

SCHOOL RESOURCE OFFICERS: WHY AND HOW WE SHOULD DEMAND CHANGE*

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The increasing presence of School Resource Officers (SROs) in public schools has generated significant debate over school safety, student discipline, and civil rights. While proponents argue that SROs enhance school security and foster safer educational environments, growing evidence demonstrates that their presence produces substantial negative collateral consequences, particularly for students of color and students with disabilities. This Article argues that the judicial system has failed to adequately protect students' constitutional rights by routinely treating SROs as school officials rather than law enforcement officers, thereby permitting diminished Fourth and Fifth Amendment protections in school settings, including reduced standards for searches and limited Miranda safeguards during student questioning. Because courts have largely declined to provide meaningful remedies for these infringements, legislative and policy intervention is necessary. Drawing on legal analysis, national empirical research, and a case study of school resource officer policy deliberations in a majority-white North Carolina school district, this Article demonstrates the disconnect between positive public perceptions of SROs and evidence of their disparate harms. It further argues that majoritarian decision-making frameworks are ill-suited to addressing these inequities, as they risk privileging perceptions of safety held by dominant stakeholder groups over the lived experiences of students most adversely affected by school policing. To remedy these failures, this Article proposes a counter-majoritarian policymaking framework that centers civil rights protections, equity-based impact assessment,

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and the voices of historically marginalized students in shaping school safety policy.

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INTRODUCTION

Over the past several decades, public schools have increasingly utilized School Resource Officers (SROs) as a security mechanism.¹ SROs are commissioned law enforcement officers selected, trained, and assigned to protect and serve education environments.² In the late 1970's fewer than 100 safety officers were assigned to public schools, whereas that number approached 20,000 by 2007.³ This rise can be attributed in part to federal and state efforts aimed at combatting crime rates during the 1990s. The Violent Crime and Law Enforcement Act of 1994 included funding for SROs in schools as a part of community policing programs.⁴

1. See NATHAN JAMES & GAIL MCCALLION, CONG. RSCH. SERV., R43126, SCHOOL RESOURCE OFFICERS: LAW ENFORCEMENT OFFICERS IN SCHOOLS 19-20 (2013), https://www.everycrsreport.com/files/20130626_R43126_716a20191f13cf90064e9929ef6ee59611a90576.pdf.

2. See *Facts Sheet, School Resource Officers and School-based Policing*, OFF. OF CMTY. ORIENTED POLICING SERVS., U.S. DEP'T OF JUST. (Dec. 2019), https://cops.usdoj.gov/pdf/SRO_School_Policing_Factsheet.pdf

3. See JAMES & MCCALLION, *supra* note 1.

4. 34 U.S.C. § 10381(b)(13).

The presence of SROs in school settings is a topic of national debate.⁵ SRO proponents argue that they provide increased safety for students, staff, and families.⁶ Research has also shown that education stakeholders feel safer with SROs present in school buildings.⁷ However, in recent years, opponents have called for the removal of SROs from schools, citing the disparate negative impact their presence has on students of color and students with disabilities, as well as their ineffectiveness in preventing instances of mass violence in schools.⁸

Regardless of whether data demonstrates positive outcomes for students engaging with SROs, parents and community members care about the safety of children, and their perception of safety at school matters. Nonetheless, there are substantial issues with the current regulatory approaches that allow substantial negative collateral consequences for students.⁹ As the debate about SRO presence in schools rages amongst K-12 policymakers, this paper contributes to the robust literature surrounding SROs by outlining how the judicial system's classification of SROs as school personnel, as opposed to law enforcement officers, has allowed for increased infringement on the constitutional rights of students. This paper argues that policy and law makers must act, since the courts have not, to pose a counter-majoritarian legislative scheme to address the negative collateral consequences resulting from the presence of SROs in schools.

In making this argument, this paper is divided into four parts. The first section traces judicial cases focused on civil rights and SRO-student interaction. Courts have repeatedly classified SROs as school officials, leading to ongoing infringement of constitutional rights for

5. See *Do Police Officers in Schools Help or Hinder Teachers?*, ECONOMIST (July 18, 2020), https://www.economist.com/united-states/2020/07/18/do-police-officers-in-schools-help-or-hinder-teachers?utm_medium=cpc.adword.pd&utm_source=google&ppccampaignID=17210591673&ppcadID=&utm_campaign=a.22brand_pmax&utm_content=conversion.directresponse.anonymous&gclid=aw.ds&gad_source=1&gad_campaignid=17210596221&gbraid=0AAAAADBuq3JrBPSBkCUNr3FY3wMjOI6eV&gclid=CjwKCAjwwpDQBhAuEiwAa-4Wo63hnWP32UBw3XRPOqJuZd_4-BE47TCdq64WrDK1CuAsXNd4zm4QfxoCE5AQAvD_BwE

6. See *id.*

7. Samantha Viano et al., *The Third Administrator? Perceptions of School Resource Officers in Predominately White Elementary Schools*, 59 EDUC. ADMIN. Q. 633, 647 (2023).

8. See Barbara Fedders, *The End of School Policing*, 109 CAL. L. REV. 1443, 1445-46 (2021).

9. See *id.* at 1446.

students in school settings with no judicial remedy to protect students' civil rights.¹⁰ The second section outlines current national policy debates pertaining to SROs, highlighting both arguments that support SRO presence in schools and arguments that call for their expulsion.¹¹ To examine these debates unfolding on the local level, the third section details a case study in a majority-white school district, illustrating how the perceptions of SROs, although positive, differ across demographic groups.¹² The case study also illustrates alignment with national studies on SRO-student interactions, illustrating disparate impact and outcomes for students.¹³ The fourth and final section of the paper argues for legislative action as a mechanism to protect students' rights in the schoolhouse, calling for elected officials to act where the court system has not. To do so effectively, this section also argues that law and policy makers must take a counter majoritarianism approach given the differences between public perceptions and the evidenced-based outcomes of SROs, as well as the disparate impact that SROs have on students of color and students with disabilities.¹⁴

I. THE JUDICIAL SYSTEM APPROACH TO SCHOOL RESOURCE OFFICERS

Scholars such as Catherine Kim have questioned the truth of the infamous line offered by the United States Supreme Court stating that “students [do not] shed their constitutional rights . . . at the schoolhouse gate.”¹⁵ In reality, students do shed some of their rights each day when they enter a school building.¹⁶ This section reviews how courts, more often than not, view and judge SROs as school officials, as opposed to law enforcement officers, at the expense of students' civil

10. Catherine Y. Kim, *Policing School Discipline*, 77 BROOK. L. REV. 861, 861 (2012).

11. See Fedders, *supra* note 8.

12. *Board of Education Agenda Abstract*, CHAPEL HILL-CARRBORO CITY SCHS. (June 16, 2022), https://chccs.granicus.com/MetaViewer.php?view_id=2&clip_id=550&meta_id=36315.

