵⁸ Law enforcement officials have found this decreases school-based arrests, sometimes dramatically. The SROs found that referral to clerk-magistrate hearings or other diversion programs were more effective in changing student behavior than referrals to juvenile court.⁵⁹

In North Carolina, 98% of Local Education Agencies have SRO programs in at least one of their schools as of the 2008-09 school year, which represents a 4.42% increase over the 2007-08 year. At the same time, school-based offenses have fallen every year since 2007.⁶⁰ In Kentucky, 128 principals surveyed believed that SROs reduced the amount of misbehavior on their campuses, making them important parts of their school-safety plans. The principals found that the SROs had the greatest impact on reducing fighting in their schools, followed by reducing the presence of marijuana and occurrences of theft.⁶¹ Student perceptions are, in the main consistent with these reports.⁶²

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Collaboration between school officials and school resource officers is an essential component to preserving the right of boys and girls to attend schools that are secure and peaceful. The personal experience of SROs working the school beat reinforce these findings: "The greatest impact? The bonds and friendships we've formed with these students,' says [Mel] Ray [Klamath County SRO coordinator]. 'There is just no way to measure that. I think we prevented a tremendous amount of crime. Everyone here has the same goal—to see these kids graduate."⁶³ Another SRO reported:

"As far as South Charleston High School goes, we have noticed a decrease in violence and disturbances since I was assigned here. We have developed a relationship with most students allowing them to now feel comfortable coming to the office before a problem escalates."⁶⁴

Reductions in school-based crime, as well as the other aspects of the SRO's triad of responsibility, benefit the larger law-enforcement community as well. Strong SRO programs have been found to reduce the workload of patrol officers, including preventing problems that would have escalated to 911 calls from schools, improving law enforcement's image with juveniles, which leads to increased crime reporting, creating and maintaining better relationships with schools, and enhancing the law-enforcement agency's reputation in the community. As the SRO serves both law-enforcement and educational interests, the officer's work benefits both communities.

The SRO's Role in Teaching Students About Safety and the Law

While an SRO's primary responsibility is safety, his or her regular duties can and should include service as a teacher of law-related topics. Through regular teaching, the SRO imparts valuable, specialized knowledge to students and staff, builds relationships with students as they come to understand and respect the officer's knowledge and commitment, and improves students' perceptions of law enforcement in general. Indeed, even when an SRO program's initial focus is on law enforcement, programs often evolve to include formal teaching and counseling as the value of the SRO as a resource for education and mentoring becomes clear.



SROs regularly teach classes on a broad range of topics: bullying, aggression, dating violence, gang violence, driving safety, underage drinking, drinking and driving, drug use, peer pressure, fingerprint evidence, Internet safety, search and seizure laws, sex crimes, the rights of victims of crime, and more. These topics compliment standard classroom subjects by providing "real world" information and advice to help students understand and confront issues common to their childhood experience. As students are better able to deal with issues outside the classroom, they are better prepared to excel inside the classroom. And while teachers appreciate the importance of these topics, they often lack the training to provide more than a standard curriculum. With SROs in the lead, these topics are brought to life through tales from the SRO's personal experience and their nuanced understanding of the threats and consequences confronting students every day.

The SRO's Role as Informal Counselor and Role Model

Everyone involved in children's services agrees that the presence of responsible, caring adults in a child's life is critical to his or her ability to avoid destructive behaviors, make good choices, and survive the challenges that family, socio-economic, racial, and other circumstances can present. An SRO is one of these adults, and students and educators are well-aware of how much they help students navigate challenging situations on and off campus.

SROs maintain "open-door" policies towards students, engage in counseling sessions, and refer students to social-services, legal-aid, community-services, and public-health agencies as part of their role as counselor and mentor. Like the educators, administrators, nurses, social workers, coaches, and counselors they work with on campus, SROs work to establish rapport with students by keeping up with their academic and extra-curricular activities, chatting about mutual interests, and providing an attentive ear for whatever is on the student's mind. In this role, the SRO functions much as a community police officer would on his or her beat—getting to know the locals and getting involved with their daily lives. At schools, as in the community, this is a mutually beneficial relationship. Students come to understand that someone cares and will listen, and SROs come to understand where students' concerns lie and what might be threatening their and others' safety.



Community-Wide Recognition of the Importance of SRO Programs

In communities across America, all stakeholders—educators, parents, students, lawmakers, courts, and community organizations—welcome the SRO onto the child-welfare team to provide unique expertise in service of school and community safety.

Educators' Duty to Provide a Safe and Secure Learning Environment Motivates Their Collaboration with SROs



Educators have a compelling interest in maintaining a safe and effective learning environment as a part of the total strategy of achieving the educational mission.⁶⁵ The modern range of foreseeable misconduct by students and others on campus makes a clear relationship with local law enforcement essential. Educators who desire to avoid liability collaborate with law enforcement to implement triad-model SRO programs that utilize law enforcement's expertise and experience to complement the educational mission by establishing order and quickly responding to threats.

Fulfillment of the duty to provide a safe learning environment requires educators to keep students safe while respecting their constitutional rights. A failure to fulfill either component of the duty results in injury to students and legal liability for the school. Because the line between securing a campus and protecting student rights can be difficult to walk, trained SROs are a vital component in school-safety plans.

As law-enforcement officers trained and experienced in community protection through appropriate techniques that respect individual rights, SROs are well-prepared to walk that line. When they collaborate with educators, SROs' law-enforcement expertise supports school officials' roles as keepers of the peace. As explained above, SROs' specialized knowledge in investigative techniques, search-and-seizure procedures, weapons neutralization, facilities security, and the like make them the preferred personnel for addressing safety threats on campus.

Threats to school safety can also be bigger than the schools themselves. Community issues such as gang-violence and drug-trafficking manifest on campus in the form of assaults, theft, drug sales and possession, and many other disruptions. Disruptive youths can be placed back onto campuses and into classrooms as a condition of court-ordered supervision. Notice of their presence and a proper assessment of their needs, which can involve problems far beyond the expertise found in the traditional curriculum, is essential to a safe campus and orderly learning environment. The SROs service as an information-sharing link between law-enforcement and juvenile-justice agencies and educators is a key component of school safety. And the SRO's knowledge of how to identify and respond to these threats as they manifest on campus is critical.

Teachers and school administrators welcome the addition of law-enforcement expertise and support to campus as part of the school-safety team. Administrators find that collaborating with an SRO protects them in situations that may be dangerous, brings an expertise they do not have to potentially dangerous situations, and provides a quick response time in dangerous situations. Further, administrators report that SROs routinely prevent crimes and violence, which can help reduce their school's legal liability, and that SROs help students feel safe. Of principals surveyed in Kentucky, over 98% felt that high schools should have an SRO and over 93% felt middle schools should have an SRO. Administrators see SROs as effective in their law-enforcement, as well as their teaching and counseling, roles. "The SRO possesses the specific training that school administrators lack related to properly responding to possible threats. As a result, schools with an SRO appear to be better equipped to effectively address any threatening situation that might arise in the course of the day."⁶⁶ As a national best practice, the National Education Association recognizes that relationships are key to school safety and advises its members to foster safe schools by creating partnerships with law enforcement and social-services agencies.⁶⁷

Teachers overwhelmingly recommend SRO programs to other schools. Teachers perceive school safety as accomplished through the collaboration between administrators, teachers, and SROs, and find that the collaboration has a positive effect on the educational environment. They report that SROs have a positive effect on: school climate, teacher and student morale, safety and security, and creating an atmosphere of caring, respect, and trust. In a study of 19 schools, diversified for size of school and age of SRO program, the vast majority of schools expressed satisfaction with their SRO programs.⁶⁸

Modern threats to school safety and an orderly educational process, coupled with our understanding of how important community-wide collaboration is to the welfare of all young people, particularly at-risk youth, make an effective SRO program critical to educators' ability to fulfill their duty to educate children in a safe and secure environment. Educators' positive experiences with their SROs is a testament to these officers' unique ability to effect positive change in the school environment.

Parents Share Educators' Interest in the SRO's Protection of Their Children

Educators' custodial interest in their students' welfare is a derivative of the parental interest in their children's safety and education. The interest of parents is woven throughout public education. The range of activities, from policymaking to the implementation of the education mission reflects what has been called "democracy in a microcosm," in which the "school board is not a giant bureaucracy far removed from accountability for its actions."⁶⁹ Educators are responsible for fulfilling parents' custodial and tutelary interests when children are entrusted to educators' care. The duty of school officials to take reasonable steps to protect students is firmly linked to notions of *in loco parentis*.

Prior to the late-twentieth century, educators were deemed to stand *in loco parentis* in an absolute sense. However, this carried with it two unintended consequences. First, students had no

rights on campus unless parents and educators agreed. Second, school officials were subject to few, if any legal limits, receiving immunity from liability because they were seen as acting on behalf of parents. This type of *in loco parentis* was repudiated in the landmark student search case of *New Jersey v. T. L. O.*⁷⁰ In *T.L.O.*, the Court summarized the common law notion and declared it inconsistent with the Bill of Rights: “In carrying out searches and other disciplinary functions pursuant to such policies, school officials act as representatives of the State, not merely as surrogates for the parents, and they cannot claim the parents’ immunity from the strictures of the Fourth Amendment.”⁷¹

However, the modern version of *in loco parentis*—the duty to take reasonable steps to provide for the safety of students—remains very broad. The U.S. Supreme Court announced the new version in the landmark suspicionless drug testing case, decided in favor of educators. The Court ruled that: “[a]lthough public school officials do not stand entirely [*in loco parentis*] with respect to the students, they do exercise a ‘custodial and tutelary’ authority that permits ‘a degree of supervision and control that could not be exercised over free adults’ and that cannot be ignored in conducting a ‘reasonableness’ inquiry.”⁷²

As part of the school safety team, SROs support the educational mission and custodial responsibilities of educators as the team makes assessments in the best interest of children as would their parents. In the limited research on the opinions of adults, it is no surprise that parents who have been surveyed approve of SRO programs. Brad Myrstol examined the extent that adults were aware of an SRO program and surveyed their opinions. The results suggest that parental interests are aligned with the goals and outcomes of SRO programs. Clear majorities of adults reported their belief that the SRO would improve community relations with police (75%), improve students’ attitudes toward police (70.4%), reduce crime/delinquency, and improve the environment within schools (80%).⁷³

When parents and educators agree on school policy courts tend to give weight to the result of the “democracy in a microcosm.” This judicial deference is consistently expressed by the courts in the following manner: “education of the Nation’s youth is primarily the responsibility of parents, teachers, and state and local school officials, and not of federal judges.”⁷⁴

SROs' Role in Protecting the Rights of Others to Be Free From Victimization at School

Victimization in schools is a prominent basis for resisting the removal or marginalizing of collaborative SRO programs. School resource officer programs are part of a community-oriented, collaborative strategy tailored to preserve the educational climate while looking after the needs of all students. It is not incidental that the growth of the Safe Schools Movement coincides with the Crime Victims’ Rights Movement in both time and urgency. Both are deeply rooted in human rights. The National Center for Education Statistics and Bureau of Justice Statistics made these findings in 2011:

“For both students and teachers, victimization at school can have lasting effects. In addition to experiencing loneliness, depression, and adjustment difficulties, victim-

ized children are more prone to truancy, poor academic performance, dropping out of school, and violent behaviors. For teachers, incidents of victimization may lead to professional disenchantment and even departure from the profession altogether."⁷⁵

The law on the role of school officials to protect victims is grounded in these statistics. Courts in America follow the lead of the U.S. Supreme Court on the authority of educators to protect the rights of others to be free from victimization at school. The standard has been consistently rigorous since its announcement in the 1985 decision of *New Jersey v. T.L.O.*⁷⁶

"Without first establishing discipline and maintaining order, teachers cannot begin to educate their students. And apart from education, the school has the obligation to protect pupils from mistreatment by other children, and also to protect teachers from violence by the few students whose conduct in recent years has prompted national concern."⁷⁷

The Victims Rights Movement has surpassed its education reform twin in prominence and this urgency goes all the way to the public school campus; 33 states have enacted constitutional amendments codifying the right. Although each states' victims' rights amendments (VRAs) differ in scope, substance, and length, the constitutional changes made by these states evidence the importance of the right. There is no federal VRA, but Congress has passed a number of legislative acts aimed at protecting victims' rights, including: the Victims of Crime Act of 1984⁷⁸, the Victim's Rights and Restitution Act of 1990⁷⁹, the Victims Rights Clarification Act of 1997⁸⁰, and the Crime Victims' Rights Act of 2004.⁸¹

As for students, victims' rights laws simply formalize what is already assumed—a human right to be free from abuse on campus. This right extends to children because they are compelled by state law to attend public schools. Some state constitutions specifically protect student victims of harassment and violence through both VRAs and other legislation. For example, in Alabama, victims of harassment, intimidation, violence or threats of violence on school property may file a complaint on an authorized form and submit the form to the official of the designated local board. Arkansas and California have expanded these rights to protect victims from cyber bullying, in response to technological changes and the growth of social networking.⁸² Although these states are careful not to impede students' constitutional rights to free speech,⁸³ policy makers recognize the importance of protecting the rights of student victims.⁸⁴

In addition to state VRAs, state law firmly establishes that educators are liable when students are not protected from routine and foreseeable risks of harm. Today, lawsuits brought by student-victims are successful upon a showing of deliberate indifference under rules similar to that which applies to claims brought against educators for intentional and maliciously inflicted injuries.⁸⁵ Federal and state legislatures are now clarifying these rules to encourage student-victim claims. The theme for this emerging liability law for failure to protect victims is called "selective enforcement."

Selective enforcement liability focuses squarely on the failure of educators to implement campus safety rules fairly. Victimized students may challenge either a discriminatory policy

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or the flawed manner in which an evenhanded policy is implemented. In other words, in the selective enforcement lawsuit, the student accuses the school of indifference or of playing favorites among the student body such that the disciplinary process creates a bias in favor of some students and against others.

There is nothing but trouble for educators who implement policies that expose students to greater risks of victimization. Juveniles who commit crimes on campus in self-defense or who inflict harm on themselves, often speak of the selective enforcement as a factor in their desperation to have school rules enforced fairly for the benefit of all students. The expansion of the selective enforcement lawsuit to include claims beyond historical race and gender is designed to protect all students from discrimination. The U.S. Supreme Court says about such cases that, “the purpose ...is to [protect] every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.”⁸⁶ A variety of federal statutes (and an equal number of state laws) may be brought to bear against school officials and SROs.

