

Policing In Schools

DEVELOPING A GOVERNANCE DOCUMENT
FOR SCHOOL RESOURCE OFFICERS
IN K-12 SCHOOLS

AN ACLU WHITE PAPER
BY CATHERINE Y. KIM AND I. INDIA GERONIMO
AUGUST 2009



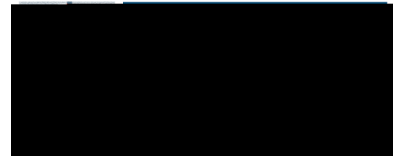


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Developing a Governance Document
for School Resource Officers in K-12 Schools

An ACLU White Paper
By Catherine Y. Kim and I. India Geronimo

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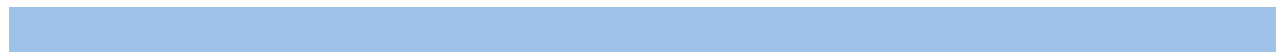


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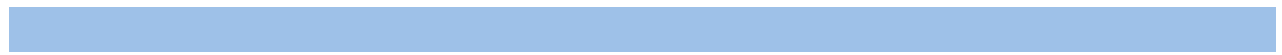
The Racial Justice Program is a division of the American Civil Liberties Union, the nation's leading advocate of constitutional and civil rights. Staff members of the program are experts in constitutional law and civil rights, specializing in education, health care, racial profiling, juvenile justice, criminal justice, indigent defense, and other racial justice issues. Experts in policy, advocacy, and community organizing round out the core staff of the RJP.

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More recently, she has focused her work on challenges to the “school-to-prison pipeline,” the practice of criminalizing students, predominantly students of color, for trivial schoolyard misconduct. In addition to litigating cases in this area, she is the co-author of an upcoming book analyzing legal theories and remedies surrounding the school-to-prison pipeline to be published next fall, has organized two national conferences in this area, and has spoken extensively around the country on these issues.

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enforcement agencies, the climate of the schools, and, most important, the educational achievement and rights of public school students, suffer as a result.

This White Paper identifies specific areas of concern to be addressed in a governance document for SRO programs. In the case of districts that contract with local police departments, these provisions should be set forth in a Memorandum of Understanding; in the case of districts that employ their own police force, they should be set forth in another appropriate format. In either case, the governance document should include language that:

- Distinguishes between disciplinary misconduct to be handled by school officials and criminal offenses to be handled by law enforcement;
- Respects the rights of children in school;
- Ensures transparency and accountability;
- Defines the role of SROs within the context of the educational mission of schools;
- Provides minimum training requirements; and
- Promotes non-punitive approaches to student behavior.

(citing study suggesting that “jail-like” atmosphere in public schools “may foster the violence and disorder school administrators hope to avoid”).



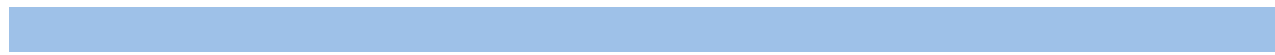
**I. DISTINGUISH BETWEEN DISCIPLINARY MISCONDUCT
AND CRIMINAL OFFENSES**

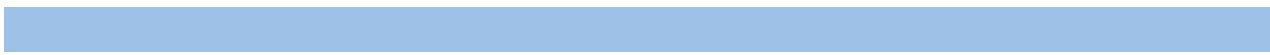
First, the governance document for School Resource Officer programs should specify that children will not be subject to formal law enforcement intervention --- whether that intervention take the form of an issuance of a criminal citation, ticket, or summons, filing of a delinquency petition, referral to a probation officer, or an actual arrest --- for ordinary school discipline issues; it should also specify that the drastic measure of a school-based arrest should be used only as a last resort.

The number of children arrested or referred to court for school discipline has grown in recent years.⁸ In South Carolina, the single most common offense resulting in a juvenile court referral during the 2007-08 year was “Disturbing Schools.”⁹ In Florida, during the same time

⁸ See, e.g., Paul J. Hirschfield, *Preparing for Prison? The Criminalization of School Discipline in the USA*, 12 THEORETICAL CRIMINOLOGY 79, 80 (2008) (describing that “problems that once invoked the idea and apparatus of student discipline have increasingly become criminalized”); Daveen Rae Kurutz, *School Arrests, Citations Jump by 46 percent*, PITTSBURGH TRIB.-REV., Aug. 23, 2008 (documenting 46 percent increase in number of school-based arrests and citations in Allegheny County in a single year); CHILDREN’S DEFENSE FUND, AMERICA’S CRADLE TO PRISON PIPELINE 125 (2007) (noting tripling in number of school-based arrests in Miami-Dade County from 1999 to 2001); ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK 15 (2005) (documenting growth in the number of school-based arrests in select jurisdictions).