13. Sagen Kidane & Emily Rauscher, *Unequal Exposure to School Resource Officers, by Student Race, Ethnicity, and Income*, URB. INST. (Apr. 6, 2023), <https://www.urban.org/research/publication/unequal-exposure-school-resource-officers-student-race-ethnicity-and-income>

14. Amanda Merkwae, *Schooling the Police: Race, Disability, and the Conduct of School Resource Officers*, 21 MICH. J. RACE & L. 147, 151–53 (2015).

15. See Kim, *supra* note 10.

16. See *id.*

rights.¹⁷ Scholars have described a growing nexus between the criminal justice system and the education setting, thus questioning the doctrinal justification that insulates SROs from judicial scrutiny on the grounds that their actions are in the educational interest of suspect youth.¹⁸

Further problematizing the judicial stance on SRO infringement on students' rights is the limitation for students to seek remedy under Section 1983 for civil rights claims.¹⁹ Section 1983 creates a federal cause of action against public officials who violate civil liberties.²⁰ There are a myriad of reasons for this limitation, including the dual roles that SROs serve as law enforcement and school administrators. Thus, SROs may raise a qualified immunity defense in response to Section 1983 claims.²¹

A. *Student Searches without Cause*

While the constitution protects against unreasonable searches and seizures under the Fourth Amendment, students do not have these same constitutional protections while in the school setting.²² Absent a Supreme Court ruling, most states have upheld that SROs operate as school officials rather than law enforcement, resulting in reduced Fourth Amendment protections for students.²³ Courts imposing these limited constitutional rights do so by relying on the theory that school discipline benefits youth, and therefore restrictions on students' rights are justified.²⁴ Based on the premise that schools must maintain order, courts have held that it is unreasonable to require a probable cause prior to student search.²⁵ In determining if a search by a school official was permissible, courts will decide if the search was justified at its inception and whether the search was "reasonably related [to the]

17. *See id.* at 865.

18. *Id.* at 902-03.

19. Kerrin C. Wolf, *Assessing Students' Civil Rights Claims Against School Resource Officers*, 28 PACE L. REV. 215, 219 (2018).

20. 42 U.S.C. § 1983.

21. Wolf, *supra* note 19, at 219.

22. *See* Josh Gupta-Kagan, *Reevaluating School Searches Following School-to-Prison Pipeline Reforms*, 87 FORDHAM L. REV. 2013, 2031 (2019).

23. *Id.* at 2016.

24. Kim, *supra* note 10, at 867.

25. *See* *New Jersey v. T.L.O.*, 469 U.S. 325, 341 (1985).

scope and circumstances”.²⁶ The standard at which a search is justified is much lower than outside of the school setting. A school official, or SRO, conducting a search need only for that search to (1) be reasonable under all circumstances – a standard much lower than probable cause and (2) have reasonable grounds for suspecting that the search will result in evidence that the student is violating either the law or school rules.²⁷ Examples of these searches play out in a multitude of ways. For instance, searching students based on proximity to an act coupled with a perception of suspicious behavior is sufficient to warrant a school search.²⁸

Jurisdictions vary on their perspective of cause needed for SROs to engage in student searches, given the dual role SROs hold as both a law enforcement officer and school official. Multiple courts have ruled that SROs need only reasonable suspicion, like that of any school official, because they are viewed as such and not as law enforcement agents.²⁹ Other jurisdictions have required probable cause for searches, and classify SROs as law enforcement officers.³⁰ In the majority of states, SROs will need probable cause for student searches when involved in a law enforcement action.³¹ When an SRO acts as a school official, which constitutes most student searches, they need only have reasonable suspicion.³²

B. *Questioning without Miranda Warning*

Miranda warnings are required to safeguard the Fifth Amendment privilege against self-incrimination and protect against coercive interrogations.³³ Police must advise criminal suspects, prior to custodial interrogation, that anything they say can be used against them in court, they have the rights to remain silent, and consult with a lawyer

26. *Id.* at 341.

27. *Id.* at 341-42.

28. *See* Vassallo v. Lando, 591 F. Supp. 2d 172, 195 (E.D.N.Y. 2008).

29. Amanda Merkwae, *Schooling the Police: Race, Disability, and the Conduct of School Resource Officers*, 21 MICH. J. RACE & L. 147, 165-66 (2015).

30. *See* State v. Tywayne, 933 P.2d 251, 254 (N.M. Ct. App. 1997).

31. Wolf, *supra* note 19, at 230.

32. *Id.* at 232.

33. Natalie Short, *Mitigating “The Coercive Effect of the Schoolhouse Setting”*: Adolescents’ *Miranda* Rights and Law Enforcement Interrogations at Schools, 19 NEW CRIM. L. REV. 93, 95 (2016).

or to have one appointed in they are indigent.³⁴ Interrogation must stop if the suspect wishes to remain silent or until a lawyer is present if one has been requested.³⁵ In order for *Miranda* warnings to apply, an individual must be held in custody and interrogation takes place.³⁶

There are several ways law enforcement avoids issuing *Miranda* warnings. For instance, a law officer can make clear that the individual is not in custody and can leave at any time; in these circumstances, any voluntary statement is allowed.³⁷ That being said, a judge may rule that the individual was held in custody, in which case there would be a *Miranda* warning violation.³⁸ Although admissions made to law enforcement while in custody prior to *Miranda* may not be admissible, any statements made later, voluntarily and knowingly, are admissible.³⁹ Moreover, individual accountability for law enforcement is lacking. Law officers are also not liable in a § 1983 claim for *Miranda* warning violations, even when the individual is eventually acquitted at trial.⁴⁰

Turning to the school setting, there is a lack of protection for students' rights in the context of questioning during an investigation.⁴¹ After outlining ways in which *Miranda* warnings have failed students in school interrogations, this section puts forth an argument that students should receive *more* protections under *Miranda* given that they are a vulnerable population and even more susceptible to abuse of authority.