Section 1981 Lawsuits

Selective enforcement lawsuits brought under 42 U.S.C. § 1981 involve race discrimination. Educators will be liable to a student-victim when a racial bias is intentional and involves the selective application of a school policy. Proof of the bias may be shown by direct evidence or through circumstantial evidence. For example, statements made to a student by an educator that contain racial invective will support such a claim. In addition, a disparity in discipline establishes an unlawful bias if a student identifies arbitrary, undeserved, or unreasonable punishment of students based on race, or the failure to discipline students for similar misconduct based on race. When this is shown the burden shifts to the school or the police to explain what happened. The explanation must be a legitimate, non-discriminatory reason for the challenged action. However, even when such a reason is offered, the student can rebut it by convincing the court that the explanation is a pretext for unlawful racial discrimination. Courts are allowed to impose liability when the explanation by the educator appears to be a cover-up for a discriminatory act.

Section 1983 Lawsuits

Selective enforcement claims under 42 U.S.C. §1983 are lawsuits based on violations of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Like the section 1981 claim, the student must show that he was treated differently from similarly situated pupils and that the unequal treatment can only be explained by discriminatory intent.

Unlike section 1981 claims, students have three ways of establishing improper intent in selective enforcement claims based on the Equal Protection Clause. First, the student can link the discrimination to race, gender, alienage, national origin, illegitimacy or show that selective enforcement of school policies denied him a fundamental right. This is not as difficult to do as one might suppose. For example, a student can point to an official school policy or a re-

peated practice that is so common as to constitute a custom of the school. When proven, courts apply strict judicial scrutiny and quickly impose liability on school officials. Second, a student can prove discriminatory intent without pointing to a policy if a single discriminatory act is committed by a principal, teacher, or staff member who has final policymaking authority over discipline. When proven, courts apply strict judicial scrutiny and quickly impose liability on school officials.

Title VI of the Civil Rights Act

Title VI of the Civil Rights Act (42 U.S.C.A. § 2000d), represents another claim that may be brought against schools for selective enforcement. Title VI forbids discrimination by any person or institution that receives federal funds on the basis of race, color, or national origin. Students who successfully assert a claim under Title VI are entitled to money damages from the school district by showing that educators intentionally discriminated against them. In this type of action, intent can be inferred by deliberate indifference to an environment hostile to students based on race, color, or national origin. Title VI is a fertile tool for students in schools where a racially hostile environment exists or has been allowed to fester with foreseeable consequences.⁸⁷ The student-victim will succeed by showing that educators had actual or constructive notice of pervasive racial discrimination at the school and allowed these conditions to persist creating a hostile environment.⁸⁸ Moreover, where a school district has actual knowledge that its corrective measures are ineffective, and it continues to use those same methods to no avail, the educators have violated Title VI.

Title IX Claims

Title IX claims are identical to Title VI lawsuits for selective enforcement, except that it prohibits gender discrimination, not race, color, or national origin discrimination. It applies to all education programs receiving federal funds. The law declares that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”⁸⁹ Under Title IX, a school’s deliberate indifference to a hostile environment, teacher-on-student or, student-on-student harassment, is a violation of the law.⁹⁰

The U.S. Supreme Court has held that Title IX lawsuits cover, “intentional sex discrimination in the form of a [school official’s] deliberate indifference to a teacher’s sexual harassment of a student, or to sexual harassment of a student by another student.”⁹¹ As with Title VI, a student in a Title IX selective enforcement case must prove that severe, pervasive, and objectively offensive harassment occurred; that the harassment deprived her of educational opportunities or benefits; that the educational institution had actual knowledge of the harassment; and, finally, that the institution’s deliberate indifference caused the student to be subjected to the harassment. Title IX protects students against same-sex harassment.⁹² Finally, Title IX also allows parents to file retaliation claims against schools.⁹³

“Class of One” Lawsuit

Finally, the courts are beginning to permit a new kind of section 1983 claim that is specifically useful for students who believe they are victims of selective enforcement. Under a “class of one” lawsuit, a student does not claim that he is a member of a “suspect” class or that he was denied any fundamental right. Instead, the student must only show that (1) educators intentionally treated him differently from others similarly situated; and (2) this different treatment was not rationally related to a legitimate educational objective. The courts have created this type of claim to allow a student to show that an educator’s official reasons given for selectively enforcing a school policy is a pretext for an irrational bias. A student will establish such a case when he presents evidence that other students, who are identical or comparable to him/her, have been treated more favorably. The U.S. Supreme Court explained the reason for such a lawsuit by stating, “[o]ur cases have recognized successful equal protection claims brought by a “class of one,” where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.”⁹⁴

Selective Enforcement and Disciplinary Reform

Critics of SRO programs encourage schools to selectively enforce disciplinary policies in a good-faith attempt to convert some violations of law and school rules into teachable moments and educational opportunities. Under such a policy, no student is similarly situated to another. Unwittingly, the seeds of selective enforcement are planted. Without proper training and frequent assessments, this type of disciplinary policy will create the appearance of deliberate indifference to student victims. Educators will find themselves at-risk of a lawsuit.

Selective enforcement of the school code of conduct may also lead to criminal liability for obstruction of justice. For example, as the gravity of student misconduct increases, affirmative duties to report the incident to various agencies for investigation and intervention are triggered. Therefore, even though school officials maintain independent authority to address even these offenses through their disciplinary process, the failure to comply with their statutory duties not only violate the rights of victims, but is itself a violation of the law.

School resource officers are an important element in meeting statutory obligations and creating expectations by student for consistent enforcement. In response, students report positive perceptions of the SRO as consistency creates trust and feelings of safety and decreased victimization. One study concludes that as students' contact with the SRO increases, so does positive perceptions of SROs and likelihood of taking more ownership for maintaining a safe campus by reporting a crime.⁹⁵

State Legislatures' Incorporation of the SRO Into the School-Safety Team

State legislatures across the country incorporate the SRO into school-safety legislation, recognizing the importance of the educator-SRO collaboration to ensure a safe learning environ-

ment. These statutory provisions show that legislatures appreciate that SROs are an important component in school-safety planning and the day-to-day protection of schoolchildren. How this recognition takes shape varies from state-to-state.

Many states define what a school resource officer is, codify parameters for SRO programs, set requirements for SRO training, promote or require inclusion of SROs in school-safety planning, and/or treat SROs as school officials in various situations.⁹⁶ Arizona, for example, requires applicants for its school-safety programs to incorporate an SRO into their plans.⁹⁷ The District of Columbia's Gang and Crew Intervention Joint Working Group is required to coordinate community resources, including SROs, in its response to high-profile youth violence.⁹⁸ Tennessee includes an SRO representative on the state-level safety team charged with establishing templates for district- and building-level emergency response teams.⁹⁹

The Courts' Approval of the SRO/Educator Collaboration

For over forty years, the United States Supreme Court has recognized and respected the unique position in which educators find themselves—in charge of teaching students how to be citizens in a free society and, at the same time, maintaining the order and discipline that a safe and productive learning environment requires.

In *Tinker v. Des Moines Independent School District*,¹⁰⁰ the Court found that while students retain their constitutional rights when in school, those rights must be balanced with educators' duty to provide a safe and orderly learning environment. And in *New Jersey v. T.L.O.*, the Supreme Court relaxed Fourth Amendment standards to allow educators to search based not on probable cause, but on the suspicion "that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school."¹⁰¹

Under this line of cases, the Constitution allows educators to set aside the probable-cause standard and focus instead on individual students and group juvenile behavior that is incompatible with the educational mission. In some cases the educator must have reasonable suspicion before acting, as in *T.L.O.*, and in other situations no suspicion is required, as in many drug-testing cases involving categories of students and an educator's special interest in health and safety.¹⁰² This lower standard applies even when the code-of-conduct violations the educator is investigating are also violations of the law that may result in arrest.

When an SRO acts in routine-response mode, he or she engages in routine law-enforcement activities indistinguishable from duties performed off campus. The SRO may respond to events and persons who are on campus that would involve members of law enforcement had they not happened on a public-school campus, such as an auto collision, an assault, property theft, or drug sale. The SRO might be responding to a crisis situation that occurs on campus requiring the expertise of law enforcement in restoring the peace, conducting an investigation, and determining whether crimes have been committed.

In routine-response mode, the legal standards to which a police officer must conform are no different than they are anywhere in the community. Standard Fourth Amendment requirements govern how an investigation is conducted, how custodial stops proceed, when searches are initiated, and when persons are subject to arrest.

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When the SRO assists in activities that are initiated by the educator and primarily involve efforts to apply the school's code of conduct to maintain a safe campus, the SRO acts in educator-support mode. In these situations, the educator's special constitutional standard from the *T.L.O.* line of cases applies.

Under the direction of the educator, the SRO may join the team of specialists that work together to achieve the education mission. These tasks may include enforcing the code of conduct and referring serious violators to the juvenile-justice system. "[W]hen school officials, who are responsible for the welfare and education of all of the students within the campus, initiate an investigation and conduct it on school grounds in conjunction with police, the school has brought the police into the school-student relationship."¹⁰³

The courts recognize that law-enforcement officials' training and expertise is better suited to investigating and quelling behavior that threatens campus safety and is often dangerous. State and federal courts agree that educators may delegate their special authority and ask the SRO to perform an act, be present as a witness when the educator acts, and generally lend support and provide assistance in maintaining a proper learning environment. For example, in *State of Wisconsin v. Angelia D.B.*,¹⁰⁴ a student told a school administrator that Angelia had a knife in her backpack. Another administrator and the SRO confronted Angelia and the SRO searched her backpack and conducted a pat-down search of her clothing. The administrator searched her locker. When nothing was found, the administrator and SRO brought Angelia to the SRO's office. The SRO searched Angelia and found a knife tucked in the waistband of her pants. Finding that the *T.L.O.* reasonable-suspicion standard applied, the Wisconsin Supreme Court recognized that a dangerous weapon at school poses a significant and imminent threat of danger to staff and students compelled to be at school.

"Were we to conclude otherwise, our decision might encourage teachers and school officials, who generally are untrained in proper pat down procedures or in neutralizing dangerous weapons, to conduct a search of a student suspected of carrying a dangerous weapon on school grounds without the assistance of [an SRO] While the *T.L.O.* court adopted the less stringent reasonable grounds standard in part because of the need of teachers to 'maintain swift and informal disciplinary procedures,' it could be hazardous to discourage school officials from requesting the assistance of available trained police resources."¹⁰⁵

The court in *In re William* similarly focused on the SRO's function at the school and the special nature of the public-school environment to determine whether the SRO would be considered a school official to whom the reasonable-suspicion standard applied.¹⁰⁶ In that case, the SRO, while walking the school saw a student standing alone in the hallway displaying a red bandanna from the back pocket of his pants. Possession of a bandanna on campus was a violation of school rules because colored bandannas commonly indicated gang affiliation. The SRO approached the student and asked him to remove the bandanna. The SRO then decided to take the student to the principal's office for the violation. Before doing so, the officer conducted a patdown for weapons and discovered a knife. Adopting the *T.L.O.* rationale, the

court validated the search as reasonably related to the educators' interests in school safety and appropriate in scope given the facts of the case.

The legal issue in these cases is simply whether the team employed proper techniques and responses to the safety concerns at hand, and whether the SRO action stemmed from educational and school-safety interests or purely law-enforcement interests.¹⁰⁷ When an SRO acts in collaboration with educators, at their direction and in the interests of school safety, the educator's standard applies. The consistency of the courts' adoption and approval of this approach demonstrates that the SRO is a proper and important component of the school-safety collaboration.

SRO Programs Are Not Tracks to the Juvenile Justice System

Critics of modern juvenile-justice reforms and of the school-safety movement since the late 1990s are now setting their sights on SRO programs. Ignoring the importance and widespread success of the SRO's role on the child-welfare team, advocacy groups pluck inflammatory anecdotes and vague statistics from the headlines to allege that there is an epidemic of juvenile arrests in this country, which disproportionately affect minority students, for which SROs' presence on campus is responsible.¹⁰⁸

But there is no epidemic of juvenile arrests. Critics can point to few modern connections between local bumps in arrest rates and SRO programs. And the demographics of school-based arrests mirror those of juvenile arrests generally.

Significant Declines in School-Based and Juvenile Arrest Rates Have Accompanied the Proliferation of SRO Programs Across the Country

As previously explained, two parallel trends have continued during the last decade of school-safety reform—falling rates of juvenile arrests and proliferation of SRO programs across the country. If the entry of SROs onto America's campuses built a track to juvenile arrests, where are all the arrests? How can all indicators of school-based crime continue to fall and juvenile arrest rates fall 17% since 2000 if the presence of SROs on campus has opened up a pipeline to the juvenile-justice system?¹⁰⁹

Further, national statistics show that far fewer incidents of school-based crime are reported to the police than occur. In school year 2009-10, only 15 of every 40 school-based crimes per 1,000 students, for example, were reported to the police.¹¹⁰ If SROs are criminalizing student



behavior that educators once dealt with on their own, how can school-based crime remain so significantly underreported? Even "lesser" crimes that critics allege should be handled by educators without law enforcement involvement fail to support the track allegations as all crimes are on the decline. For example, a crime critics decry as mere prank playing that is now improperly criminalized—disorderly conduct—fell 17% between 2005-09. In California, juvenile arrest rates fell 22% between 2007–2010.¹¹¹ In Georgia, juvenile arrest rates fell 19% between 2008–2010.¹¹²

SRO Programs Are Not Connected to Persistent Increases in Local Arrest Rates, Nor Do SRO Arrest Demographics Differ from Those of Juvenile Arrests Overall

Analysis of the critics' most-often-cited reports shows that they cannot clearly link SRO programs with persistent increases in local arrest rates or demographic disparities in arrest rates. The 2009 paper by Matthew T. Theriot discussed above, for example, is frequently cited for its finding that disorderly conduct arrests rose with the initiation of SRO programs in one Southeastern school district. He found also, however, that SROs' presence decreased arrests for assault and weapons charges and, overall, after controlling for economic disadvantage "having an SRO ceases to be a significant predictor of arrests."¹¹³ Further, the data "did not support that SROs discriminate against lower socioeconomic status students. . . . [A]rrest rates declined as poverty increased at schools with an SRO."¹¹⁴ Theriot concluded that the findings that SROs did not cause an increase in total arrests "are contrary to the criminalization hypothesis."¹¹⁵

A 2010 paper "Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States," by Michael P. Krezmien and others, found small increases in juvenile-justice referrals originating in schools between 1995 and 2004.¹¹⁶ Four of the states surveyed saw referrals increase, by 6% at most over the nine-year period, and the fifth state found a decrease in referrals.¹¹⁷ The data did not account for SROs at all—it makes no conclusions regarding the effect of SRO programs on referrals. "[I]t is possible that the reliance on zero-tolerance policies for school misbehavior and the increased use of SROs to manage school misbehavior may also be related to the increases in [school-based referrals] to juvenile courts. However, these interpretations should be accepted with considerable caution. The variability



in the states may suggest that state education and juvenile justice policies and practices may have important implication for understanding the referral rates."¹¹⁸

Two widely cited articles published by advocacy groups opposed to zero-tolerance legislation fail to make any statistical connection between the initiation and/or ongoing activities of SRO programs and increases in arrests. In 2003, Judith A. Browne, in "Derailed! The Schoolhouse to Jailhouse Track,"¹¹⁹ chronicled the rise of zero-tolerance legislation and accompanying district-level policies. Her report acknowledges that states and local school districts followed federal mandates to enact the school-safety laws the article argues against. Nowhere does she attempt to show that SROs were somehow responsible for the policy decisions that increased the severity of punishment for certain school-based offenses that she opposes. Relying on data from 1995, Browne offers statistics on the increase in juvenile arrests in two Florida counties, Baltimore City Public Schools, and Houston Independent School District.