In the past year and a half alone, there have been several highly publicized incidents of the criminalization of minor student misbehavior, including -8 (l) -55t be-8 (l) 2g99 () -5 (t) -5 (h) -9 (e)-8 71924 6 (.) -5 () -286 6 (r] .7



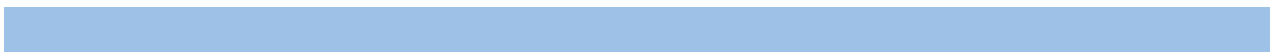


handle minor school misconduct. For example, the National Council of Juvenile and Family Court Judges has urged collaboration between the justice system and school officials to “[c]ommit to keeping school misbehavior and truancy out of the formal juvenile delinquency court.”¹⁵

Improper school-based arrests and referrals to law enforcement have a devastating impact on children. Studies show that being arrested has detrimental psychological effects on the child; nearly doubles the odds of dropping out of school, and, if coupled with a court appearance, nearly quadruples the odds of dropout; lowers standardized test scores; reduces future employment prospects; and increases the likelihood of future interaction with the criminal justice system.¹⁶

These arrests and referrals also have a negative impact on the larger community. Classmates who witness a child being arrested for a minor infraction may develop negative views or distrust of law enforcement. Juvenile court dockets and detention centers become crowded with cases that could be handled more efficiently and more effectively by school

¹⁵ DAVID E. GROSSMANN & MAURICE PORTLEY, NAT’L COUNCIL OF JUVENILE & FAMILY COURT JUDGES, JUVENILE DELINQUENCY GUIDELINES: IMPROVING COURT PRACTICE IN DELINQUENCY CASES 151 (2005); *see also* Leech & Robinson, *supra* note 11



criminal offense, leading to confusion among officers, teachers, parents, and children alike. Absent clear guidelines, there may be confusion or disagreement as to whether a food fight in the cafeteria amounts to criminal “disorderly conduct,” whether talking back to a teacher constitutes a criminal “disturbance of school or public assembly,” or whether a playground shoving match should be classified as a criminal “assault.”

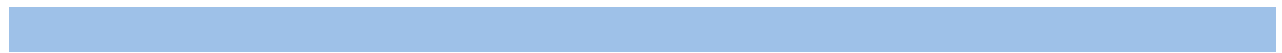
To address this concern, the governance document must provide clear guidance as to when children may be subject to formal law enforcement intervention, or when incidents that might be interpreted technically as a criminal offense should be handled by school officials alone. We propose the following language:

**Model Language on Distinguishing Between Disciplinary Misconduct
and Criminal Offenses**

-



- Students shall not be arrested at school, except where the child poses a real and immediate threat to student, teacher, or public safety; or a judicial warrant specifically directs the arrest of the student in a school; in all other instances the execution of an arrest warrant shall be undertaken at a location other than a school.
 - School principals shall be consulted prior to an arrest of a student where practicable.
 - The student's parent or guardian shall be notified of a child's arrest as soon as practicable.



Court's ruling in *Miranda v. Arizona*.²³ Again, some of these cases are in conflict.²⁴ Some



legal muster, risks creating an adversarial relationship with students, severely compromising the educational climate and potentially increasing distrust and disorder in public schools.²⁷

For these reasons, the governance document for the SRO program should include the following language:

Model Language on Students' Rights

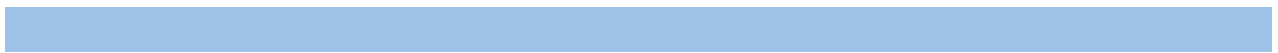
- Absent a real and immediate threat to student, teacher, or public safety, a School Resource Officer may conduct or participate in a search of a student's person, possessions, or locker only where there is probable cause to believe that the search will turn up evidence that the child has committed or is committing a criminal offense.
 - The SRO shall inform school administrators prior to conducting a probable cause search where practicable.
 - The SRO shall not ask school officials to search a student's person, possessions, or locker in an effort to circumvent these protections.
- A school official may conduct a search of a student's person, possessions, or locker only where there is reasonable suspicion to believe that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school, and the search is justified in scope given such suspicion.
 - Absent a real and immediate threat to student, teacher, or public safety, a school official shall not ask a SRO to be present or participate in such a search.