Students do not receive *Miranda* warnings prior to questioning since school officials and SROs are not considered part of law enforcement.⁴² A *Miranda* warning is not required even when a student asks for a lawyer because the student is “not in official custody when

34. *Miranda v. Arizona*, 384 U.S. 436, 469-474 (1966).

35. *Id.* at 473-74.

36. *See id.* at 444, 461, 475.

37. *See* Lauren E. Clatch, *Interrogating Miranda's Custody Requirement*, 103 N.C. L. REV. 69, 86, 101 (2024).

38. *See id.* at 102.

39. *See Oregon v. Elstad*, 470 U.S. 298, 232 (1985) (“Though *Miranda* requires that the unwarned admission must be suppressed, the admissibility of any subsequent statement should turn in these circumstances solely on whether it is knowingly and voluntarily made.”).

40. *See Vega v. Tekoh*, 597 U.S. 134, 150–152 (2022).

41. Wolf, *supra* note 19, at 233–236.

42. *State v. Tinkham*, 719 A.2d 580, 583 (N.H. 1998).

questioned, [and thus there is no] legal right to remain silent or speak to [a] lawyer.”⁴³

Like with student searches, various jurisdictions have made different rulings on whether an SRO must issue a *Miranda* warning. Upholding the *Miranda* warning requirements, Pennsylvania requires a *Miranda* warning for custodial investigations.⁴⁴ In Texas, *Miranda* warnings may also be required when questioning students behind closed doors.⁴⁵ Conversely, some courts view the school environment as non-threatening and distinct from a police station.⁴⁶ Questioning that takes place in a school administrator’s office, without interrogating questions and taking a short amount of time, may be viewed as non-custodial questioning and does not require SROs to issue *Miranda* warnings.⁴⁷ Furthermore, when the questioning occurs for “educational purposes” rather than for a “criminal investigation,” *Miranda* warnings may not be required.⁴⁸ This holds true regardless of whether any formal charges are filed against the student.⁴⁹

While courts vary in their application of *Miranda* warning requirements for SROs, it is evident that student rights under *Miranda* are limited in comparison to the *Miranda* rights offered to individuals outside of a school setting due to the general judicial classification of SROs as a school official.⁵⁰ Although students are minors and highly susceptible to the influence of adults in positions of authority, courts have done nothing to mitigate their vulnerability. Failures to protect the rights of students through judicial decision-making coupled with systemic inequities have fueled policy debates about SROs across the nation.

43. *In re V.P.*, 55 S.W.3d 25, 33 (Tex. App. 2001).

44. *In re R.H.*, 791 A.2d 331, 333 (Pa. 2002).

45. *See In re D.A.R.*, 73 S.W.3d 505, 512–13 (Tex. App. 2002).

46. Wolf, *supra* note 19, at 235 (citing *In re Erik E.*, No. 1 CA-JV 08-0024, 2008 WL 4216544 (Ariz. Ct. App. Sept. 11, 2008); *In re J.H.*, 928 A.2d 643 (D.C. 2007); *In re Welfare of B.M.K.*, No. A07-0852, 2008 WL 1972488 (Minn. Ct. App. 2008)).

47. *In re Marquita M.*, 970 N.E.2d 598, 603–04 (Ill. App. Ct. 2012).

48. *State v. C.D.*, 947 N.E.2d 1018, 1023 (Ind. Ct. App. 2011).

49. *Id.*

50. *Id.*

II. CURRENT POLICY DEBATE

Education researchers and legal scholars have conducted substantial research focused on perceptions of SROs, as well as outcomes of SRO presence in schools.⁵¹ Debates surrounding SRO policies are commonplace in school systems, state legislatures, and federal agencies.⁵² This section will begin by discussing studies that analyze public perception of SROs. Next, this section will provide an overview of studies that have demonstrated negative collateral consequences, school safety shortcomings, and disparate impact on student outcomes in connection with SRO interactions. Finally, the section will conclude by providing an overview of various reforms that have been suggested by scholars and activists to mitigate the detrimental effects produced by SRO presence in schools.

A. *Perceptions of School Resource Officers*

When considering public perception, it is important to recognize the time and context in which SRO presence in schools has vastly expanded. The expansion period began in the late 1990s, which was fraught with serious concern over school safety, reaching a fever pitch following the school shooting at Columbine High School.⁵³ Much of this fear was concentrated in white suburban and rural parents, who were more likely than parents of color to feel that a school shooting was likely to occur in their community.⁵⁴ Since the 1990s, schools have continued to experience school shootings, reinforcing the concerns for safety and prevention of mass violence.⁵⁵

Interestingly, studies have shown that whether or not a school has an SRO present does not impact teacher worry about a school

51. Barbara Raymond, *Assigning Police Officers to Schools*, OFF. OF CMTY. ORIENTED POLICING SERVS., U.S. DEP'T OF JUST. (Apr. 2010), <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-p182-pub.pdf>

52. See JAMES & MCCALLION, *supra* note 1.

53. Kim, *supra* note 10 at 877.

54. *Id.* (citing Mark Gillespie, *School Violence Still a Worry for American Parents*, GALLUP (Sep. 7, 1999), <http://www.gallup.com/poll/3613/School-Violence-Still-Worry-American-Parents.aspx>).