Over 10 years old, the Florida statistics do not state whether the arrests were all made by SROs at school or officers arresting juveniles in general, nor does the article explain whether the changes in data paralleled the initiation of new school-safety laws, school district policies, and/or an SRO program.¹²⁰ And, as presented above and repeated below, Florida is currently experiencing a significant decrease in school-based and juvenile arrests.

Browne's statistics from Baltimore City Public Schools and the Houston Independent School District are also over ten years old and fail to specify the origins of the arrests as school-based, linked to changes in SRO policies, or otherwise.¹²¹ Even so, these statistics show marked decreases in arrests during the three years of data assessed in both counties—lending no support to SRO critics.¹²²

Current data also shows declining arrests rates in Baltimore. Juvenile justice referrals for Baltimore City were down a total of 15.7% between 2008 and 2010, which was characteristic of Maryland as a whole, whose total decreased 15.9% in those years.¹²³ Juvenile justice referrals also declined in Texas in 2010, where the state saw an 8% decrease from 2009 in referrals for delinquent offenses.¹²⁴

Finally, Browne admits that the disparate impact on racial minorities of school-based arrests follows that of the overall juvenile arrest rate.¹²⁵ She presents no evidence of any increase in disparate racial impact at the hands of SRO programs.¹²⁶

A more recent anti-zero-tolerance article often-cited by SRO critics is "Zero Tolerance in Philadelphia" by Youth United for Change and the Advancement Project.¹²⁷ This policy paper takes aim at the implementation and ramifications of zero-tolerance and other disciplinary measures in Philadelphia schools by legislators and school personnel and the high number of SROs assigned to Philadelphia schools.

The paper makes no empirical connection between the higher arrest rates in Philadelphia schools, relative to other Pennsylvania schools, and the implementation of SRO programs or the number of SROs assigned to schools. The arrest data used does not specify whether SROs are making the arrests or whether the changes in arrest rates coincide with implementation or expansion of SRO programs. Indeed, all of the report's SRO-related conclusions are couched in speculative terms of what "may be due in significant part," "may be the case," and that "[i]t

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appears that both of these dynamics may be at work in Philadelphia."¹²⁸ Finally, the paper's assertion that SROs create a hostile environment and a negative impression of law enforcement in the schools is based on one unpublished survey of one unnamed school and focus-group interviews in the district conducted by the Youth United for Change advocacy group.¹²⁹

The weakness in the critical commentary is not in its point of view. Rather, its flaw is in refusing to let the data speak for itself. The data demonstrate at least one clear exception to the conclusion that the use of school resource officers is a failure. In fact, a list of model states could easily be presented.¹³⁰ For purposes of this rebuttal, the state of Florida represents that one clear exception. The School Resource Officer (SRO) program in Florida encompasses 100 percent of the state with some form of interagency collaboration with schools in every county.

The Florida Attorney General's Office, in 1985, developed the first 40-hour Basic Training Course that has been formalized by the Florida State Department of Law Enforcement (FDLE) to train SRO's, "with the basic knowledge and skills necessary to implement crime prevention programming in a school setting."¹³¹ The SRO training curriculum is a collaborative venture, involving the Attorney General's Office, the Florida Association of School Resource Officers (FASRO), the Florida Department of Law Enforcement (FDLE), and the Florida Department of Education (FDOE). The strategic vision for the use of the SRO in campus safety has three elements: "law enforcement, education, and counseling, which is a pro-active approach to law enforcement through positive role modeling. These three components allow the SRO to promote positive relations between youth and law enforcement, which encourages school safety and deters juvenile delinquency."¹³²

In Florida, over a seven-year period ending in 2010-11, statewide delinquency on school grounds in Florida fell 42%. During that period, 39% fewer youth were arrested in schools.¹³³ Further, school-related delinquency referrals that were ultimately dismissed, not filed, or received some type of diversion service totaled 67% in 2011—44% were referred to diversion services.¹³⁴ The City of Miami, Florida lays claim to the first use of the title "school resource officer,"¹³⁵ and each jurisdiction promotes and utilizes the SRO within the team concept. The City of Cocoa, Florida illustrates this:

"One of the most important aspects of the SRO program is the ability of the officer to develop teamwork in fighting many problems that students of today are facing. The SRO works with many agencies such as school based-youth programs, HRS, Crosswinds, the Department of Juvenile Justice, and others to provide teen health services, substance abuse counseling, mental health counseling, and parent, student, and staff counseling.

The basic outline of duties for the SRO includes investigating crimes that occur within the school and on school property, creating a positive role model for students, creating a link between law enforcement and the students, and being a resource for parents, staff, administration, and students in regards to law enforcement and community problems.

Today, with two SROs, the program has become a valuable asset to the police department, school district, and the community.

The SRO program works much the same way with each school in Cocoa. At Cocoa High School and Clearlake Middle School, the SROs work with the administration, educators, and counselors. The role each plays is dependent on the needs of the situation. Cocoa High School and Clearlake Middle School are dedicated to providing an education to all of their students. With this goal in mind, all assets and services are pledged to this end.

A student with a suspected substance abuse problem is a different concern than a student being harassed or a student suspected of being involved in gang activity.

No one person has the "final" say as to the solution to a situation, as each has a differing role, authority, and approach. The primary concern is that of the student."¹³⁶

In sum, these sources do not support the critics' assertion that SRO programs have created a track to the juvenile-justice system or a unique impact on minority students. The academic studies find no widespread association between SROs and increased arrests and caution against concluding otherwise. The policy papers simply fail to present statistical evidence of any causal relationship between SRO programs and increased arrests or any demographic arrest patterns unique to the school setting.

Educators, As Members of the Child Welfare Team, Have A Duty to Report Crime on Campus

Those who decry SROs' presence on campus would prefer that educators deal with dangerous and disruptive students on their own, calling in law enforcement only for what critics would deem serious offenses. These arguments forget, however, educators' legal duty to report evidence of abuse and neglect and other crimes that they witness as part of their daily interaction with students. Removing SROs from campus would not relieve educators of their duty to report crime, and so would not somehow prevent students from being arrested for illegal behavior on campus.

State law requires all members of the child-welfare team to report incidents of suspected abuse and neglect. Many states go beyond this traditional duty to require reporting of campus





crime to district and law-enforcement officials.¹³⁷ For example, Arkansas requires educators to report any crime or threat of crime they observe directly to law enforcement.¹³⁸ California requires reporting of drug-related crimes and all crimes and probation violations by serious habitual offenders to law enforcement.¹³⁹ And Illinois requires reporting of all batteries against school officials.¹⁴⁰

SROs Are But One Component of School Discipline and the Juvenile Justice System

While it may be easy to blame school-based arrests, suspensions, and expulsions on SROs because of their highly visible role in campus protection and the investigation of misconduct, they are but one component in a community-wide response to juvenile crime and misbehavior. SROs do not draft and ratify juvenile-justice laws. They do not decide whether a juvenile should be charged as delinquent. They do not force educators to allow them onto campus, and they do not decide whether a student should be suspended or expelled from school.

Much venom is directed at zero-tolerance laws. Because they oppose punishment according to these policies, critics oppose SROs' presence on campus. This position forgets, however, that

zero-tolerance policies prohibit certain conduct and prescribe certain penalties independent of who the investigating or arresting party is. Whether or not a school operates under a zero-tolerance policy has nothing to do with whether or not that school also has an SRO program.

Legislators and educators decide what conduct is permissible and when a student will be disciplined for it. SROs collaborate with educators, at the educators' invitation and discretion, in investigating campus behavior—not in punishing it.

SROs do not determine the consequences of illegal behavior that occurs on campus. The Juvenile Offenders and Victims 2011 report shows that, in 2009, juvenile arrests were referred as follows: 22% were handled by law enforcement and released, 67% were referred to juvenile court, 9% were referred to criminal court, and the rest were referred to welfare or other police agencies.¹⁴¹ When an SRO arrests a student, the entire juvenile-justice team works together to determine the child's placement.

As experienced law-enforcement officers specially trained to serve and protect the educational environment, SROs can be helpful components of whatever kind of disciplinary approach a particular district or school determines is best for its students. For example, critics of zero-tolerance legislation and SRO programs often propose restorative-discipline models to deal with student misconduct.¹⁴² These kinds of programs have been found to be compatible with SRO programs that incorporate the triad approach to campus safety.¹⁴³ Because restorative-justice techniques involve members of the child-welfare team in a collaborative approach to redirect offending students and make victims whole, SROs' relationships of trust with students, experience with the juvenile justice system, and understanding of conflict-resolution techniques make them valuable members of the team.





Moving Forward:

Affirming the Value of SROs on the Child Welfare Team & Ensuring the Effectiveness of SRO Programs in Our Schools

“Through the activities they carry out and the roles they fill, School Resource Officers become an additional resource to which everyone associated with the school can turn. Those who are familiar with what they are doing see them not only as a resource, but as a fundamental resource which schools will not be able to do without in the future.”¹⁴⁴

SROs are critical components of modern school-safety plans, as instances of terrible violence on a scale unknown before the late 1990s remain rare but real threats to school communities. There are fewer school-associated violent deaths on record today, but these incidents always have defining consequences for children, families and communities. The number of nonfatal victimizations at school, including theft and violence are increasing.¹⁴⁵ The perceptions of students on the safety of the campus climate, is on the brink. As stated above, the Centers for Disease Control reports that in 2009, the most recent year for which statistics are available, 5.6% of children nationwide carried a weapon on to school property at least on day in the 30 days before the survey, 7.7% were threatened or injured with a weapon on school property during the 12 months before the survey, 11.1% were in a physical fight on school property in the last 12 months, 19.9% were bullied on school property in the last 12 months, 5% did not go to school at least one day in the 30 before the survey because they felt it was unsafe to be at school or to travel to and from school, 4.5% drank alcohol and 4.6% used pot on school property at least once in the 30 days before the survey, and 22.7% were offered, sold, or were given illegal drugs on school property in the 12 months before the survey.¹⁴⁶

How are we keeping our schoolchildren safe in the face of these persistent threats? The new norm is a child-welfare team, providing a thorough, community-based response to school safety. The team is comprised of educators, law enforcement, parents, juvenile-justice agencies,

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social-services agencies, and community organizations. Each agency serves its own part of the behavioral puzzle that it is specially suited to solve for at-risk and delinquent children. School boards, legislatures, and courts recognize—and often mandate—that the team function to insure that public schools are safe, secure environments where educators can teach and students can learn. Committed to the state's care for the majority of each school day, the child-welfare team cannot turn a blind eye to what happens on school campuses.

The school safety law model does not foster a “school-to-jail pipeline.” Interagency teamwork does not divest any participating agency of the functions and duties given by the law that enables its specific mission. Nor does it allow aggrandizement of the authority to exercise discretion by other agencies in a manner that would have to occur to prove the claims of the critics. This criticism of school disciplinary policies reflects a fundamental misunderstanding of interagency teamwork. In the child-welfare context, the term “exercising discretion” is code for the duty of each agency to manage the relationship with its partners in a manner that distinguishes the legitimate, concurrent interests in determining outcomes for children. For the public educator, this translates into a goal to make decisions in the best interest of a child in light of the incident and the education mission. The goal is the same for each member agency in light of its legal duties. The interests do not compete. But rather, they compliment the compilation of a complete assessment of (1) the needs of a child, (2) the nature of the incident, and (3) the best outcome(s) in light of the services at-hand.

The “school-to-jail pipeline” rhetoric is misled by reason of giving insufficient weight to the fact that as the gravity of a campus incident increases, the ability of all partner agencies to exercise discretion decreases as a matter of law. Therefore, competent discussions of school safety policy reform proceed along two predictable, but separate branches of inquiry. The first branch looks at the degree to which the campus team applies interventions, remedies, and consequences required by law for serious misconduct on campus. This is a ministerial duty of the highest order. Should this branch fail to hold its weight, then the campus safety enterprise collapses for lack of sincerity, commitment, and goodwill. The second branch is the broader inquiry that the science of child-welfare reform law dictates: how well the team collaborates to produce outcomes that balance the duty to preserve the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. The data, laws, court decisions, and campus perceptions speak for themselves on school safety and the role of school resource officers: School resource officers do not micromanage the school disciplinary function under pretense as a collaborator.