²⁷ See Randall R. Beger, *The "Worst of Both Worlds": School Security and the Disappearing Fourth Amendment Rights of Students*, 28 CRIM. JUST. R

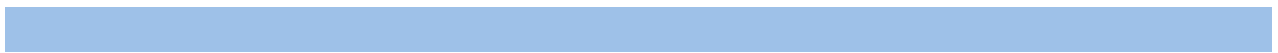
- Absent a real and immediate threat to student, teacher, or public safety, a SRO may question or participate in the



III. TRANSPARENCY AND ACCOUNTABILITY



types of school-



to a probation officer --- for juvenile conduct on school grounds or at a school-sponsored event, broken down by school; offense or reason; type of law enforcement intervention; juvenile's age, grade level, race, sex, and disability status; and disposition/result;

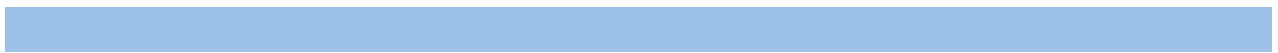
- Number of suspensions or other disciplinary consequences imposed on students, broken down by school; offense/infracton; student's age, grade level, race, sex, and disability status; and disciplinary consequence imposed;
 - Regulations, policies, and protocols governing the SRO program;
 - Budget information for the SRO program including funding and expenditures;
 - Number of SROs deployed to each school;
 - Training materials for SROs; and
 - Number and types of complaints lodged against SROs.
- The SRO program shall set forth a simple and straightforward mechanism for any student, parent, teacher, principal, or other school administrator to submit a complaint, orally or in writing, of abuses or misconduct by SROs.
 - Parents shall be permitted to submit a complaint in their native language.
 - The complaint system must be confidential and protect the identity of the complainant from the SRO to the extent consistent with the SRO's due process rights.
 - The system shall provide for an independent investigation into the allegations in the complaint.

- Complaints shall be investigated and resolved, and complainants shall be furnished with a written explanation of the investigation and resolution, within 30 days.

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IV. D



Model Language on Defining the Role of the SRO in the Context of the Educational Mission of Schools

- The mission of the School Resource Officer program is to improve school safety and the educational climate at the school, not to enforce school discipline or punish students.
- Building-level school administrators shall be consulted as to whether a SRO will be deployed to the school and shall participate in periodic performance reviews of the SRO.
- The SRO shall meet with building-level school administrators, teachers, parents, and student representatives at least annually to discuss issues of school safety.
- The SRO shall be integrated into the school community through participation in faculty and student meetings and assemblies as appropriate.
- The SRO shall maintain daily activity reports and submit monthly summaries of these reports to building-level school administrators, district-level school administrators, and the relevant law enforcement agency. The monthly summaries shall include, for each SRO, the numbers and descriptions of all incidents or calls for service; names of school officials involved (referring teachers, principals, etc.); student searches; student questioning; tickets, citations, or summonses; filing of delinquency petitions; referrals to a probation officer; actual arrests; and other referrals to the juvenile justice system.
- Absent a real and immediate threat to student, teacher, or school safety, and absent the situations described above where formal law enforcement intervention is deemed appropriate, building-level school administrators shall have final authority in the building.

V. MINIMUM TRAINING REQUIREMENTS

Fifth, the governance document must provide for minimum training requirements for all School Resource Officers assigned to K-12 public schools. Police officers generally are trained to deal with adult perpetrators on the street, not children in schools. Yet, these officers face





VI. PROMOTING NON-PUNITIVE TECHNIQUES TO IMPROVE SCHOOL SAFETY AND CLIMATE

Finally, the governance document should integrate research-based practices to improve



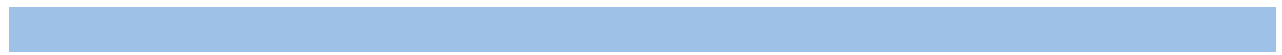
**Model Language on Promoting Non-Punitive Approaches
to Student Behavior**

- The School Resource Officer shall be familiar with and trained in all programs adopting non-punitive approaches to discipline available in the school district. If a school has implemented a specific program designed to improve overall school climate or respond to student behaviors in specific ways, the SRO shall participate in all trainings associated with that program.



CONCLUSION

The safety of our children is of the utmost importance to school officials, law enforcement, and community members alike. But without sufficient guidelines, programs to deploy School Resource Officers into public schools may hamper effective policing as well as effective pedagogy by unnecessarily criminalizing student misbehavior, alienating youth, and creating an adversarial environment in schools. It is our sincere hope that the recommendations in this White Paper will be instituted to ensure that SRO programs are implemented in a thoughtful and conscientious manner and for the benefit of the children they are intended to serve.