55. *Id.*

shooting occurring, or their belief that schools are safe places.⁵⁶ However, teachers in schools with SROs are more likely to believe that their school has adequate security and are more likely to feel physically safe during the workday as opposed to teachers in schools without SROs.⁵⁷ The perception of safety does not extend to how teachers think students feel. Teachers with an SRO in their schools are more likely to perceive students as concerned for their safety when compared to schools without an SRO.⁵⁸ In terms of the role that SROs play in schools, stakeholders often view the SRO as a “third administrator” who provides “general assistance similar to a vice principal.”⁵⁹

Studies have shown that school leaders in affluent areas believe SROs promote school safety, even if those leaders have no experience with SROs in their schools.⁶⁰ In mixed-methods studies, school leaders tend to overlook negative, systemic relationships between law and people of color, viewing SROs as race neutral.⁶¹ Expanding on the belief that SROs are “race neutral,” scholars have highlighted the way in which SROs engage in legal socialization.⁶² For example, when SROs teach about law enforcement, critical discussions of policing is absent from the conversation, and criticisms are presented as fictional or unrepresentative of policing as a whole.⁶³ These studies exemplify how SROs can operate in schools with blinders on, ignoring the systemic racial discrimination issues with both the SRO program and policing in general.

Reactionary safety practices and policies, such as SROs, are often initiated in response to “highly publicized but extremely rare incidents of school rampage.”⁶⁴ Eric Madfis cautions that the public’s perception of safety measures needed in schools is out of proportion

56. Brandon J. Wood & Eric Hampton., *The Influence of School Resource Officer Presence on Perceptions of School Safety and Security*, 50 SCH. PSYCH. 360, 365 (2020).

57. *Id.*

58. *Id.*

59. Viano et al., *supra* note 7, at 634.

60. *Id.* at 655.

61. *Id.*

62. See Aaron Kupchik et al., *Police Ambassadors: Student-Police Interactions in School and Legal Socialization*, 54 L. & SOC’Y REV. 391, 396–99 (2020).

63. *Id.* at 410.

64. Eric Madfis, “It’s Better to Overreact”: *School Officials’ Fear and Perceived Risk of Rampage Attacks and the Criminalization of Public Schools*, 24 CRITICAL CRIM. 39, 51 (2016).

with actual need.⁶⁵ When discussion and decision making pertaining to SRO presence is centered on risk calculations that are inaccurate and without understanding the negative aspects of enhanced security, perception is not aligned with reality.⁶⁶

Compared to the perceptions of other education stakeholders such as administrators, teachers, students, and parents, SROs tend to over-estimate their positive effects, while under-estimating their role in school discipline.⁶⁷ Benjamin Fisher analyzed 73 interviews with SROs across two districts who were placed in schools with a variety of racial compositions.⁶⁸ Fisher found that SROs perceive three categories of threats: student-based, intruder-based, and environment-based threats.⁶⁹ These categories were persistent across schools, but in the district where there was a higher number of white students, SROs were primarily concerned about intruder-based and environment-based threats. SROs in districts with a larger proportion of Black students were primarily concerned with student-based threats.⁷⁰ This finding is key when considering the racially disparate impact of school policing discussed in the following subsection.

The perceptions of SROs in schools do not necessarily align with the stated purposes or realities of SRO presence. While SROs may offer benefits to some, including reducing the load on the local police force and school administrators, as well as providing a *feeling* of security, these benefits come at a high cost for students of color, especially Black boys, and students with disabilities.⁷¹ Disparate impact on students of color and students with disabilities is further explored in the following subsection.

B. *Negative Collateral Consequences of SROs*

SROs in schools have a disproportionately negative impact on students of color and students with disabilities.⁷² This is consequential

65. *See id.*

66. *See id.*

67. *See* Viano et al., *supra* note 7, at 656.

68. *See* Benjamin W. Fisher et al., *Protecting the Flock or Policing the Sheep? Differences in School Resource Officers' Perceptions of Threats by School Racial Composition*, 69 SOC. PROBS. 316, 323 (2022).

69. *Id.*

70. *Id.* at 316.

71. Fedders, *supra* note 8 at 2021.

72. Merkwae, *supra* note 14.

given the overrepresentation of children of color and children with disabilities in the juvenile justice system.⁷³ Scholars have spelled out the dangers of SRO presence in schools for these student groups, noting that children of color and children with disabilities are more likely to be referred to the justice system following contact with law enforcement.⁷⁴

SRO presence impacts law enforcement reporting from schools.⁷⁵ In a robust study, researchers have found when an SRO is assigned to a school, the likelihood of reporting students to law enforcement increases, especially at the secondary level.⁷⁶ This finding is critical because when a student is referred to law enforcement, it increases the student's likelihood of dropping out of school.⁷⁷ The likelihood of dropping out of school is multiplied if the student is forced to appear in court.⁷⁸ Moreover, the presence of an SRO exacerbates administrative, school-based discipline measures such as suspensions and expulsions.⁷⁹ These findings are particularly concerning because in schools with SROs, suspensions, expulsions, and law enforcement contact disproportionately occur more for Black students, male students, and students with disabilities.⁸⁰ While researchers have also found that white students are just as likely as non-white students to bring a gun to school, SROs most frequently involve themselves in student discipline when students of color make up the majority of the student body.⁸¹

73. *Id.* at 151–53 (2015).

74. *Id.* at 158.

75. See Raymond, *supra* note 51.

76. Michael Heise & Jason Nance, "Defund the (School) Police"? Bringing Data to Key School-to-Prison Pipeline Claims, 11 J. OF CRIM. L. & CRIMINOLOGY 717, 771 (2021); Lucy C. Sorensen et al., *The Thin Blue Line in Schools: New Evidence on School-based Policing Across the U.S.*, 42 J. OF POL'Y ANALYSIS 941, 965 (2023).

77. Madeline Morris, *School Resource Officers: Do the Benefits of Student Safety Outweigh Their Negative Impacts?*, 41 CHILD. LEGAL RTS. 193, 196 (2021).

78. *Id.*

79. Lucy C. Sorensen et al., *The Thin Blue Line in Schools: New Evidence on School-Based Policing Across the U.S.*, 42 J. OF POL'Y ANALYSIS AND MGMT. 941, 965 (2023).

80. *Id.*

81. *Id.* at 943; Patricia Jewett et al., *Weapon Carrying Among Boys in US Schools by Race and/or Ethnicity: 1993-2019*, 149 AM. ACAD. OF PEDIATRICS (October 10, 2013, 6:00PM).