Modern SRO programs implementing a triad approach represent essential pathways to safer schools, not pipelines to the juvenile-justice system. Recent criticisms of school disciplinary policies that utilize the SRO reflect a fundamental misunderstanding of the interagency teamwork. Arguing against SRO programs because they promote school safety and contribute to effective outcomes of student misconduct on campus is like arguing against great police work because it stops crime on the street. School resource officers do not micromanage the school disciplinary function under pretense as a collaborator. School resource officers assist educators in protecting students and the education mission by being an active part of educator-imple-

mented strategies to assess the needs of children for which an arrest is not the only, or preferred, outcome.

The Interagency Agreement

A commitment to proper training is the key to success in SRO programs. The campus child-welfare team must insure that each member is operating within clearly defined parameters so that each party's resources are effectively utilized and outcomes are seen as a reasonable, evenhanded implementation of the safe schools plan. An interagency agreement is essential, specifying the role of the SRO in enforcing the law, making referrals to administrators for school discipline, teaching, counseling, and mentorship responsibilities.

The memorandum of understanding (MOU) is sometimes called the "interagency agreement" or the partnership guide. Its chief utility is to provide structure to, and contact persons for, routine cooperation between agencies that share a common interest on a particular theme.

The MOU serves as both a liability insurance policy for local government agencies as well as a policy instrument. The interagency agreement provides a basis for on-going assessments and helps maintain a clear understanding of what is working and what is not. The cooperative structure carved into an MOU has a better opportunity to be understood, consistently implemented, and passed down to future personnel. As a policy instrument, the MOU operates within the context created by federal and state laws, setting boundaries to avoid liability by helping the interagency team maintain an awareness of what the law allows and what it forbids.

The case for an MOU in a safe schools program is easy to state. It sets forth the nature of the tasks to be performed by the SRO when assisting school officials in providing a safe and effective learning environment. It allows both the schools and law enforcement to find balance and a zone of comfort in the unique tasks that are performed when an SRO works on a public school campus. For example, it is assumed that SROs are already operating within the scope of their legal duties as a sworn law enforcement officer. What additional roles, if any, will the SRO fill as the safe schools plan is implemented? Will the SRO assist in enforcing the school code of conduct? Will the SRO teach classes or supervise school-sponsored



events? Will the SRO be an extension of the police department when assigned to the school, or considered an independent contractor? To whom will the SRO report, the school administrator, or the law enforcement commander? These issues must be clearly spelled out in the MOU so that legal rules can be rigorously applied to protect the rights of students and other school personnel.

The courts now take the contents of the MOU very seriously when resolving the issues that arise from the presence of a SRO on campus. Every jurisdiction with a school-law enforcement partnership should have such an agreement. The key to the resolution of many of the legal disputes has been found in the language of the MOU itself. As a result, it is also wise for agencies to reassess the contents of a pre-existing interagency agreement to make sure the document does not compromise the effectiveness of the safe schools plan.

Model Provisions in the MOU

Judges look for evidence in the language of the MOU for clear intent by both the police department and the school district as to specific role of the SRO. Emerging from recent court decisions is a checklist:

- 1 Does the MOU clearly describe the tasks that require the SRO to be fully engaged in the lawful execution of his legal duty as a law enforcement officer and those situations that require the SRO to act as or perform the duties of a school official?
- 2 Is it clear when, if at all, the SRO will be acting at the direction of educators who are attempting to enforce a school policy?
- 3 Does the MOU spell out the circumstances when, if at all, the SRO should immediately intervene in potential campus disruptions as they occur without waiting first for direction by either the police or school officials?
- 4 Is the SRO working as a police officer working in his off-time as a security guard for a school district, or has the school district contracted directly with a law enforcement body to assign an officer assigned to the school?

A flawed MOU is either one that does not accurately state the intentions of the safe schools team, or one that has not kept up with the changing duties of the SRO after its original implementation. Both instances can create liability for the team or the individuals implementing the plan. For example, an MOU that states, "the SRO is at the school as a law enforcement presence and is not responsible for discipline at the school," has been held to prevent the SRO from being considered a "school official" and assisting educators under the lower standards of reasonableness under the Fourth Amendment.¹⁴⁷ In another case, the court held that the tasks performed by the school safety team that were not written in the MOU would not be treated as part of the agreement.¹⁴⁸ In addition, under the clear terms of an MOU, courts extend deference to school resource officers in the performance of day-to-day duties, even decisions based in the initiative of the SRO without the presence of educators.¹⁴⁹

The following court decision sets forth the importance of the MOU:

School resource officers perform a unique mission. They are certified law enforcement officers who are assigned to work at schools under cooperative agreements between their law enforcement agencies and school boards. They [may be] bound to abide by district school board policies and consult with and coordinate activities through the school principal. In this capacity, resource officers are called upon to perform many duties not traditional to the law enforcement function, such as instructing students, serving as mentors and assisting administrators in maintaining decorum and enforcing school board policy and rules.¹⁵⁰

One of the lessons that emerge from these cases is that a well-written MOU will focus on duties with specific outcomes as the controlling theme. The intervention that results when implementing this language will make the SRO and educators more effective.

Safe Schools as a Duty and Human Right

The public school campus is a unique place, “in which serious and dangerous wrongdoing is intolerable. The state, having compelled students to attend school and thus associate with the criminal few-or perhaps merely the immature and unwise few-closely and daily, thereby owes those students a safe and secure environment.”¹⁵¹ Threats to school safety are bigger than the schools themselves because they are manifestations of community issues, such as gang violence and drug culture, from which children must be protected during the significant portion of their lives spent on campus.¹⁵²



The misconduct on campus, now called by various new terms, is well known by prior generations of educators and law enforcement as merely delinquency in its traditional forms, often involving groups or enhanced by technology. The current victims of harassment, assaults, and property destruction are as desperate for help as those of prior generations. These students do not care what label is given to the misconduct as long as the local officials monitor and prevent it. The focus should be on preventing the violation of the rights of those who become targets in an unsafe climate.

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The term "school safety" is not a complex legal issue. The term adds nothing to long-standing prohibitions against the many forms of campus misconduct. Courts and local child-welfare agencies stand ready to serve the needs of children. Educators, students, parents, law-enforcement, social-services agencies, legislators, and courts recognize the unique role SROs play in improving community safety and educational quality across the country.

However, as a matter of policy, "school safety" presents an enormous challenge to educators to find the right formula for preserving campus in a manner that protects students and the school climate without making every disruption a criminal case. Legislators, federal and state, have recently begun to show impatience with educators by passing laws that dictate rules for addressing misconduct such as bullying, cyber bullying, suspensions, and expulsions. This reform suggests that if campuses are to be free from an unsafe climate (the primary mission of the school safety movement), then misconduct in all forms should be treated as a violation of the rights of students to a public education and trigger a prompt, consistent, documented response.

When campus threats and violence thrive, it is usually because the safe schools team has lost its resolve to intervene or has become timid about its assessments in the face of debates about what the laws allows. But the right to a safe school is a human rights issue, not to be trivialized by polemics that have forgotten what it is like to be a child in school without protection. Delaying or interfering with a response to nurturing a child—even one at-risk or involved in delinquency—is itself a criminal matter. It should be seen as an abuse of discretion at best and, at worst, obstruction of justice and a violation of the victim's right to an education.

The decision to place SROs on campus is a community-based response to the need to keep our children safe and provide an orderly learning environment. Educators, students, parents, legislators, and courts all welcome the collaboration, which has proven successful across the country. And good school safety is based on trust and positive relationships including those between faculty, school administrators, parents, and law enforcement.¹⁵³

As public-school budgets shrink, communities must not lose sight of the value of SRO programs in their schools. The long-term costs of discontinuing SRO programs far outweigh the savings. It goes without saying that a cost cannot be placed on keeping children safe and secure at school. Improvements in campus-safety and juvenile-crime statistics that have accompanied the proliferation of SRO programs must be kept in mind when valuing every local SRO program. Eliminating or marginalizing SRO programs merely shift the burden and raise the risk of victimization; significant staff time must still be dedicated to safety planning, investigations of misconduct, student discipline, and campus security. And the efficiency of a trained law-enforcement professional familiar with the school and engaged with its students is lost when an SRO is lost. Significant, costly liability issues can also arise; there is nothing but trouble for educators who implement policies that expose students to greater risks of victimization.

The weight of the evidence show that collaboration between school officials and school resource officers is an example of these strategies put to effective use in preserving the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. Collaboration between school officials and school resource officers is an essential component to preserving the right of boys and girls to attend schools that are secure and peaceful.



Endnotes

Summary

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Introduction

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- 3 *Id.*
- 4 U.S. DEPT. OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, *Juvenile Offenders and Victims: National Report Series, Juvenile Arrests 2009* (Dec. 2011), <http://www.ojjdp.gov/pubs/236477.pdf> [hereinafter *Juvenile Offenders and Victims*].
- 5 Connie Mulqueen, "School Resource Officers More Than Security Guards," American School & University, July 1999, v71 i11 pSS17.
- 6 Marty L. West & John M. Fries, *Campus-Based Police/Probation Teams -- Making Schools Safer*, CORRECTIONS TODAY, Aug. 1995, at 144.
- 7 During the 1990s the trial of campus rampages included: Grayson, Kentucky (1993), Lynnville, Tennessee (1995), Blackville, South Carolina (1995), Redlands, California (1995), Moses Lake, Washington (1996), Bethel, Alaska (1997), Pearl, Mississippi (1997), West Paducah, Kentucky (1997), Jonesboro, Arkansas (1998), Edinboro, Pennsylvania (1998), Fayetteville, Tennessee (1998), Springfield, Oregon (1998), Richmond, Virginia (1998), Deming, New Mexico (1999), and Littleton, Colorado (1999). See Robert C. Cloud, *Federal, State, and Local Responses to Public School Violence*, 120 ED. LAW REP. 877 (1997). See also, Landra Ewing, *When Going to School Becomes an Act of Courage: Students Need Protection from Violence*, 36 BRANDEIS J. FAM. L. 627 (1997-98).
- 8 See generally, *Ten Years after Columbine: 1999 – 2009, School Violence-Prevention Report Card*, COMMUNITY MATTERS (2009), <http://www.community-matters.org/downloads/ColumbineSchoolViolenceReportCardExecutiveSummary.pdf>.
- 9 *Juvenile Offenders and Victims*, *supra* note 4.
- 10 NATIONAL SCHOOL SAFETY CENTER, *Report on School Associated Violent Deaths* (2009), <http://www.schoolsafety.us/media-resources/school-associated-violent-deaths>.
- 11 *Youth Risk Behavior Surveillance--United States 2009*, MORBIDITY AND MORTALITY WEEKLY REPORT (June 4, 2010), www.cdc.gov/mmwr/pdf/ss/ss5905.pdf.
- 12 *Indicators*, *supra* note 2.
- 13 David-Ferdon C, Hertz MF. "Electronic Media, Violence, and Adolescents: An Emerging Public Health Problem." *Journal Adolescent Health*, 2007, v41(6 Suppl 1):S1-5.
- 14 See *infra* citations and text accompanying note 34.
- 15 See *infra* citations and text accompanying note 35.
- 16 See *infra* citations and text accompanying note 36.

- 17 See *infra* citations and text accompanying note 37.
- 18 See *infra* citations and text accompanying notes 46 and 47.
- 19 See *infra* citations and text accompanying notes 45.
- 20 See *Education Under Arrest: The Case Against Police in Schools*, JUSTICE POLICY INSTITUTE (Nov. 2011), <http://www.justice-policy.org/research/3177>, at 17-20 [hereinafter *The JPI Report*]; *Zero Tolerance in Philadelphia*, YOUTH UNITED FOR CHANGE & ADVANCEMENT PROJECT (2011), <http://www.advancementproject.org/digital-library/publications/zero-tolerance-in-philadelphia-denying-educational-opportunities-and-cr>, [hereinafter “Zero Tolerance in Philadelphia”]; *Reclaiming Michigan's Throwaway Kids: Students Trapped in the School-to-Prison Pipeline*, ACLU OF MICHIGAN (2009), <http://aclumich.org/issues/student-rights/2009-06/1379>, accessed 5/31/2012.
- 21 *The JPI Report* at 17.
- 22 *Id.*
- 23 *Id.* at 19.
- 24 *Id.* at 19-20 (relying on Zero Tolerance in Philadelphia).
- 25 The branches of the JPI whipping stick contain only the following assessment themes: (1) There are too many police in schools; (2) SROs result in increased referral rates to the juvenile justice system; (3) School crime is lower without SROs; (4) SROs foster a violent climate; and (5) School violence will improve without SROs.
- 26 See *The JPI Report* at 9-12 (focusing on models that promote high structure and reliance on supportive adults, both of which SRO programs provide, as discussed in Part II below).
- 27 *Id.* at 21 (“No data exists showing that SROs arrest youth of color more often than white students.”).

Part I: Interagency Collaboration: From Child Welfare Reform Law to the School-Safety Team

- 28 See R.I. Gen Laws §16-21.5-1 (2012). This section contains the intent of the legislature on encouraging a balanced use of school resource officers in maintaining school safety. Subsection (b) of the law states that; “it is the intent of the legislature to encourage [SROs] to form positive relationships with both parents and pupils who are part of the school community.”
- 29 “Intervention in family violence cases cannot be limited to the criminal justice system. There must be a strong, coordinated effort by the criminal justice system, victim assistance agencies and the entire community....the efforts of health facilities, educational institutions and service providers from numerous fields must be carefully coordinated.” Hart, et. al., *Family Violence: Attorney General's Task Force Final Report*, U.S. DEP'T OF JUSTICE, 14-15 (1984).
- 30 See, 42 U.S.C. § 5106a(b)(3)(E) (2010). The Child Abuse Prevention and Treatment Act (CAPTA) was enacted in 1974. See P.L. 93-247 (1974). The interagency emphasis has prompted successive amendments, beginning in the Child Abuse Prevention, Adoption and Family Services Act of 1988. P.L.100-294 (1988). It has been reauthorized and expanded over time. Congressional findings state: “The problem of child abuse and neglect requires a comprehensive approach that:
- A. integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;
 - B. strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;
 - C. emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;
 - D. ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and
 - E. is sensitive to ethnic and cultural diversity.
- 31 See, Sedlak, A.J., Gragg, F., Schultz, D.J., and Wells, S.J. (1996): *Detailed case tracking study. In Justice System Processing of Child Abuse and Neglect Cases: Final Report* (Prepared under a grant from the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice). Washington, DC: American Bar Association. See also, Zellman, G. L. (1990). *Child Abuse Reporting and Failure to Report Among Mandated Reporters: Prevalence, Incidence, and*

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Reasons. Journal of Interpersonal Violence, 5, 3-22. As to the impact of this reform on public school Mission Statements, see, this example in the Robert Abbott Accelerated Middle School in Waukegan, IL:

The multi-ethnic community, parents, business partners, administrators, students, and staff work together to create an academic, physical, emotional, social, and safe environment where everyone can learn and respect one another. We Care about ourselves and others to create, support and maintain powerful, engaged learning in the Arts and Sciences. We Dare to use innovative techniques to enhance lifelong learning through technology, the multiple intelligences, varied instructional strategies, and interdisciplinary units. We Share our cultural backgrounds to nurture growth, responsibility, and productivity by celebrating our diversity within a positive school-wide atmosphere and by promoting sportsmanship, school spirit, and pride in ourselves through our daily studies and our educational accomplishments.

