THE TRUTH:

Behind the
School-to-Prison Pipeline Dispute

By Bernard James, Professor of Constitutional Law, Pepperdine University
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. 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.

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 argue that there is an epidemic of juvenile arrests in this country, which disproportionately affect minority students, for which SROs’ presence on campus is responsible.

But there is no epidemic of juvenile arrests. The arguments set forth by the critical commentary muddle policymaking, suffering from an inherently superficial and flawed methodology. 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.

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?

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. 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 critic’s 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. In Georgia, juvenile arrest rates fell 19% between 2008-2010.

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 Theriot, 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 appears to be a significant predictor of arrests.” 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.” Theriot concluded that the findings that SROs did not cause an increase in total arrests “are contrary to the criminalization hypothesis.”

A 2010 paper “Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States,” by Michael P. Krezemien and others, found small increases in juvenile-justice referrals originating in schools between 1995 and 2004. 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. 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 interpre...
tations 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.2

Two other papers are also widely cited in this debate. The Wald & Thurau paper is sometimes cited for the notion that SROs lack effective training and/or that their presence increases student hostility.3 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 SROs and increased disorder. Further, the authors observed that SROs found that referrals to clerks-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.4 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.

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 “Deja vu: The Schoolhouse to Jailhouse Track,”5 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 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 a SRO program.6 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.7 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.8 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.19 Juvenile justice referrals also
dropped in Texas in 2010, where the state
saw an 8% decrease from 2009 in referrals
for delinquent offenses.20

Finally, Browne admits that the disparate
impact on racial minorities of school-based
arrests follows that of the overall juvenile
arrest rate.21 She presents no evidence of
any increase in disparate racial impact at
the hands of SRO programs.22

A more recent anti-zero-tolerance ar-
ticle often cited by SRO critics is “Zero
Tolerance in Philadelphia” by Youth United
for Change and the Advancement Project.23
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 con-
nexion between the higher arrest rates in
Philadelphia schools, relative to other
Pennsylvania schools, and the implementa-
tion 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 imple-
mentation or expansion of SRO pro-
grams. 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 appears that both of these dy-
amics may be at work in Philadelphia.”24

Finally, the paper’s assertion that SROs
create a hostile environment and a nega-
tive impression of law enforcement in the
schools is based on one unpublished sur-
voy of unnamed school and focus-
group interviews in the district
conducted by the Youth United for
Change advocacy group.25

The weakness in the critical commen-
tary is not in its point of view. Rather, its
flaw is in refusing to let the data speak for
itself. The dynamics of each school are suf-
ciently broad to require much more than
a polemic attack based on speculative
uses of data now on hand. Data that
directly address the causes and effects of
SRO activities on campus demonstrate
the rebuttal to the flawed conclusion that
the use of school resource officers is a
failure. In fact, a list of model states could
easily be presented.26 The State of Florida
represents one clear exception.

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**LAW UPDATE**

"IN SUM, THE CURRENT DATA DOES 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 School Resource Officer (SRO) program in Florida encompasses 100 percent of the state with some form of inter-agency 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;27 with the basic knowledge and skills necessary to implement crime prevention programming in a school setting.28 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 proactive 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.”29

Florida lays claim to the first use of the title “school resource officer”30 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.”31

In sum, the current data does 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 studi-
“...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.”

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 admit 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 SRO’s 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. When an SRO arrests a student, the entire juvenile-justice team works together to determine the child’s placement.

The school resource officer, specially trained to serve and protect the educational environment, is an essential component 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. These kinds of programs have been found to be compatible with SRO programs that incorporate the triad approach to campus safety. 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.

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REFERENCES


2. The JPI Report, supra, note 1. The JPI report offers no statistical data of its own to support any of its arguments.


8. Id. at 286.

9. Id.


11. Id., p. 283.

12. Id., p. 287.


17. Id., at 15-16.

18. Ibid.


22. The JPI Report argues “No data exists showing that SROs arrest youth of color more often than white students.” The JPI Report, supra note 1 at 21.


24. Id. at 12.

25. Id. at 12-14.

26. 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, South Carolina, Texas, Virginia, Washington, Wisconsin, and Wyoming.


28. Ibid.


30. Id. at 1.


33. 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. § 6-7-113 (2012) (Arkansas principals weapons violations and threats to law enforcement); CAL. WEL. & INST. CODE § 503 (2012) (school dis- tricts 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) (re- quiring 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. § 20-884.2 (2011) (requires reporting of certain crimes to school board for determination of follow-up action); 105 S.C.G.L. § 59/21.7 (2012) (requires reporting of all battery against school officials to law enforce- ment); K.S.A. § 72-89603 (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.M.O. (2012) (school administrators shall report certain crimes to law enforcement); S.C. CODE ANN. § 59-63-310 (2011) (establishing school-criminal reporting form, through which law enforcement must immediately notify state attorney general of serious crimes); VA. CODE ANN. § 22.1-279.3 (2012) (requires annual reporting of crime by principal to law enforcement).

34. A.C.A. § 6-17-113 (2012).


38. 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, INTER- NATIONAL POLICE EXECUTIVE FORUM, (2007), available at http://www.restorativejustice.org/10full- text/swansoncherly/view (last visited June 30, 2012).

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