C. *Calls for SRO Policy Reforms or Removal of SROs from Schools*

While some scholars and advocacy groups have called for SRO reforms, others have called for their complete removal.⁸² In response to concerns pertaining to the school-to-prison pipeline and the disproportional rate of arrests and criminal charges in school settings, reformers have suggested limiting the role of the SRO to serious infractions.⁸³ Other reforms suggest a complete separation from SROs and school discipline.⁸⁴ Discipline-based approaches to reform have also been discussed as a path forward. For instance, Eren Archend suggests that moving away from the criminal justice system to a restorative-justice model could shift school culture.⁸⁵ In a restorative-justice model, SROs would be contractually restricted from disciplining students and there would be a required participation in a restorative justice program.⁸⁶ The goal of this model is for students to understand the harm they cause through disruptive behaviors and teach them to prevent and respond to conflict in positive ways in the future.⁸⁷ Furthermore, reformers have called for changes to the judicial application of the limited Fourth Amendment rights pertaining to SRO-student interactions discussed in the first section of this paper.⁸⁸

Scholars have also highlighted that there are better systems to provide protections from mass violence in schools than SROs.⁸⁹ A threat assessment model can be used to evaluate a student to determine if they have the motivation, means, and intent to carry out a threat.⁹⁰ Use of this model, which could have been effective in identifying many perpetrators violence in schools, serves as an alternative to SROs in school buildings while still addressing safety concerns.⁹¹

82. See Fedders, *supra* note 8.

83. See Gupta-Kagan, *supra* note 22, at 2044.

84. See Erin R. Archerd, *Restoring Justice in Schools*, 85 U. CINCINNATI. L. REV. 761, 814 (2017).

85. *Id.*

86. *Id.*

87. *Id.*

88. See Gupta-Kagan, *supra* note 22, at 2033-34.

89. Devan Byrd, *Challenging Excessive Force: Why Police Officers Disproportionately Exercise Excessive Force Towards Blacks and Why This Systemic Problem Must End*, 8 ALA. C.R. & C.L. L. REV. 93, 113 (2017).

90. *Id.*

91. See *id.*

Reform efforts could center on the best strategies to provide school safety while removing the negative impact of SROs on historically marginalized students.⁹²

Reformers have also called for systematic and proper training for SROs working with students in school settings.⁹³ Specifically, due to the disproportionate impact on students with disabilities, reformers have suggested specific training so SROs can quickly deescalate situations when students may be in crisis.⁹⁴ In an effort to protect students in crisis, schools and SROs could ban the practice of handcuffing at school.⁹⁵

Federal offices, such as the Department of Education (DOE) have taken steps to reform SRO policies.⁹⁶ In 2016, the DOE published recommendations that schools collaborate with law enforcement for purposes separate from school discipline.⁹⁷ The guidance also suggested that SROs should be focused on the physical safety of the school and criminal conduct of persons other than students.⁹⁸ Partnering with the Department of Justice (DOJ), the DOE issued an explicit goal of closing the school-to-prison pipeline in 2016.⁹⁹ Various states have also issued reforms. For instance, South Carolina narrowed its criminal statute banning school disturbances to not include students, hopefully restricting SRO-student involvement.¹⁰⁰ Local memoranda between school districts or counties and local law enforcement agencies is another opportunity for reform efforts to separate SRO law enforcement from school discipline goals.¹⁰¹

92. *See id.* at 113-14.

93. *See* Isabella Lefkowitz-Rao, *Examining the Impact of School Resource Officers and Possible Alternatives*, COAL. FOR JUV. JUST. (July 29, 2024), <https://juvjustice.org/blog/examining-the-impact-of-school-resource-officers-and-possible-alternatives/>

94. *See* Byrd, *supra* note 89, at 198 (reformers suggest increased training on Individualized Education Plans (IEPs) and Behavior Intervention Plans (BIPs)).

95. *Id.*

96. Press Release, U.S. Dep't of Just., Obama Administration Releases Resources for Schools, Colleges to Ensure Appropriate Use of School Resource Officers and Campus Police (Sept. 8, 2016), <https://www.justice.gov/archives/opa/pr/obama-administration-releases-resources-schools-colleges-ensure-appropriate-use-school>.

97. *Id.*

98. Gupta-Kagan, *supra* note 22, at 2047.

99. *Id.*

100. *Id.* at 2051.

101. *Id.* at 2055.

Other reformers have promoted complete removal of SROs from the school setting, suggesting that the many issues and negative collateral consequences of SROs in schools cannot be addressed through the minutia of hodgepodge reform.¹⁰² In her article *The End to School Policing*, Barbara Fedders discusses the many reasons for elimination of SROs rather than continuing with reform efforts that have done little to address concerns.¹⁰³ She argues that even under the best reforms, SROs create more harm than safety.¹⁰⁴ SROs often override the administrator and teacher handling student discipline, blurring the line between law enforcement and school personnel, and stifling dissent while normalizing surveillance.¹⁰⁵ Fedders highlights that the role of an SRO as school official is especially problematic given that they are often unqualified for personnel roles.¹⁰⁶

III. SCHOOL RESOURCE OFFICER POLICY: A CASE STUDY

Many school districts across the country are working to enact policies that can minimize the negative effects of SROs.¹⁰⁷ At the same time, districts are led by elected officials who may be swayed by public perceptions of safety that SROs may offer. This section examines these phenomena utilizing a case study of a Southeastern school district in a college town in North Carolina. The largest student demographic groups in the district are: 50 percent white, 18 percent Hispanic/Latinx, 14 percent Asian or Asian Pacific Islander, and 11 percent Black or African American.¹⁰⁸

Beginning in the summer of 2020, the school district established a School Safety Task Force (SSTF) in response to the expiring Memorandum of Understanding (MOU) with the police department

102. See Fedders, *supra* note 8.

103. *Id.*

104. See Fedders, *supra* note 8, at 1448-49.

105. *Id.*

106. *Id.*

107. See *School Resource Officer Proposal*, DESMOINES PUB. SCHS. (Jan. 22, 2021), <https://www.dmschools.org/wp-content/uploads/2021/02/SRO-Report-1.22.21.pdf>