School Mission, ROBERT ABBOTT MIDDLE SCHOOL (July 7 2012), <http://schools.wps60.org/abbott/mission.html>. Another example of a child welfare-focused Mission Statement is from the Freeport Maine Public Schools:

The Freeport Middle School exists to serve the unique academic, physical, social, and emotional needs of students who are in a special and critical period of their lives as they change from childhood to adolescence. The staff of Freeport Middle School is committed to creating and maintaining an orderly, trusting, and caring environment where teaching and learning are exciting and students are assisted as they develop responsibility. All aspects of the school's organization, curricular, and cocurricular activities are child centered and designed to accommodate individual learning styles so that all may experience success.

FREMONT MIDDLE SCHOOL, <http://fms.rsu5.org/> (last visited July 7, 2012).

32 See, Sedlak, A.J., Gragg, F., Schultz, D.J., and Wells, S.J., *supra* note 4. Every state now addresses child welfare on the broadest possible terms. For example, California law, defines “child abuse” broadly enough to support the efforts of a wide range of community based, interagency programs. The term “child abuse” includes: Serious physical injury inflicted upon the child by other than accidental means; harm by reason of intentional neglect or malnutrition or sexual abuse; going without necessary and basic physical care; willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services; and any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development or capacity for independence. CAL WEL & INST CODE § 18951(e) (2012). The term “abuse” as used in the Texas law includes: “(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning; (B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning; (C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; (D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child; (E) sexual conduct harmful to a child's mental, emotional, or physical welfare; (F) failure to make a reasonable effort to prevent sexual conduct harmful to a child; (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code; (H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic; (I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child; or (J) causing expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.” Tex. Fam. Code § 261.001 (2012).

33 For example, *see*, REV. CODE WASH. § 43.70.545:

The department of health shall develop, based on recommendations in the public health services improvement plan and in consultation with affected groups or agencies, comprehensive rules for the collection and reporting of data relating to acts of violence, at-risk behaviors, and risk and protective factors. The data collection and reporting rules shall be used by any public or private entity that is required to report data relating to these behaviors and conditions. The department may require any agency or program that is state-funded or that accepts state funds and any licensed or regulated person or professional to report these behaviors and conditions. To the extent possible the department shall require the reports to be filed through existing data systems. The department may also require reporting of attempted acts of violence and of nonphysical injuries. For the purposes of this section

"acts of violence" means self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. "At-risk behaviors," "protective factors," and "risk factors" have the same meanings as provided in RCW 70.190.010. A copy of the data used by a school district to prepare and submit a report to the department shall be retained by the district and, in the copy retained by the district, identify the reported acts or behaviors by school site.

See also, *The California Gang, Crime, and Violence Prevention Partnership Program*, CAL PEN CODE §13825.4:

[I]n carrying out a program of prevention and intervention services and activities with funds received under this chapter, community-based organizations and nonprofit agencies shall... (1) Collaborate with other local community-based organizations, nonprofit agencies or local agencies providing similar services, local schools, local law enforcement agencies, residents and families of the local community, private businesses in the local community, and charitable or religious organizations, for purposes of developing plans to provide a program of prevention and intervention services and activities,...(3) Follow the public health model approach in developing and carrying out a program to prevent, deter or reduce youth gangs, crime or violence by (A) identifying risk factors of the particular population to be targeted, (B) implementing protective factors to prevent or reduce gangs, crime or violence in the particular community to be serviced, and (C) designing community guidelines for prevention and intervention.

Finally, see A.I. Melaville & M.J. Blank, Washington, DC: Education and Human Services Consortium, "*What It Takes: Structuring Interagency Partnerships To Connect Children and Families With Comprehensive Services.*" (1991).

34 An interstate compact is a congressionally approved agreement between two or more States. See U.S. CONST. Art. I, § 10. The compact serves as memorandum of understanding and administrative guide to coordinate activities between the officials of the agencies of the member States. The Interstate Compact for Juveniles, enacted in 1955 and reauthorized in 2000 and 2008, coordinates interstate and interagency activities for all 50 states and the territories. Each state has passed legislation to formalize its collaboration. The Council of State Governments, in cooperation with the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention, supervises the compact. Its scope includes (1) the monitoring, supervision, and return of juveniles who have run away from home, (2) delinquents and status offenders who are on probation or parole and who have absconded, escaped, or run away. The National Center for Missing & Exploited Children (NCMEC) is authorized by Congress to coordinate much of this activity. See 42 U.S.C. § 5773.

35 Jurisdictions in all 50 states have implemented child and family welfare programs under the multi-disciplinary theme. For example, see Massachusetts child welfare law reform emphasis in its Office of the Child Advocate:

The comprehensive plan shall examine the status of and address the following issues:-- (6) the identification, assessment, and treatment of physical abuse, sexual abuse, neglect, emotional abuse and neglect and factitious illness by proxy; multi-disciplinary training with law enforcement, state and local agencies and child advocacy centers; collection of forensic evidence; court testimony; research; and child advocacy.

Mass. Ann. Laws ch. 18C sec. 11 (d).

See also, Tennessee child welfare law reform:

All recipients of funding from the child abuse fund and its subsidiary funds, the child advocacy centers fund, the CASA fund and the child abuse prevention fund, shall collaborate with each other and also with the department of children's services, the department of children's services' child abuse prevention advisory committee, the child sexual abuse task force established by § 37-1-603(b)(1), the commission on children and youth, the governor's office of children's care coordination, and other appropriate state and local service providers in the planning and implementation of multi-disciplinary, multi-agency approaches to address child abuse, including primary, secondary and tertiary child abuse prevention, investigation and intervention in child abuse cases, and needed treatment and timely permanency for victims of child abuse.

TENN. CODE ANN. § 39-13-530(i).

For a compelling proposal to extend the collaborative model to elderly care law reform, see, Senator John B. Breau & Senator Orrin G. Hatch, *Confronting Elder Abuse, Neglect, and Exploitation: The Need for Elder Justice Legislation*, 11 ELDER L.J. 207 (2003).

[B]ecause each state has its own distinct way of approaching ... mistreatment issues, it is equally important that there be coordination at the state level, and often at the local level as well.

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.... Cross-training or multi-disciplinary training permits individuals from a variety of fields to learn together. Cross-training also fosters communication and coordinated efforts and lays the foundation for collaboration among diverse individuals and groups.

See also, Marcia Sprague, Mark Hardin, *Coordination Of Juvenile And Criminal Court Child Abuse And Neglect Proceedings*, 35 U. of Louisville J. of Fam. L. 239 (1996/1997). See, Victor I. Vieth, *When the Child Abuser is a Child: Investigating, Prosecuting and Treating Juvenile Sex Offenders in the New Millennium*, Fall, 25 Hamline L. Rev. 47 (2001). See, Nancy Ver Steegh, *Differentiating Types of Domestic Violence: Implications for Child Custody*, 65 La. L. Rev. 1379 (2005). See, Patrick Geary, *Juvenile Mental Health Courts and Therapeutic Jurisprudence: Facing the Challenges Posed by Youth with Mental Disabilities in the Juvenile Justice System*, 5 Yale J. Health Pol'y L. & Ethics 671 (2005). Finally, see B. Kahn, P. O'Donnell, J. Wernsman, L. Bushell, and A. Kavanaugh, *The American Bar Association's Youth At Risk Initiative: Making The Connection: Legal Advocacy and Mental Health Services*, 45 Fam. Ct. Rev. 486 (2007).

36 For example, see the Kentucky Local juvenile delinquency prevention council statute:

The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to: (a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Community Based Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration; (b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan; (c) Sharing of information as authorized by law to carry out the interagency agreements.

KY. REV. STAT. ANN. §15A.300 (LexisNexis 2012).

See also, the Louisiana Juvenile Delinquency and Gang Prevention Council:

Each gang prevention council shall have the following powers and duties: (1) Develop and implement a delinquency prevention plan for the provision and coordination of delinquency programs and services to meet the needs of the communities represented in the district. (2) Advise and assist the judicial administrators or other local officials in the provision of optional, innovative delinquency services in the district to meet the unique needs of delinquent children. (3) Develop, in consultation with the Law Enforcement Planning District Advisory Council, funding sources external to the commission for the provision and maintenance of additional programs and services in the district for delinquent children and their families in consultation with the Juvenile Justice and Delinquency Prevention and Advisory Board. The Juvenile Delinquency and Gang Prevention Advisory Board may apply for and receive funds, under contract or other funding arrangement, from federal, state, parish, city, and other public agencies, and from public and private foundations, agencies, and charities for the purpose of funding optional, innovative prevention, diversion, or treatment services in the district to meet the unique needs of delinquent children."

LA. REV. STAT. ANN. § 15:1426 (2012).

See finally, the New Jersey Juvenile Justice Commission:

The commission shall have the following powers, duties and responsibilities: (4) To enter into contracts and agreements with State, county and municipal governmental agencies and with private entities for the purpose of providing services and sanctions for juveniles adjudicated or charged as delinquent and programs for prevention of juvenile delinquency.

N.J. REV. STAT. §§ 52:17B-170 (2012).

See, G. Resnick & M.R. Burt, *Youth at-Risk: Definitions and Implications for Service Delivery*. 66 AM. J. OF ORTHOPSYCHIATRY 172-88 (1996). See also, B. James, *School Violence and the Law: The Search for Suitable Tools*, 23(2) SCH. PSYCHOL. REV. 190-203 (1994).

37 For examples, see Alabama: ALA. CODE § 16-1-44 (2012); Arizona: ARIZ. REV. STAT. § 15-154 (2012); California: CAL ED CODE § 32281 (2012); Colorado: COL. REV. STAT. §§ 22-32-109.1 and 24-33.5-1213.4 (2012); District of Columbia: D.C. CODE § 5-132.02 (2012); Georgia: GA. CODE ANN. § 20-2-1185 (2012); Illinois: 105 ILL. COMP. STAT. 128/25 (2012); In-

diana: IND. CODE § 5-2-10.1-10 (2012); Kentucky: KY. REV. STAT. ANN. § 158.445 (2012); Louisiana: LA. REV. STAT. ANN. 17:416.16 (2012); Michigan: MICH. COMP. LAWS § 380.1310a (2012); Mississippi: MISS. CODE ANN. § 37-3-83 (2012); New York: N.Y. EDUC. LAW § 2801-a (McKinney 2012); Rhode Island: R.I. GEN. LAWS § 16-21-24 (2012); South Carolina: S.C. CODE ANN. § 59-5-65; Tennessee: TENN. CODE ANN. § 49-6-804; Virginia: Va. Code Ann. § 22.1-279.8; Washington: ARCW § 28A.320.125; Wisconsin: Wis. Stat. § 118.07.

See also, Washington State law on campus safety plans for higher education:

The campus safety plan shall include, for the most recent academic year: (i) A description of programs and services offered by the institution and student-sponsored organizations that provide for crime prevention and counseling. (4) (a) Each institution shall enter into memoranda of understanding that set forth responsibilities for the various local jurisdictions in the event of a campus emergency. (b) Each institution shall enter into mutual aid agreements with local jurisdictions regarding the shared use of equipment and technology in the event of a campus emergency. (c) Memoranda of understanding and mutual aid agreements shall be updated and included in campus safety plans.

WASH. REV. CODE § 28B.10.569 (2012).

See California Welfare and Institution Code § 830.1, which authorizes collaboration by a community safety multi-disciplinary team. School administrators legally exchange information with other agencies in the prevention, identification, control of juvenile crime or criminal street gang activity for the purpose of school safety.

See finally, the San Jose, California Safe School Campus Initiative - a city-wide collaborative effort to assist schools in the prevention, the identification and the control of juvenile crime and criminal street gang activities. Joe M. Nguyen, *Safe School Campus Initiative: A Collaborative Effort On-line at Hamilton Fish Institute* (July 9, 2012), <http://gwired.gwu.edu/hamfish/AnnualConference/2007/>.