APPENDIX

The following document provides model language for a formal governance document that will ensure that law enforcement, school officials, and the communities they serve have a shared under

MODEL GOVERNANCE DOCUMENT FOR SCHOOL RESOURCE OFFICER (SRO) PROGRAM

WHEREAS, the purpose of this document is to establish a School Resource Officer (SRO) Program and to set forth guidelines to ensure that law enforcement, school officials, and the communities they serve have a shared understanding of the goals of the SRO program and that SROs receive the necessary support and training to ensure a safe school environment while respecting the rights of students and improving the overall school climate;

WHEREAS, the parties agree that an effective SRO program sets forth: the role of the SRO within the context of the educational mission of the school; distinctions between disciplinary misconduct to be handled by school officials, and criminal offenses to be handled by law enforcement; respect for the rights of students; transparency and accountability; minimum SRO training requirements; and promotion of non-punitive approaches to student behavior;

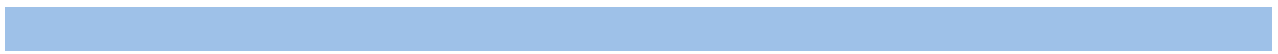
WHEREAS, the signatories agree as follows:

ROLE OF THE SCHOOL RESOURCE OFFICER IN THE CONTEXT OF THE EDUCATIONAL MISSION OF THE SCHOOL

1. The mission of the School Resource Officer program is to improve school safety and the educational climate at the school, not to enforce school discipline or punish students.
2. Building-level school administrators shall be consulted as to whether a SRO will be deployed to the school and shall participate in periodic performance reviews of the SRO.
3. The SRO shall meet with building-level school administrators, teachers, parents, and student representatives at least annually to discuss issues of school safety.
4. The SRO shall be integrated into the school community through participation in faculty

DISTINGUISHING DISCIPLINARY MISCONDUCT TO BE HANDLED BY SCHOOL OFFICIALS FROM CRIMINAL OFFENSES TO BE HANDLED BY LAW ENFORCEMENT

7. School Resource Officers are responsible for criminal law issues, not school discipline issues.



to court-involvement or arrest only after informing the child of his or her Miranda rights and only in the presence of the child's parent or guardian.

- a. The SRO shall inform school administrators prior to questioning the student where practicable.
- b. The SRO shall not ask a school official to question a student in an effort to circumvent these protections.

13. Absent a real and immediate threat to student, teacher, or public safety, a school official shall not ask a SRO to be present or participate in the questioning of a student that could expose the student to court-involvement or arrest.

14. Strip searches of children by either school officials or SROs shall be prohibited.

15. Absent a real and immediate threat to student, teacher, or public safety, other physically invasive searches by a school official or SRO shall not be conducted on a child.

16. Absent a real and immediate threat to student, teacher, or public safety, a SRO shall not use physical force or restraints --- including handcuffs, Tasers, Mace, or other physical or chemical restraints --- on a child.

TRANSPARENCY AND ACCOUNTABILITY

17. The school district and relevant law enforcement agency shall maintain annual publicly available data, without disclosing personally identifiable information, documenting the following:

- a. Number of incidents resulting in a juvenile arrest for conduct on school grounds or at a school-sponsored event, broken down by school; offense; arrestee's age, grade level, race, sex, and disability status; and disposition/result;
- b. Number of incidents resulting in other forms of law enforcement intervention --- including searches and seizures by SROs; questioning by SROs; issuance of a citation, ticket, or summons; filing of a delinquency petition; or referral to a probation officer --- for juvenile conduct on school grounds or at a school-sponsored event, broken down by school; offense or reason; type of law enforcement intervention; juvenile's age, grade level, race, sex, and disability status; and disposition/result;
- c. Number of suspensions or other disciplinary consequences imposed on students, broken down by school; offense/infracton; student's age, grade level, race, sex, and disability status; and disciplinary consequence imposed;
- d. Regulations, policies, and protocols governing the SRO program;
- e. Budget information for the SRO program including funding and expenditures;

- f. Number of SROs deployed to each school;
- g. Training materials for SROs; and
- h. Number and types of complaints lodged against SROs.

18. The SRO program shall set forth a simple and straightforward mechanism for any student, parent, teacher, principal, or other school administrator to submit a complaint, orally or in writing, of abuses or misconduct by SROs.

- a. Parents shall be permitted to submit a complaint in their native language.
- b. The complaint system must be confidential and protect the identity of the complainant from the SRO to the extent consistent with the SRO's due process rights.
- c. The system shall provide for an independent investigation into the allegations in the complaint.
- d. Complaints shall be investigated and resolved, and complainants shall be furnished with a written explanation of the investigation and resolution, within 30 days.
- e. Where serious allegations of abuse or misconduct are raised, the SRO shall be temporarily removed from having contact with students as appropriate.
- f. Where allegations of abuse or misconduct are substantiated, the SRO shall be suspended or permanently removed from school assignments or receive additional training as appropriate.
- g. Every student, parent, and guardian in the school system shall be informed of the complaint procedure.

MINIMUM SCHOOL RESOURCE OFFICER TRAINING REQUIREMENTS

19. Every School Resource Officer shall receive at least 40 hours of pre-service training and 10 hours of annual in-service training on the following topics:

- a. Child and adolescent development and psychology;
- b. Positive behavioral interventions and supports (PBIS), conflict resolution, peer mediation, or other restorative justice techniques;
- c. Children with disabilities or other special needs; and
- d. Cultural competency.