108. *Chapel Hill-Carrboro City Schools*, U.S. NEWS AND WORLD REPORT, <https://www.usnews.com/education/k12/north-carolina/districts/chapel-hill-carrboro-city-schools111172#:~:text=Students%20at%20Chapel%20Hill%2DCarrboro,Hawaiian%20or%20other%20Pacific%20Islander.>

that provided SROs at all secondary schools in the district.¹⁰⁹ Over the next two years, the task force collected SRO-student interaction data, conducted focus groups with stakeholders, and administered a system-wide survey to educators, families, and students.¹¹⁰ With this data, the task force brought recommendations to the Board of Education in Summer 2022.¹¹¹

Students who participated in focus groups emphasized relationships with adults as creating a positive school environment that feels safe.¹¹² Specific to SROs, students suggested creating a more clear role for the position and determining ways to measure the effectiveness.¹¹³ Many of the students' ideas pertaining to school safety were not SRO specific, instead, students suggested increased consistency enforcing school rules, restorative circles, peer support structures, and better support for students experiencing high-stress.¹¹⁴ The focus groups with adult stakeholders had a different take on SROs, highlighting the importance of school specific training and strong communication with administration.¹¹⁵ Administrators also viewed SROs addressing concerns in the building as preferable to calling outside law enforcement, citing the established relationships that SROs might have with students and staff.¹¹⁶ Furthermore, while principals in the district questioned the impact SROs may have on students who have negative relationships outside of the school building with policing agencies, one principal of color shared that his experiences with SROs as an educator have been vastly different than his personal experiences outside of school:

As a person of color, my outside experiences haven't always mirrored what I see from SROs in the building. My history and interaction with police growing up were not [positive]. So, I think every person of color has had these experiences, and their children see it and

109. *Board of Education Agenda Abstract*, CHAPEL HILL-CARRBORO CITY SCHS. (June 16, 2022), https://chccs.granicus.com/MetaViewer.php?view_id=2&clip_id=550&meta_id=36315.

110. *Id.*

111. *Id.*

112. *Id.*

113. *Id.* at 3.

114. *Id.*

115. *Id.* at 4.

116. *Id.*

their children come to our schools. My educator experience, however, has been very different. In the schools I've worked in, the SRO has become a part of the school community, has helped keep things from escalating, and has helped keep kids out of trouble when they should have been arrested. Although I have seen the bad side of policing, and my family has also experienced the bad side of policing, my experience in Chapel Hill and other districts has been that the SRO seems to be a trusted member of the school community.¹¹⁷

Staff focus groups overwhelmingly supported SROs.¹¹⁸ Staff felt that SROs make the schools safer.¹¹⁹ One staff member shared, “[y]es, so if you take the SRO away, which I don’t know anybody that’s in favor of that, what safety measures will replace them? We will be less safe without the SRO.”¹²⁰ Most students also felt safer at schools with an SRO present, particularly with the perceived threat of mass violence.¹²¹ One student shared, ““I haven’t had interactions with the SRO, but as a student, I feel more comfortable on campus if there is an SRO in case there’s a shooting.”¹²²

While most staff and students indicated they had no knowledge of differential treatment of students by race or ethnicity, a few students did feel that some of their classmates experience different treatment.¹²³ One student stated, “I don’t think I’ve ever interacted with [our SRO], but I do think that there is a difference of the types of kids he has reached out to and interacted with. I do think that a lot of that may be based on race or ethnicity, like, and I don’t know, like the reasoning for that, but I do see that happening.”¹²⁴ Another student shared:

Like I feel like they overlook what some of the white kids do rather than the Black or Hispanic kids for sure. And I think that’s only because there’s less of us. And

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.* at 18.

121. *Id.*

122. *Id.* at.

123. *Id.* at 16.

124. *Id.* at 16.

I don't know, they just remember all of the Black and Hispanic kids. I would say no, it's not fair. I can give you an example. So, a white girl got to leave campus that was a junior, but then this black girl tried to leave campus, that was a junior, they didn't let her, but oh, the white girl got to go. Why?¹²⁵

The district also surveyed the community, students, parents, and educators, about their perceptions pertaining to school safety and SROs.¹²⁶ The survey data showed that students and educators answered more positively to “I feel safe” at school when compared to parents’ perceptions of safety at school.¹²⁷ While 86 percent of students and 91 percent of staff felt safe on school grounds, only 79 percent of parents felt schools were safe.¹²⁸ This trend was consistent across all demographic groups, with parents’ feelings of school safety significantly lower than students’ perceptions of safety.¹²⁹ Significantly, white parents felt the school was the least safe, with only 60 percent agreeing that they felt the school is a safe place, compared to 63 percent of Latinx parents, 66 percent of Black parents, and 81 percent of Asian parents.¹³⁰ Feelings of safety at school also varied amongst students based on demographic group.¹³¹ While over 80 percent of Latinx, white, and Asian students felt safe at school, only 75 percent of multiracial students and 71 percent of Black students felt safe at school.¹³²

Overall, 80 percent of all stakeholders felt SROs treat people of all races, ethnicities, and abilities well, and that SROs contribute to the safety of the school.¹³³ Students, however had a notable difference across demographic groups.¹³⁴ Over 90 percent of Asian, Latinx, and white students state that SROs treat all their classmates well, whereas 85 percent of Black and multiracial students felt SROs only treat

125. *Id.*

126. *Id.*

127. *Id.*

128. *Id.*

129. *Id.*

130. *Id.* at 27.

131. *Id.*

132. *Id.* at 21.

133. *Id.* at 27.

134. *Id.*

stakeholders well.¹³⁵ Multiracial and Black parents were also the least likely to feel that the SRO contributes to the overall safety at the school.¹³⁶

Statistical data collection on SRO-student interaction for the district was also collected throughout the school year.¹³⁷ Most SRO interactions in the schools were categorized as “administrative support,” aligning with studies that have shown SROs are viewed as a third administrator.¹³⁸ “Positive interactions” was the second highest category with “community engagement,” “classroom visits,” and “positive advice and counseling” rounding out the top five interaction types.¹³⁹ The lowest quantity of interactions were “diversion,” “professional learning,” and “family engagement.”¹⁴⁰ The lack of professional learning is noteworthy given the calls from SRO reformers to require training that is more applicable to the school setting.