- 38 See J.K. Wiig, with J.A. Tuell, *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration: Framework for Improved Outcomes*, CHILD WELFARE LEAGUE OF AMERICA (2008). See John A. Tuell, *Promoting a Coordinated and Integrated Child Welfare and Juvenile Justice System: An Action Strategy for Improved Outcomes*, CHILD WELFARE LEAGUE OF AMERICA (2003). See also, Herz et al, *Addressing the Needs of Multi-System Youth: Strengthening the Connection between Child Welfare and Juvenile Justice*, GEORGETOWN PUBLIC POLICY INSTITUTE'S CENTER FOR JUVENILE JUSTICE REFORM (2012).
- 39 See Harland & Harris, *Prison Crowding: Developing and Implementing Alternatives to Incarceration: A Problem of Planned Change In Criminal Justice*, 1984 U. ILL. L. REV. 319 (1984) ("Clear preference is given for broad participation in initiating the change process, deciding the characteristics of the innovation, and controlling the changes to be made. [C]ollaborative decision making leads to more effective implementation."). See also, Waugh Jr., *The Political Costs of Failure in the Katrina and Rita Disasters*, 604 ANNALS 10,11 (2006) ("Poor implementation of emergency plans, poor communication, and poor decision processes were evident in the lack of congruence between conditions "on the ground" in the disaster areas and local, state, and national decision making."); Rosenzweig, *Civil Liberty and the Response to Terrorism*, 42 DUQ. L. REV. 663, 687 (2004) ("[Collaboration] in effect, tear[s] down an artificial "wall" that existed between law enforcement and intelligence agencies and permit their cooperation. ... The wall had some very negative real-world consequences."); McCarthy-Brown & Waysdorf, *Katrina Disaster Family Law: The Impact of Hurricane Katrina on Families and Family Law*, 42 IND. L. REV. 721, 765 (2009) ("[I]n the future courts and judges across the nation should aim to be deliberate and empathetic in flexibly applying existing family laws in the wake of a disaster. They should plan on closely collaborating with social service and relief agencies during and after the disaster. Legislatures should also plan ahead for such a crisis that necessarily will involve the judicial system."); Moore & Tonry, *Youth Violence in America*, 24 CRIME & JUST. 1, 24 (1998) ("It is also discouraging to learn how crippled and uncertain are two social institutions that should be on the front line of the battle: namely, schools and the juvenile justice system."); D. Mendonca & W. Wallace, *Studying Organisationally-Situated Improvisation in Response of Extreme Events*, 22 Int. J. of Mass Emergencies and Disasters 2 (2004); A. Dantas et al., *Information Sharing During Disaster: Can We Do Better?*, FOUNDATION FOR RESEARCH SCIENCE AND TECHNOLOGY (2006).
- 40 P.H. Tolan et al., *A Developmental-Ecological Perspective On Antisocial Behavior in Children and Adolescents: Toward a Unified Risk and Intervention Framework*, 63 J. of Consulting and Clinical Psy. 4 (1995). John J. Wilson & James C. Howell, *Serious and Violent Juvenile Crime: A Comprehensive Strategy*, 45 JUV. & FAM. CT. J. 2 (1994). MICHAEL D. NEWCOMB & PETER M. BENTLER, CONSEQUENCES OF ADOLESCENT DRUG USE: IMPACT ON THE LIVES OF YOUNG ADULTS (1988). D. Prothrow-Stith & S. Quaday, *Hidden Casualties: The Relationship Between Violence and Learning*, WASHINGTON, DC: NATIONAL HEALTH & EDUCATION CONSORTIUM AND NATIONAL CONSORTIUM FOR AFRICAN AMERICAN CHILDREN, INC. ED 390, 552 (1995).
- 41 JAMES Q. WILSON, BUREAUCRACY: WHAT GOVERNMENT AGENCIES DO AND WHY THEY DO IT (2006). I.J. Sagatun & L. P. Edwards, *The Disposition of Juvenile Records: An Interagency Comparison*, 39 JUV. & FAM. CT. J. 37-45. (1988).

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HAROLD SEIDMAN, COORDINATION: THE SEARCH FOR THE PHILOSOPHER'S STONE, POLITICS, POSITION, AND POWER: THE DYNAMICS OF FEDERAL ORGANIZATION (5th ed. 1998). John M. Kamensky, *Regulatory Partnerships: Good or Bad?*, THE BUSINESS OF GOVERNMENT (2010). UNLOCKING THE POWER OF NETWORKS: KEYS TO HIGH-PERFORMANCE GOVERNMENT (Goldsmith et al., eds., 2009). Allen Schick, The Coordination Option, FEDERAL REORGANIZATION: WHAT HAVE WE LEARNED? 85-113 (Peter Szanton, ed., 1981). David G. Twitchell et al., Overcoming Challenges to Successful Interagency Collaboration, 46 PERFORMANCE IMPROVEMENT 8-15 (2007).

- 42 See *Mission Statement*, MASSACHUSETTS EDUCATIONAL COLLABORATIVE OF GREATER BOSTON (July 6, 2010), http://www.edcollab.org/about_us/about_edco.html ("Improving education through interdistrict and interagency collaboration; Providing high quality education and related services to students-at-risk; and Enhancing equity, intercultural understanding and equal opportunity in education."). See *Mission Statement*, OREGON SALEM-KEIZER PUBLIC SCHOOLS STUDENT SERVICES TEAM (July 7, 2012), <http://ssc.salkeiz.k12.or.us/Prevent/YST.htm> ("[t]he Salem-Keizer Youth Services Team provides a coordinated, community-based delivery system of crisis intervention, counseling, consultation, referral and training to youth, their families and community. The Team also promotes cooperation and understanding among different agencies. The system is directed toward aiding in prevention and early intervention of delinquency and social problems among students"). See *Mission Statement*, NEW JERSEY SALEM COUNTY "BRIDGING THE GAP" COLLABORATIVE (July 7, 2012), <http://www.sc-iac.org/39001/39022.html> ("The mission of the "Bridging the Gap" collaborative is to develop and enhance service delivery between the schools, mental health, juvenile justice, behavioral health, child protective services, and parents/guardians to improve the well being of the children in Salem County"). See *Mission Statement* MINNESOTA CHILDREN'S MENTAL HEALTH RESOURCE CENTER OF ROCHESTER (July 7, 2012), <http://www.co.olmsted.mn.us/cs/cfs/cmh/Pages/default.aspx> ("The Children's Mental Health Resource Center is an interagency team that offers comprehensive, innovative, family focused services in order to support, empower and preserve families who have children with severe emotional and behavioral issues. The Resource Center was formed to support and preserve families and is committed to providing child-centered, family focused community based services in the least restrictive setting possible."). See also, *Mission Statement* FLORIDA INTERAGENCY COUNCIL OF BREVARD COUNTY (July 6, 2010), <http://www.DisabilityBrevard.org> ("Through interagency collaboration, enhance the quality of life for all individuals with disabilities in Brevard County." Four task forces and their members facilitate the main goal setting and goal attainment for the council. The task force committees are: • Legislative, • Transition, • Employment, and • Marketing and Membership."). See *Mission Statement* VIRGINIA SHENANDOAH VALLEY JUVENILE CENTER (July 6, 2010), <http://www.svjc.org/Home.aspx> ("The Mission of Shenandoah Valley Juvenile Center is to provide a safe, secure, and clean environment for youth placed in our temporary care. SVJC will provide an environment with an emphasis on continuing and expanding the youth's education and providing proper physical and mental health services and support. The youth will have an opportunity to participate in daily physical fitness activities and be provided with nutritional meals. In meeting its mission objectives SVJC will encourage and foster interagency collaboration in support of transitioning the youth to their community or appropriate placement."). See *Mission Statement* CALIFORNIA SAN BERNARDINO COUNTY HOMELESS PARTNERSHIP (July 6, 2010), <http://www.sbcounty.gov/SBCHP/> ("The mission of the San Bernardino County Homeless Partnership is to provide a system of care that is inclusive, well planned, coordinated and evaluated and is accessible to all who are homeless or at-risk of becoming homeless. The Partnership consists of community and faith-based organizations, educational institutions, non profit organizations, private industry, and federal, state, and local governments."). See *Mission Statement* MINNESOTA HENNEPIN COUNTY CHILDREN'S MENTAL HEALTH COLLABORATIVE (July 6, 2010), <http://www.hccmhc.com/> ("The Children's Mental Health Collaborative (HCCMHC) is a catalyst for improving children's lives by serving as convener, coordinator, advisor and advocate for community efforts to increase access to and resources for high quality mental health services for children and families."). See Georgia local Interagency Children's Committees statute (GA. CODE ANN. § 49-5-221(2) (2012)): "As used in this article, the term: ..."Case management" means assuring continuity of services for the child and family, coordinating of services for the child and family, coordinating the interagency assessment of the child and family's needs, arranging for needed services, and linking various services and agencies." See Illinois County Juvenile Justice Councils statute (705 ILL. COMP. STAT. 405/6-12(2) (2012)): "The purpose of a county juvenile justice council is to provide a forum for the development of a community-based interagency assessment of the local juvenile justice system, to develop a county juvenile justice plan for the prevention of juvenile delinquency, and to make recommendations to the county board, or county boards, for more effectively utilizing existing community resources in dealing with juveniles who are found to be involved in crime, or who are truant or have been suspended or expelled from school. The county juvenile justice plan shall include relevant portions of local crime prevention and public safety plans, school improvement and school safety plans, and the plans or initiatives of other public and private entities within the county that are concerned with dropout prevention, school safety, the prevention of juvenile crime and criminal activity by youth gangs." See Tennessee Children's Mental Health Initiative (TENN. CODE ANN. §33-1-308 (2012)): "The commissioner shall initiate the development of and enter into interagency agreements on services and supports for children. ...The agreements shall include, without limitation: the intersection of services and supports among all state agencies that have any responsibility for mental health, developmental disabilities, alcohol dependence, drug dependence, education, health, social services, housing, transportation, employment, justice, habilitation, rehabilitation, correction, or public funding of services and supports; transition between services to different age groups; information sharing, including records, data, and service; and interagency training."

43 See Deborah Prothrow-Stith, *Strengthening the Collaboration Between Public Health and Criminal Justice to Prevent Violence*, 32 J.L. MED. & ETHICS 82, 85 (2004). (“More effective collaboration beyond the existing silos of activity and competitive strategies would greatly improve society's capacity to save children from the devastating impact of interpersonal violence. ... This tension between public health and criminal justice is unproductive. It threatens effective collaboration and frustrates the opportunity to pool resources and expertise at a time when resources are seriously inadequate and the problem is increasing. Healing this rift requires a more collaborative spirit”). See Barbara J. Zabawa, *Making the Health Insurance Flexibility and Accountability (HIFA) Waiver Work Through Collaborative Governance*, 12 ANN. HEALTH L. 367 (2003). (“Health system stakeholders have a wealth of information to offer each other in a collaborative scheme. The HIFA waiver's flexibility and emphasis on public-private coordination offers states a perfect opportunity to learn with other stakeholders and the best chance of closing the health coverage gap.”). See Hartz et al., *Addressing the Needs of Multi-System Youth: Strengthening the Connection between Child Welfare and Juvenile Justice*, CENTER FOR JUVENILE JUSTICE REFORM AT GEORGETOWN UNIVERSITY AND ROBERT F. KENNEDY CHILDREN'S ACTION CORPS (2012). See also JUVENILE LAW CENTER *Innovation Brief: Using Diversion Fairly, Consistently, and Effectively, Models for Change* (2011).

44 *Id.*, See Herz et al., at18.

45 See Janet K. Wiig & John A. Tuell, *supra*, note 38. See also, OREGON SCHOOL SAFETY COALITION, *How safe are Oregon schools?* (2001). See A. W. Todd et al., *Effective Behavior Support: Strengthening School-Wide Systems Through a Team-Based Approach*, EFFECTIVE SCHOOL PRACTICES 17(4) (1999). See also, Centers for Disease Control and Prevention, *The Effectiveness of Universal School-Based Programs for the Prevention of Violent and Aggressive Behavior: A Report on Recommendations of the Task Force on Community Preventive Services*, MMWR 56, RR-7 (2007).

46 All 50 states have amended the provisions on juvenile records to compliment the comprehensive reform. The declaration of the California legislature is typical:

While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, and other forms of delinquency.

CAL WEL & INST CODE § 827 (b)(1) (1999).

See also, Illinois law:

(a) The General Assembly finds that a substantial and disproportionate amount of serious crime is committed by a relatively small number of juvenile offenders, otherwise known as serious habitual offenders. By this amendatory Act of 1992, the General Assembly intends to support the efforts of the juvenile justice system comprised of law enforcement, state's attorneys, probation departments, juvenile courts, social service providers, and schools in the early identification and treatment of habitual juvenile offenders. The General Assembly further supports increased interagency efforts to gather comprehensive data and actively disseminate the data to the agencies in the juvenile justice system to produce more informed decisions by all entities in that system; (b) The General Assembly finds that the establishment of a Serious Habitual Offender Comprehensive Action Program throughout the State of Illinois is necessary to effectively intensify the supervision of serious habitual juvenile offenders in the community and to enhance current rehabilitative efforts. A cooperative and coordinated multi-disciplinary approach will increase the opportunity for success with juvenile offenders and assist in the development of early intervention strategies.

ILL. REV. STAT. 405/1-8.1.

47 Significantly, federal law has kept pace with juvenile records reform. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.S. §1232g, has been amended to broaden the role of educators as information providers on interagency teams. See the Improving America's School Act of 1994 and the State law exception to FERPA, (34 CFR 99.31(a)(5) and 34 CFR 99.38). See also, J. Slayton, *Establishing and Maintaining Interagency Information Sharing*, JUVENILE ACCOUNTABILITY INCENTIVE-JAIBG BULLETIN, BLOCK GRANTS PROGRAM (2000). See M.L. Medaris et al., *Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs*, PROGRAM REPORT (1997). See also, B. James, *School Violence and the Law: The Search For Suitable Tools*. 23(2) School Psy. Rev. 190–203 (1994).

48 During the 1990s the trial of campus rampages included Grayson, Kentucky (1993), Lynnville, Tennessee (1995), Blackville, South Carolina (1995), Redlands, California (1995), Moses Lake, Washington (1996); Bethel, Alaska (1997), Pearl, Mississippi (1997), West Paducah, Kentucky (1997), Jonesboro, Arkansas (1998), Edinboro, Pennsylvania (1998),

Fayetteville, Tennessee (1998), Springfield, Oregon (1998), Richmond, Virginia (1998), Deming, New Mexico (1999), and Littleton, Colorado (1999). See Robert C. Cloud, "Federal, State, and Local Responses to Public School Violence," 120 ED. LAW REP. 877 (1997). See also, Landra Ewing, *When Going to School Becomes an Act of Courage: Students Need Protection from Violence* 36 BRANDEIS J. FAM. L. 627 (1997-98).

