

# SCHOOL RESOURCE OFFICERS: LEGAL AND PRACTICE CONSIDERATIONS

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## Introduction

- Since Columbine, school resource officers have grown in popularity, now representing one of the fastest growing areas in policing (Ryan, Katsiyannis, Counts, & Shelnut, 2018)
- Role Expansion
  - *originally placed in schools in the 1950s in Flint, MI to help decrease school violence as part of a community policing initiative (James & McCallion, 2013).*
  - *1960s to help deter racial tensions over integration (Coon & Travis, 2012)*
  - *In 2009, the role of school resource officers expanded, and resource officers were used to support drug enforcement in schools (Price, 2009)*

## Introduction

- Safe and Drug Free Schools and Communities Act established school resource officers to help
  - *Educate students in crime and illegal drug use prevention and safety*
  - *Develop community justice initiatives for students*
  - *Train students in conflict resolution, restorative justice, and crime and illegal drug use awareness*

## Introduction

- School resource officers often have poorly defined roles
  - *The National Association of School Resource Officers says their job involves law enforcement, teaching and mentoring*
  - *In reality, school resource officers are often used for behavior management*
- The purpose of this paper was to review case law to determine whether school resource officers are working within the scope of their role in schools

## Introduction

- Nationwide, about 46% of traditional public schools had a School Resource Officer present at school at least once a week, compared with only 19 percent of charter schools. Larger schools also more likely to have SROs; schools with 1,000 or more students (79%) than schools with 300 students (34%) (OCR, 2019).
- Over 290,600 students were referred to law enforcement agencies or arrested; students referred to law enforcement or arrested were disproportionately black (31%) lost double their representation in school enrollment and students with disabilities (28%) though representing about 12% of students (OCR, 2019).

## Introduction

- Involvement of law enforcement officers involving minors, particularly with regard to noncriminal offenses may potentially violate student rights
  - *under the 4<sup>th</sup> amendment (search and seizures)*
  - *and civil rights violations under the 14<sup>th</sup> amendment (no state can deprive any person of their life, liberty, or property without due process of law)*

## Method

- Searched Nexus Uni and Google Scholar to identify cases involving student discipline and school resource officers
  - *Identified 177 cases*
- To be included, cases had to:
  - *Involve a P-12 student who engaged in behavior resulting in school discipline*
  - *Behavior had to occur at the school*
  - *The discipline procedures involved a school resource officer*
- Excluded
  - *Unpublished opinions*
  - *Earlier versions of a case (e.g., district court cases)*
  - *The behavior occurred off school grounds*

## Results

- 44 cases were identified for inclusion in this review
- Heard between 1996 and 2018
- School Level
  - *31 cases occurred in high schools*
  - *Eight occurred in middle school*
  - *Two occurred in elementary school*
  - *Three were not reported*

## Results

- The school resource officer alone initiated the discipline action in 18 cases
- Student infraction
  - 17 cases involved drugs
  - 10 cases involved weapons
  - Six Disorderly conduct
- 27 cases resulted in criminal charges being filed

Legal Principle	Number of cases*	Prevailing Party			
		School Resource Officer	Parents/Students	Other**	
4th Amendment:	29	-	-	-	-
Illegal search	23	11	16	5	1
Excessive Force	9	3	9	1	4
5th Amendment	14	6	4	7	0
14th Amendment	8	6	5	2	0

\*The total number of prevailing parties is greater than the number of cases represented because cases had multiple defendants;  
 \*\*Examples include chief of police, city...

## Improper Search - DH ex rel. Dawson v. Clayton County School District (2012 )

- On a tip from another student, the SRO searched DH's pockets and bag for marijuana, but found nothing. Then, the accusing student recanted the accusation
- DH was then strip searched in front of the three accusing students, despite asking for privacy. The student's parents were not contacted. The school had prior history of inappropriate strip searches
- The court ruled in favor of the student, pointing out that after nothing was found from the pat down, there was minimal evidence to proceed with the intrusive strip search

## Excessive Force - Hawker v. Sandy City Corporation (2014)

- Nine year old stole an iPad from his elementary school. When the principal took it away, he began to hit, bite, and head butt school employees
- Eventually, an SRO arrested the student using a control hold called a twist-lock intended to place tension on the arm to get compliance, and put the child in handcuffs.
- The appeal found that the twist-lock hold did not constitute excessive force in violation of the fourth amendment

## Miranda - In the Matter of D.A.R. (2002)

- D.A.R was called to the office and questioned by the principal because he was allegedly carrying a weapon. Nothing was found and he was returned to class.
- Later, D.A.R.'s classmates told the SRO that he had brought a gun, and that the gun was hidden. The SRO questioned the student regarding the gun, telling the student he would be "better off" if he confessed.
- The appeals court ruled in favor of the student, stating the student was in custody when he made statements about the gun, and therefore those statements were inadmissible because he was not Mirandized.

## Discussion

- Results indicate SROs are largely functioning within the parameters of their job
- Top issues were fourth and fifth amendment violations
  - *Fourth amendment violations tend to rule for the school or SRO*
  - *Fifth amendment violations are more variable*

## Discussion

- Needs to be clear delineation between custodial interrogation for school discipline violations vs. criminal investigation
  - *Standards differ for school administration and law enforcement*
  - *Administrators acting alone do not have to comply with Miranda requirements*
  - *SROs may question the student without advising them of their legal rights until the suspect has been taken into custody*

## Discussion

- School resource officers should function with a memorandum of understanding, and receive specialized training (Ryan et al., 2018)
  - *Police spend less than 1% of their time on juvenile justice issues (Strategies for Youth Survey, 2013)*
  - *No standard training for school resource officers (Counts, Randall, Ryan, & Katsiyannis, 2018)*
  - *The National Association for School Resource Officers offers an optional, 40 hour training for dealing with youth in school settings, but it is not required*



## Discussion

- Difference between legally sound decisions, and negative perception
  - *Six year old student with autism handcuffed*
- Misuse of SRO
  - *Disproportionate discipline practices*
    - Limitation Race / Income level of school not identified in cases
    - SROs more often in school with larger populations of students of color, low income, underserved youth and urban & suburban schools (Hirschfield & Celinska, 2011; Musu-Gillette et al., 2018; Nance, 2016)
  - *Potential for accelerating the school-to-prison pipeline (James & Callion, 2013)*
    - 61% of cases within the study resulted in an arrest

QUESTIONS?