Statistics on SRO-interactions with students varied widely across student demographics.¹⁴¹ Consistent with national data, SROs disproportionately interacted with Black students.¹⁴² While Black students make up 12 percent of the school population, they account for 38 percent of SRO-student interactions.¹⁴³ White students who make up 50 percent of the school population account for 44 percent of SRO interactions.¹⁴⁴ Latinx students who make up 18 percent of the school, make up 17 percent of SRO interactions.¹⁴⁵ It is also important to consider the type of interactions that SROs are having with students. “Student discipline” made up 17 percent of the SRO interactions with Black students, whereas it made up 12 percent of SRO interactions with white students.¹⁴⁶

The data collected in this case study is highly aligned with national studies pertaining to SROs.¹⁴⁷ SROs often contribute to the

135. *Id.* at 28.

136. *Id.* at 29.

137. *Id.*

138. *Id.* at 30.

139. *Id.*

140. *Id.*

141. *Id.*

142. *Id.* at 31.

143. *See id.* at 32.

144. *See id.*

145. *See id.*

146. *See id.*

147. *See* Kidane & Rauscher, *supra* note 13.

overall feelings of safety by the community.¹⁴⁸ However, while the *majority* of all groups perceived SROs positively and have a sense of safety at school, policy makers should not overlook differences *within* and *across* each group making up the majority. The data collected in the case study highlights that there are key differences across demographic groups.¹⁴⁹ This is not surprising when examining the SRO interaction data. Black students have a much higher chance of having an interaction with an SRO when compared to white students.¹⁵⁰ These disparities align with national data which demonstrate that Black students and students with disabilities disproportionately have interactions with SROs – often leading to negative educational and legal consequences.

Despite the alignment with national studies, the case study district did not focus on the research and national data during the decision process.¹⁵¹ Links to some research studies were provided on the abstract for the Board of Education meeting, but most time was spent discussing internal data—most of which was perception-based.¹⁵² Key decision-making data was missing from the report, such as rates of SRO arrests, as well data on civil rights issues such as student searches and questioning. This case study highlights the information utilized in SRO policy development in a majority white school district when taking a majoritarian approach. Ultimately, the district kept SROs in place with a modified MOU and a pilot program of replacing the SRO at one school with a mental health professional.

IV. LEGISLATIVE ACTION THROUGH A COUNTER MAJORITARIAN APPROACH

Section one of this paper illustrated the failures of the court system to adequately protect students' civil liberties during SRO interactions on school campuses. Section two highlighted the positive, although possibility misplaced, perceptions of SROs in schools related to safety. It also highlighted collateral consequences of SROs in schools, beyond civil rights violations, that are disproportionately felt by students of color and students with disabilities. This section also

148. *See* Viano et al., *supra* note 7.

149. *See* CHAPEL HILL-CARRBORO CITY SCHS., *supra* note 109.

150. *See id.*

151. *See id.* at 1.

152. *See id.* at 27, 36.

provided previously suggested reform concepts. Section three demonstrated the replication of national findings through a case study in which a majority white school district engaged in a 2-year process to consider changes to their SRO program. There are many calls for reform—from increased training to complete abolishment of SRO presence in schools. This section adds to the voices of scholars and practitioners calling for reform but offers a new perspective.

Under the majority view, SROs are considered school officials under the law, thus allowing SROs to engage in student searches and questioning in a manner that infringes on students' civil rights.¹⁵³ Classifying SROs as a school official has harmed civil rights for many students and will continue to do so barring a shift in judicial action. It is doubtful that true change pertaining to SROs can come from within the schools themselves. SROs are viewed positively by staff and administrators—and research has shown that educators often see SROs interactions with students as race neutral.¹⁵⁴ When perceived as an extra set of hands-on campus or an extra administrator, SROs provide service to the school when so many are understaffed. Finally, educators have demonstrated a greater perception of safety when SROs are in the building. Students and families feel similarly, although in varying degrees. Change at the local level is difficult given that from the majoritarian view, it seems like the simple answer is to keep SROs in school buildings.

Despite the value placed on the community feeling that schools are a safe place, the negative collateral consequences of SROs are well documented and cannot continue to be ignored. Not when vulnerable populations who need more protection from consequences that can have rippling impacts on them and their futures. Given that the judicial system and schools may be less likely to make substantial change or eliminate SROs, a different approach to decision-making is a way forward for policy makers at the district and state levels. However, this action requires caution. It is dangerous to allow majoritarianism to be a primary driver of policy pertaining to SROs, especially in the context of majority-white school settings. Remaining within a majoritarian framework for decision making will ultimately yield similar systems of school policing given the positive public perception of SROs. Policy makers who make a purposeful effort to engage in counter majoritarian approaches may uncover many of the negative impacts of SROs,

153. Wolf, *supra* note 10, at 231.

154. See Viano et al., *supra* note 7 at 634.

as well as the nuances within the majority viewpoints demonstrated in the local case study.

Policy makers must consider the differences within the majority views, as well as counter majoritarian perspectives. Although overall favorable, students, staff, and families perceive the impact of SROs on students differently. In majority white school systems, solely taking a *majority rules* approach stifles the voices of those that are most negatively impacted by the presence SROs. Thus, the elevation of the non-majority voice is especially important in majority white school systems where decision makers are elected by the populous. School boundary lines have a long history of segregation and continue to result in the creation of majority white spaces.¹⁵⁵ Peter McLaren cautions of “social amnesia”, which he describes as a failure to recognize and acknowledge how white people are implicated in socializations of privilege and relations of domination and subordination.¹⁵⁶ Social amnesia is associated with modes of subjectivity within social sites and is considered to be normative.¹⁵⁷ In these majority white spaces, policy makers must pitfalls by moving away from majoritarian-based decision making and they must elevate the voices of those most impacted by their SRO policy decisions.