Part II: The SRO's Role on Campus: Keeping Students Safe and Supporting the Education Mission as Law-Enforcement Officer, Teacher, and Counselor

- 49 Debbie Vought, *supra* note 1 (quoting Danielle Bilderback, a Klamath County Mazama High School graduate).
- 50 This best practice is a modest step toward the more generous collaboration that State and Federal courts now allow between educators and school resource officers. Courts have been less concerned about the issue of agency (whether collaboration makes the educator an agent of law enforcement). Instead, the controlling factor is whether "school officials" are acting to further legitimate educational interests when supervising student activity. In all but two States, the SRO is now seen as a "school official" - having been brought into the safe school environment, not as an outsider, but as a core part of the educational family. A police officer on assignment to the school as a resource officer is a school official when furthering legitimate educational interests. For example, a search of a student on school grounds by an SRO, either at the request of educators or on the officer's own initiative, is deemed an act by a school official. The courts have made it clear that this assistance neither makes the school the agent of law enforcement, nor does it violate student rights of any kind. See *Wilson v. Cahokia Sch. Dist.* # 187, 470 F. Supp. 2d 897, 910 (S.D. Ill. 2007) ("[T]he weight of authority holds... that a search of a student on school grounds by a school resource officer at the request of school officials should be deemed a search by a school employee."). See, *State of Wisconsin v. Angelia D.B.*, 211 Wis. 2d 140, 155; 564 N.W.2d 682, 688 (1997) ("Were we to conclude otherwise, our decision might serve to encourage teachers and school officials, who generally are untrained in proper pat down procedures or in neutralizing dangerous weapons, to conduct a search of a student suspected of carrying a dangerous weapon on school grounds without the assistance of a school liaison officer or other law enforcement official."). See also, *D.L. v. State*, 877 N.E.2d 500 (2007); *In re William V.*, 111 Cal. App. 4th 1464, 4 Cal. Rptr. 3d 695, 699-700 (Cal. Ct. App. 2003); *Russell v. State*, 74 S.W.3d 887, 892-93 (Tex. App. 2002); *New York v. Jameel Butler*, 725 N.Y.S.2d 534 (2001). *In re Josue T.*, 1999 NMCA 115, 128 N.M. 56, 989 P.2d 431, 436-37 (N.M. Ct. App. 1999). See slight variation of this rule in Oregon, (*State ex rel. Juvenile Dep't v. M.A.D.*, 348 Ore. 381; 233 P.3d 437 (OR 2010)). See rejection of this rule in Georgia and Washington State, the only States to place students and educators at-risk. (*State v. Scott*, 279 Ga. App. 52; 630 S.E.2d 563 (2006) and *State v. Meneese*, 174 Wn.2d 937 (2012). The result in *State v. Meneese* is influenced heavily by the interagency Memorandum of Understanding (MOU) that did not authorize the school resource officers to assist with school discipline. See discussion of the MOU, *infra*.
- 51 *Indicators*, *supra* note 2.
- 52 *Juvenile Offenders and Victims*, *supra* note 4.
- 53 M.T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUST. 280-287 (2009).
- 54 *Id.*, at 285. See also, R.A. Astor et al., *Unowned Places and Times: Maps and Interviews About Violence in High Schools*, 36 AM. ED. RES. J. 3-42 (1999). For a general assessment see, B. Brown, *Understanding and assessing school police officers: A conceptual and methodological comment*, 34 J. CRIM. JUST. 591-604 (2006).
- 55 *Id.*, at 284. Professor Theriot's conclusions about the role of the SRO were not positive in relation to arrests involving subjective disorderly conduct by students. However, as the objectivity and severity of the misconduct increased the impact of the presence of the SRO was significant. See comment on page 285 ("the presence of SROs at schools might deter certain behaviors").
- 56 Kyle Ramey, *Partners for Safety*, AM. SCH. BOARD J. 71-72. (2004).
- 57 I. M. Johnson, *School Violence: The Effectiveness of a School Resource Officer Program in a Southern City*, 27 J. CRIM. JUST. 173-192 (1999). ("The SRO program is fulfilling its goals and objectives, and thus, should be maintained. Considering the problem of school violence, the SRO program is one that is greatly needed. If SROs are taken out of the high schools and middle schools, there may be a sharp increase in the number of school suspensions for Class I, Class II, and Class III offenses."). *Id.*, at 190.

- 58 Johanna Wald & Lisa Thureau, *First, Do No Harm: How Educators and Police Can Work Together More Effectively to Preserve School Safety and Protect Vulnerable Students*, Charles Hamilton Institute for Racial Justice, March 2010, p. 7-8.
- 59 *Ibid.*
- 60 NORTH CAROLINA DEPT. OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE, *Annual School Resource Officer Census* http://www.ncdjjdp.org/cpsv/school_resource_officer.html (last visited July 11, 2012).
- 61 David C. May et al., *Predictors of Principals' Perceptions of School Resource Officer Effectiveness in Kentucky*, 29 AMER. J. CRIM. JUST. 1 (2004).
- 62 See, N. Hopkins, *School Pupils' Perceptions of the Police That Visit Schools: Not All Police Are "Pigs."*, 4 J. CMTY. & APPLIED SOC. PSY. 189–207 (1994). Compare with, N. Hopkins et al., *Police-school Liaison and Young People's Image of the Police: An Intervention Evaluation*, 83 British J. Psy. 203–220 (1992). I.M. Johnson, *supra* note 57, at 173-192. See Brad A. Myr Stol, *Police in Schools: Public Perceptions*, 27(3) ALASKA J. FORUM 1, 5–8 (Fall 2010). However, see *contra*, Arrick Jackson, (2002) *Police-School Resource Officers' and Students' Perception of the Police and Offending*, 25 POLICING: AN INTERNATIONAL JOURNAL OF POLICE STRATEGIES & MANAGEMENT 631 – 650 (2002).
- 63 Debbie Vought, *supra* note 1.
- 64 Lt./PRO Stan Miller, South Charleston (WV) Police Dept., *Prevention, Mentoring & Safety: West Virginia's Prevention Resource Officers (PROs) Take SRO Duties a Few Steps Further*, J. SCH. SAFETY 17 (2012).
- 65 The compelling interest to maintain a safe campus corresponds to the duty to keep students safe. See *King v. Northeast Sec., Inc.*, 790 N.E.2d 474, 479 (Ind. 2003), (“the school district has a duty to take reasonable steps for the protection of its students. In immunity terms, failure to take reasonable safety precautions is not within the common law immunity for failure to prevent crime”). See also, *Travis v. Bohannon*, 128 Wn. App. 231 (Wash. Ct. App., 2005. See, *M W v Panama Buena Vista Union Sch Dist*, 110 Cal App 4th, 508, 517, 518 (2003), (“a school district has an "affirmative duty to take all reasonable steps to protect its students"). See, *Jerkins v. Anderson*, 191 N.J. 285, 306 (2007). (“Even if parents or guardians overlook their responsibility, educators have a duty of reasonable care that includes the implementation of appropriate dismissal procedures.”). See *Dunn v. Unified Sch. Dist. No. 367*, 30 Kan. App. 2d 215, (2002). *Cleveland v. Blount County Sch. District*, 2008 U.S. Dist. LEXIS 6011 (D. Tenn. 2008). *Williams ex rel. Hart. v. Paint Valley Local Sch. Dist.*, 400 F.3d 360, 364 (6th Cir. 2005)(“Where a school district has actual knowledge that its efforts to remediate are ineffective, and it continues to use those same methods to no avail, such district has failed to act reasonably in light of the known circumstances.”).
- 66 David C. May et al., *Predictors of Principals' Perceptions of School Resource Officer Effectiveness in Kentucky*, 29 AMER. J. CRIM. JUSTICE, 1 (2004).
- 67 See NEA: SAFE SCHOOLS, <http://www.nea.org/home/16364.htm> (last visited July, 12, 2012).
- 68 Peter Finn & Jack McDevitt, *National Assessment of School Resource Officer Programs Final Project Report* (2005), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/209273.pdf>.
- 69 Chief Justice Burger coined this term in his famous dissent in *Board of Education v. Pico*, 457 U.S. 853 (1982). In *Pico*, the Court struggled to determine how to review a decision made by school officials to remove certain books from school libraries. The Court decided to remand the case with instructions to the lower court on how to determine whether the school board was acting in good faith. The justices wrote a plurality of opinions, each acknowledging the degree of difficulty presented by such cases. In his view the challenge was a result of trying to harness local democratic processes:
- [T]he people elect school boards, who in turn select administrators, who select the teachers, and these are the individuals best able to determine the substance of that policy. The plurality fails to recognize the fact that local control of education involves democracy in a microcosm. In most public schools in the United States the parents have a large voice in running the school. Through participation in the election of school board members, the parents influence, if not control, the direction of their children's education. A school board is not a giant bureaucracy far removed from accountability for its actions; it is truly “of the people and by the people.” A school board reflects its constituency in a very real sense and thus could not long exercise unchecked discretion in its choice to acquire or remove books. If the parents disagree with the educational decisions of the school board, they can take steps to remove the board members from office. Finally, even if parents and students cannot convince the

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- school board that book removal is inappropriate, they have alternative sources to the same end. *Id.* at 891-892 (Burger, J., dissenting) (citations omitted).
- 70 *New Jersey v. T. L. O.*, 469 U.S. 325, 336-37 (1985).
- 71 *Ibid.*
- 72 *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 655-56 (1995). See also, *Board of Education v. Earls*, 536 U.S. 822 (2002). For a critical review of the law and literature on *in loco parentis*, see Susan Stuart, *In Loco Parentis In The Public Schools: Abused, Confused, and in Need Of Change*, 78 UNIV. CIN. L. REV. 969 (2010).
- 73 Brad A. Myr Stol, *Police in Schools: Public Perceptions*, 1 ALASKA JUST. FORUM 27(3): 1 5-8 (Fall 2010). The data also revealed that 58.8 percent of the adults disagreed or strongly disagreed with the notion that an SRO program would create additional barriers between students and police. 66.6 percent doubted that the introduction of police into schools would increase fear among students, faculty, and staff. 67.9 percent disagreed or strongly disagreed that the presence of SROs would conflict with the authority of school officials.
- 74 *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260, 273 (1988). For more on the connection between school safety and parental rights, see Todd A. DeMitchell, *The Duty to Protect: Blackstone's Doctrine of In Loco Parentis: A Lens for Viewing the Sexual Abuse of Students*, 2002 BYU EDUC. & L. J. 17 (2002).
- 75 *Indicators*, *supra* note 2.
- 76 *New Jersey v. T. L. O.*, 469 U.S. 325 (1985).
- 77 *Bd. of Educ. v. Earls*, 536 U.S. 822, 830-31 (quoting *New Jersey v. T.L.O.*, 469 U.S. 325, 350 (1985)).
- 78 Pub. L. No. 98-473, 98 Stat. 1837 (1984).
- 79 Pub. L. No. 101-647, 104 Stat. 4789 (1990).
- 80 Pub. L. No. 105-6, 111 Stat. 12 (1997).
- 81 Pub. L. No. 108-405, 118 Stat. 2260 (2004).
- 82 See ARK. CODE ANN. § 6-18-514 (West 2012) (providing anti-bullying policies for public schools including both physical and electronic harassment); see also CAL. EDUC. CODE § 32261 (West 2012) (allowing school officials to suspend or expel students for electronic acts of bullying).
- 83 Jaffe, Elizabeth M. & Robert J. D'Agostino, *Bullying in Public Schools: The Intersection Between the Student's Speech Rights and the School's Duty to Protect*, 62 MERCER L. REV. 407 (2011) (discussing the balance between students' constitutional rights and the duties of educational institutions).
- 84 As of 2012, all states, with the exception of Montana, have passed some type of bullying law, aiming to protect victims of bullying and help prevent incidences of harassment and violence. Further, 42 states include electronic harassment as a form of bullying, with 3 other states having recently proposed legislation. While there is no federal bullying law, policy changes have been proposed. See Hinuja, Sameer et al. *State Cyberbullying Laws: A Brief Review of State Cyberbullying Laws and Policies*, CYBERBULLYING RESEARCH CENTER (June, 2012), http://www.cyberbullying.us/Bullying_and_Cyberbullying_Laws.pdf.
- 85 For example, to make out a proper danger-creation claim, a student must demonstrate that (1) the school and the charged individual educators created the danger or increased the student's vulnerability to the danger in some way; (2) the student was a member of a limited and specifically definable group; (3) the school officials' conduct put the student at substantial risk of serious, immediate, and proximate harm; (4) the risk was obvious or known; (5) defendants acted recklessly in conscious disregard of that risk; and (6) such conduct, when viewed in total, is conscience shocking. See generally, the danger creation cases, *supra* note 276; *Frances-Colon v. Ramirez*, 107 F.3d 62, 64 (1st Cir. 1997); *Dwares v. City of New York*, 985 F.2d 94, 99 (2d Cir. 1993); *Kneipp v. Tedder*, 95 F.3d 1199, 1201 (3d Cir. 1996); *Pinder v. Johnson*, 54 F.3d 1169, 1175-77 (4th Cir. 1995) (en banc); *Johnson v. Dallas Indep. Sch. Dist.*, 38 F.3d 198, 200-01 (5th Cir. 1994); *Kallstrom v. City of Columbus*, 136 F.3d 1055, 1066-67 (6th Cir. 1998); *Reed v. Gardner*, 986 F.2d 1122, 1125 (7th Cir. 1993); *Gregory v. City of Rogers*, 974 F.2d 1006, 1010 (8th Cir. 1992) (en banc); *Wood v. Ostrander*, 879 F.2d 583, 589-90 (9th Cir. 1989) *Uhlrig v. Harder*, 64 F.3d 567, 572 & n. 7 (10th Cir. 1995); *Wyke v. Polk County Sch. Bd.*, 129 F.3d 560, 567 (11th Cir. 1997); *Gonza-*

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- les v. City of Castle Rock*, 307 F.3d 1258, 1263 (10th Cir. 2002); *Christiansen v. City of Tulsa*, 2003 U.S. App. LEXIS 11858 (10th Cir. June 16, 2003).
- 86 *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000).
- 87 See *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, 59 FED. REG. 11448, 11449 (March 10, 1994). A school violates Title VI when: (1) There is a racially hostile environment; (2) The district had actual or constructive notice of the problem; and (3) The district failed to respond adequately to redress the racially hostile environment.
- 88 A racially hostile environment is one in which racial harassment is "severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from [an education]." *Id.* at 11449. The courts have held that, it is not necessary to show physical absence from school to prove a violation of student rights. Instead, the student must show that the learning environment has been compromised such that "victim-students are effectively denied equal access to an institution's resources and opportunities." *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 651 (1999). See also *Zeno v. Pine Plains Cent. Sch. Dist.*, 2009 U.S. Dist. LEXIS 42848 (S.D.N.Y. May 19, 2009).
- 89 20 U. S. C. § 1681(a).
- 90 See *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999).
- 91 *Jackson v. Birmingham Board of Education*, 544 U.S. 167, 173 (2005).
- 92 See *Frazier v. Fairhaven Sch. Comm.*, 276 F.3d 52 (1st Cir. 2002) (Same-sex stalking at a high school). See *Doe v. D'Agostino*, 367 F. Supp. 2d 157 (D. Mass. 2005) (Same-sex harassment by teacher toward a student in class). See *Doe v. E. Haven Bd. of Educ.*, 430 F. Supp. 2d 54 (D. Conn. 2006) (group harassment from students of both genders). Finally, Title IX also allows parents, educators and SROs to file retaliation claims against schools when attempts to eliminate a hostile environment backfire upon them.
- 93 See *Jackson v. Birmingham Board of Education*, 544 U.S. 167, 173 (2005). See also, *Dawn L. v. Greater Johnstown Sch. Dist.*, 2008 U.S. Dist. LEXIS 51411 (W.D. Pa. July 2, 2008) (parents allege retaliation by school officials after reporting sexual harassment of their daughter by a teacher).
- 94 *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000).
- 95 Peter Finn & Jack McDevitt, *supra* note 20 at 42.
- 96 Defining what an SRO is and/or setting parameters of SRO programs, see, e.g., D.C. CODE § 5-132.01-.02 (2012), FLA. STAT. § 1006.12 (2012), K.R.S. § 158.441 (2012), LA. R.S. § 17:416.19 (2012), MD. EDUC. CODE ANN. § 26-102, TENN. CODE ANN. § 49-6-4202 (2012), TEX. EDUC. CODE § 1701.601 (2012), VA. CODE ANN. § 9.1-101, 9.1-110 (2012). Requirements for SRO training, see, e.g., LA. R.S. § 17:416.19 (2012), MISS. CODE ANN. § 37-7-321 (2012), N.J. STAT. § 18A:17-43.1 (2012), TENN. CODE ANN. § 49-6-4217 (2012), TX. EDUC. CODE § 37.205 (2012). Requiring or encouraging SRO role in school-safety planning, see, e.g., A.R.S. § 15-154 (2011), D.C. CODE § 2-1531.01 (2012), FLA. STAT. § 1006.13 (2012), BURNS IND. CODE ANN. § 5-2-6.9-10, 24 P.S. § 13-1302-A (2012), TENN. CODE ANN. § 49-6-801 et seq. (2012), UTAH CODE ANN. § 67-5-20 (2012), REV. CODE WASH. § 28A.300.2851 (2012). Treating SRO as a school official in some situations, see, e.g., A.C.A. § 6-18-513 (2012), FLA. STAT. § 856.022 (2012), 105 I.L.C.S. 5/27-23.7 (2012), R.R.S. NEB. § 79-527 (2012), N.C. GEN. STAT. § 14-27.7 (2012), TEX. EDUC. CODE § 37.0021 (2012).
- 97 A.R.S. § 15-154 (2011).
- 98 D.C. CODE § 2-1531.01 (2012).
- 99 TENN. CODE ANN. § 49-6-802 (2012).
- 100 *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503 (1969).
- 101 *New Jersey v. T. L. O.*, 469 U.S. 325 (1985).
- 102 *Bd. of Educ. v. Earls*, 536 U.S. 822 (2002).
- 103 *State of Wisconsin v. Angelia D.B.*, 564 N.W.2d 682 (Wisc. 1997).

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104 *Ibid.*

105 *Id.*, at 690.

106 *In re William V.*, 111 Cal. App. 4th 1464, 4 Cal. Rptr. 3d 695 (Ct. App. 2003), cert. den. 541 U.S. 1051 (2004).

107 For a sampling of decisions applying the T.L.O. standard to actions by SROs, see, e.g., *Cason v. Cook*, 810 F.2d 188 (8th Cir. 1987); *State v. Alaniz*, 2012 WL 1173764 (N.D. 2012); *In re Josue T.*, 989 P.2d 431 (N.M.App. 1999); *R.D.S. v. State*, 245 S.W.3d 356 (Tenn. 2008); *Myers v. State*, 839 N.E.2d 1154 (Ind. 2005); *In re Randy G.*, 110 Cal. Rptr.2d 516 (Cal. 2001); *State v. C.D.*, 947 N.E.2d 1018 (Ind. App. 2011); *M.D. v. State*, 65 So.3d 563 (Fl. App. 2011); *Wilson ex rel Adams v. Cahokia Sch. Dist.*, 470 F.S.2d 897 (S.D. Ill. 2007); *In re D.E.M. v. Commonwealth of Pennsylvania*, 727 A.2d 570 (P.A. Super. 1999). For examples finding that the SRO acted independently or purely for law-enforcement purposes, see, e.g., *Doe v. Little Rock Sch. Dist.*, 380 F.3d 349 (8th Cir. Ark. 2004); *Pacheco v. Hopmeier*, 770 F.Supp.2d 1174 (D.N.M. 2011); *In re T.A.S.*, 713 S.E.2d 211 (N.C. Ct. App. 2011).

108 *The JPI Report*, *supra*, Summary, note 19. The JPI report offers no statistical data of its own to support any of its arguments.

109 Even "lesser" crimes that critics allege should be handled by educators without law-enforcement involvement fail to support the track allegations as all crimes are on the decline. For example, a crime critics decry as mere prank playing that is now improperly criminalized--disorderly conduct--fell 17% between 2005-09. In California, juvenile arrest rates fell 22% between 2007-2010. *Juvenile Justice in California 2010, 2009, 2008, 2007*, CALIFORNIA DEPT. OF JUSTICE, available at <http://ag.ca.gov/cjcs/pubs.php#juvenilejustice> (last visited 5/17/2012). In Georgia, juvenile arrest rates fell 19% between 2008-2010. *2010 Summary Report Uniform Crime Reporting (UCR) Program*, GEORGIA CRIME INFORMATION CENTER, available at <http://juviledata.georgia.gov/UCRReports.aspx>, (last visited 5/17/2012).

110 *Indicators*, *supra* note 2.

111 *Juvenile Justice in California 2010, 2009, 2008, 2007*, *supra* note 109.

112 *2010 Summary Report Uniform Crime Reporting (UCR) Program*, *supra* note 109.

113 Theriot at 284.

114 Theriot at 286.

115 Theriot at 286.

116 Michael P. Krezmien et al., *Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States*, 26(3) J. OF CONTEMPORARY CRIM. JUST. 273-293(2010).

117 *Id.*, p. 283.

118 *Id.*, p. 287. Two other papers are also widely cited in this debate. The Wald & Thureau paper discussed above (see footnotes 10 and 11 of this Section, is sometimes cited for the notion that SROs lack effective training and/or that their presence increases student hostility. The paper, however, merely noted that, in the opinion of the SROs and police chiefs surveyed, gaps in training can be problematic in some situations. Student attitudes were not surveyed and there was no finding regarding any cycle of hostility. In fact, the authors found that placement of SROs in schools leads to a relationship of understanding and trust that can decrease arrests. Further, the authors observed that SROs found that referrals to clerk-magistrate hearings or other forms of diversion programs more effective in changing student behavior than referrals to juvenile court.

Additionally, Mayer & Leone have been relied upon to assert that SROs lead to more disorder on campus. Matthew J. Mayer & Peter E. Leone, *A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools, Education and Treatment of Children*, Vol. 22 No. 3 (Aug. 1999) p. 333-356. Their study analyzed data from the 1995 School Crime Supplement to the National Victimization Survey—a period well before modern SRO programs were implemented. The data analyzed does not mention SROs, but instead tracks actions of "security guards." The authors found that an approach to school safety that focused on metal detectors, locked doors, locker checks, security guards, hallway supervision by staff, and visitor sign-in procedures resulted in more disorder than a model based on student knowledge of school rules and consequences for infractions. The study did not find that security guards alone increased disorder and could not, because of its age, analyze how the modern triad approach affects levels of disorder. This approach, as previously discussed, relies heavily on the aspects of the study that were found to result in less disorder.

- 119 Judith A. Browne, *Derailed! The Schoolhouse to Jailhouse Track*, ADVANCEMENT PROJECT (2003), <http://www.advancementproject.org/digital-library/publications/derailed-the-schoolhouse-to-jailhouse-track> (last visited June 30, 2012).
- 120 *Id.*, at 14-15, 22-28.
- 121 *Id.*, at 15-16.
- 122 *Ibid.*
- 123 *FY 2010 Annual Statistical Report*, MARYLAND DEPT. OF JUVENILE SERVICES at 7, www.djs.state.md.us/pdf/2010stat_report-section1.pdf (last visited June 4, 2012).
- 124 *The State of Juvenile Probation Activity in Texas*, TEXAS JUVENILE PROBATION COMMISSION (2011) at 9, <http://www.tjjd.texas.gov/publications/reports/RPTSTAT2010.pdf> (last visited June 4, 2012).
- 125 Browne, *supra* note 119 at 18.
- 126 The JPI Report agrees: “No data exists showing that SROs arrest youth of color more often than white students.” *The JPI Report*, *supra* note 20 at 21.
- 127 *Zero Tolerance in Philadelphia*, *supra* note 20.
- 128 *Id.* at 12.
- 129 *Id.* at 12-14.
- 130 The following states are models for both child welfare law reform as well interagency collaboration through statutory authorization: California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Montana, Oklahoma, Oregon, S. Carolina, Texas, Virginia, Washington, W. Virginia, Wisconsin, and Wyoming.
- 131 See FLORIDA CRIME PREVENTION TRAINING INSTITUTE, <http://www.fcpti.com/fcpti.nsf/pages/SROPD> (last visited July 10, 2012).
- 132 *Ibid.*
- 133 *Delinquency in Florida's Schools: A Seven-Year Study*, FLORIDA DEPARTMENT OF JUVENILE JUSTICE at iv, www.djj.state.fl.us/Research/index.html (last visited Nov. 2011).
- 134 *Id.* at 1
- 135 See *School Resource Officers: What We Know, What We Think We Know, What We Need To Know*, CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE, www.ncdjjdp.org/cpsv/pdf_files/nij_sro_rpt.pdf (last visited July 11, 2012).
- 136 See CITY OF COCOA, <http://www.cocoafl.org/FAQ.aspx?QID=120>, (last visited July 11, 2012) (discussing school safety in Cocoa, Florida).
- 137 See, e.g., ALASKA STAT. § 14.33.130 (2012) (any person responsible for students, including teachers and principals, shall report student crime to law enforcement); A.R.S. § 15-515 (all school personnel shall report certain violations to law enforcement); A.C.A. § 6-17-113 (2012) (Arkansas principals weapons violations and threats to law enforcement); CAL. WEL. & INST. CODE § 503 (2012) (school districts shall report all crimes and probation violations by serious habitual offenders); CAL. ED. CODE § 48902 (2012) (principals shall notify of drug-related crimes); CAL. ED. CODE § 49602 (school counselors shall disclose information to law enforcement to aid in crime investigation); 14 DEL. C. § 4112 (2011) (requiring school employees to notify law enforcement and victim's parents of crimes); FLA. STAT. § 1006.13 (2012) (zero-tolerance law requires notification of violations to law enforcement); O.C.G.A. § 20-984.2 (2011) (requires reporting of certain crimes to school board for determination of follow-up action); 105 I.L.C.S. § 5/10-21.7 (2012) (requires reporting of all battery against school officials to law enforcement); K.S.A. § 72-89b03 (2011) (requires school boards in Kansas to report certain offenses to law enforcement); MISS. CODE ANN. § 37-11-29 (2012) (school boards to report certain crimes annually); 160.261 R.S.MO. (2012) (school administrators shall report certain crimes to law enforcement); S.C. CODE ANN. § 59-63-310 (2011) (establishing school-crime reporting form, through which law enforcement must immediately notify state attorney general of some serious crimes); VA. CODE ANN. § 22.1-279.3:1 (2012) (requires annual reporting of crime by principal to law enforcement).

138 A.C.A. § 6-17-113 (2012).

139 CAL. WEL. & INST. CODE § 503 (2012); CAL. ED. CODE § 48902 (2012).

140 105 I.L.C.S. § 5/10-21.7 (2012).

141 *Juvenile Offenders and Victims*, *supra* note 4.

142 Despite their popularity with critics of SRO programs, because few restorative discipline programs have been assessed, they suffer from a lack of statistical analysis similar to the lack of analysis SRO programs can suffer from. See Cheryl Swanson & Michelle Owen, *Building Bridges: Integrating Restorative Justice With the School Resource Officer Model*, INTERNATIONAL POLICE EXECUTIVE FORUM, (2007), available at <http://www.restorativejustice.org/10fulltext/swansoncheryl/view> (last visited June 30, 2012).

143 *Id.* at 20-25 (explaining how restorative cautioning and restorative conferencing with police officers can reduce recidivism and play a key role in restorative justice models).

Part III: Moving Forward: Affirming the Value of SROs on the Child-Welfare Team and Ensuring the Effectiveness of SRO Programs in Our Schools

144 NORTH CAROLINA DEPT. OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE, *What School Resource Officers do in Schools* http://www.ncdjdp.org/cpsv/sro/sros_in_schools.html (last visited May 4, 2012).

145 *Juvenile Offenders and Victims*, *supra* note 4.

146 Morbidity And Mortality Weekly Report, Vol. 59 No. Ss-5, *Youth Risk Behavior Surveillance--United States 2009*, www.cdc.gov/mmwr/pdf/ss/ss5905.pdf (last visited June 4, 2012).

147 See *State v. R.D.S.*, 2009 Tenn. App. LEXIS 440 (Tenn. Ct. App. 2009).

148 See *State v. Heirtzler*, 147 N.H. 344, 789 A.2d 634 (2001).

149 See *Hill v. Sharber*, 544 F. Supp. 2d 670 (M.D. Tenn. 2008).

150 See *C.M.M. v. State*, 983 So. 2d 704 (Fla. Dist. Ct. App. 5th Dist. 2008).

151 4 W. LaFave, *Search & Seizure* § 10.11(a), at 802-06 (3d ed. 1996).

152 9 See Spencer C. Weiler & Martha Cray, *Police at School: A Brief History and Current Status of School Resource Officers*, *The Clearing House: A Journal of Educational Strategies, Issues and Ideas* (2011) p. 162.

153 Kyle Ramey *Partners for Safety*, *American School Board Journal* (2004) p. 70.

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