There are several districts across the country that have already taken steps to move in a counter majoritarian direction to inform SRO decision-making, although not always leading to complete removal. A district in La Crosse, Wisconsin commissioned a district-wide evaluation of their SRO program.¹⁵⁸ Aligned with national data on SRO programs, La Crosse’s study demonstrated that the majority-white school district disproportionately disciplined students of color, students in poverty, students with disabilities, and male students.¹⁵⁹ Following the study, there was a heated debate that ultimately led to a reduction in SROs from five to three, and created annual funding for

155. See Erika Wilson, *Blurred Lines: The Privatization of Public Education Through School District Boundary Lines*, 51 WASH. UNIV. J.L. & POL’Y 189, 200 (2016).

156. Peter McLaren, *Whiteness Is . . . The Struggle for Postcolonial Hybridity*, in *WHITE REIGN: DEPLOYING WHITENESS IN AMERICA* 63-75 (J. Kincheloe & S. Steinberg ed., 1998).

157. *Id.*

158. Sarah Schwartz et al., *These Districts Defunded Their School Police. What Happened Next?* EDUC. WEEK (June 4, 2021), <https://www.edweek.org/leadership/these-districts-defunded-their-school-police-what-happened-next/2021/06>.

159. *Id.*

a social worker position and restorative justice reform.¹⁶⁰ Edmonds, Washington offers an alternative model to SROs.¹⁶¹ Instead of having an SRO in school buildings, the district has a school liaison officer.¹⁶² In this model, the school is part of an officer's patrol area, and that officer is responsible for responding to emergencies in the school.¹⁶³

Sometimes, counter majoritarian reform in schools is led by advocates seeking change from the bottom up instead of the top down. In Columbus, Ohio, advocacy at the school board level led to the district allowing their MOU with law enforcement for SROs to expire.¹⁶⁴ Advocates in Ohio are cautious, however, since the district has yet to make an official decision regarding SROs.¹⁶⁵ Taking a counter majoritarian approach isn't easy, as a Madison, Wisconsin school district learned when they moved from SROs to restorative justice coordinators.¹⁶⁶ Despite the initial opposition of the teacher's union, the union eventually moved to support the effort while advocating for increased counselors and student support staff.¹⁶⁷ The union president referred to moving from the majoritarian public-perception to shifting mind-sets:

“For those in the high schools, there was some consternation at first. All of a sudden people's brains run to the worst-case scenario. And we've had honest-to-God experiences where students have weapons on them, and all-out brawls in the hallway . . . Honestly, logistically, it's easier to just send the kids home and call the parents. The harder and more effective one is to have a student sit down, and have that discussion, and find out how we can repair the harm.”

These districts have all done counter majoritarian work, to varying degrees, to make changes in SRO policies.

160. *Id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

165. *Id.*

166. *Id.*

167. *Id.*

Another tool that could be used by policymakers in taking a counter majoritarian approach is impact assessments.¹⁶⁸ For example, an assessment published by *Race Forward* recommends key questions in ten categories that policy makers should ask prior to enacting policy: (1) identifying stakeholders, (2) engaging stakeholders, (3) identifying and documenting racial inequities, (4) examining the causes, (5) clarifying the purpose, (6) considering adverse impact, (7) advancing equitable impact, (8) examining alternatives or improvements, (9) ensuring viability and sustainability, and (10) identifying success indicators.¹⁶⁹ Utilizing a guide system such as this can serve as a counter majoritarian decision-making instrument. Instead of implementing the wishes of the majority, especially in majority white settings, an equity-based structure such as the one above assists in making sure policy decisions are not solely driven by the will of the majority, but in consideration of those that the policy would be most likely to harm.

Another approach to moving away from the majoritarianism is to delegate decision-making power for SRO policy to a counter majoritarian entity. School boards, county commissioners, and state legislators are all majoritarian, elected bodies, which creates challenges for counter majoritarianism change. As a result, policy makers could shift their authority to administrative agencies, district administrators, or even impartial third parties. Guidance could be provided to the delegates as they engage in approaching SRO policy outside of a majoritarian framework, away from the pressures that come with elected office.

This is not to say that positive public perception has no place in the policy making pertaining to SROs. It may be a valuable consideration, and policy makers must think about how to communicate empirical SRO outcome data and alternate methods deployed to ensure schools safety. However, when focusing primarily on the majoritarian viewpoint, it drowns out the negative impacts that are often not experienced by most individuals in the system. In determining SRO policy, school districts, state legislatures, and other policy makers must shift from a majoritarian decision-making framework given the well-

168. *Racial Justice Impact Assessment*, RACE FORWARD, https://www.race-forward.org/sites/default/files/RacialJusticeImpactAssessment_v5.pdf (last visited December 11, 2023).

169. *Id.*

documented discrepancies between majority perceptions of SROs and real-world data demonstrating negative collateral consequences of SRO presence. Furthermore, the disparate impact that SROs have on students of color and students with disabilities makes this shift especially important in majority-white school systems.

CONCLUSION

While SROs in schools may create a perception of safety, they also have been shown to result in negative collateral consequences for students. This includes increased rates of suspension, expulsion, arrests, and referrals to law enforcement. These negative collateral consequences are not experienced equally across student groups. Black students and students with disabilities are disproportionately experiencing these negative outcomes. These findings have been demonstrated in national studies as well as in local contexts.

Through classifying SROs as school officials and not law enforcement, the courts allow SROs in school settings to infringe on the constitutional rights of students, exercising a lower cause needed for student searches and minimal requirements for *Miranda* warnings despite SROs work with a vulnerable population. Students are unlikely to find remedy for civil rights violations experienced in school settings by SROs in the judicial system.

This paper suggests that to find a remedy for negative collateral consequences caused by SROs, policy and law makers must act since the courts have not. Additionally, it is imperative that policy-makers shift from a majoritarian approach to SRO policy decisions and instead engage in a counter majoritarian process. There is more than sufficient evidence to demonstrate why this shift is vital to ensure that those most harmed by SROs in schools are the driving factor for policy reform. Civil rights infringement, suspensions, expulsions, arrests, and referrals to law enforcement all occur at a disproportional rate for students of color and students with disabilities. These collateral consequences cannot continue to be obscured by the positive perceptions of the majority.