

organizational definitions, the role of the SRO is noted by The Congressional Research Service in its report, *School Resource Officers: Law Enforcement Officers in Schools*, as having evolved into “a hybrid educational, correctional, and law enforcement officer.”⁵

Whatever their definition, SROs are seen as the main enforcement mechanism of law enforcement in the school to which they are assigned.⁶ This perception of SROs, an outside presence from an area generally much different than the educational community, has created a somewhat murky and far-reaching set of roles and responsibilities ascribed to SROs. The Congressional Research Service notes that the activities of SROs can be categorized into three broad areas; “(1) safety expert and law enforcer, (2) problem solver and liaison to community resources, and (3) educator.”⁷ COPS described SROs as having wide-ranging roles from addressing “crime and disorder problems” to educating “likely school-age victims in crime prevention and safety” to assisting “in developing school policy that addresses crime and to recommend procedural changes.”⁸ Much of the descriptions of SROs’ roles link their duties as law enforcement to specialized duties of educating students. These officers are expected to handle criminal activity on school campuses and collaborate with educators as part of their duties.⁹ This description of SROs as “collaborators” and “assisting” the schools on various tasks has led some researchers to question the overlap of law enforcement into the realm of school discipline.¹⁰ Even NASRO makes this point clear in a released statement that SROs must be prohibited “from becoming involved in formal school discipline situations that are the responsibility of school administrators.”¹¹

5. CONG. RESEARCH SERV., R43126, *SCHOOL RESOURCE OFFICERS: LAW ENFORCEMENT OFFICERS IN SCHOOLS* (2013).

6. Elizabeth A. Shaver & Janet R. Decker, *Handcuffing a Third Grader? Interactions Between School Resource Officers and Students with Disabilities*, 2017 UTAH L. REV. 229, 235 (2017).

7. CONG. RESEARCH SERV., *supra* note 5.

8. *Id.*

9. *Id.* at 3.

10. *Id.* at 21.

11. *NASRO Position Statement on Police Involvement in Student Discipline*, NAT’L ASS’N OF SCH. RES. OFFICERS (Aug. 14, 2015), <https://www.nasro.org/aboutnasro/nasro-position-statement-on-police-involvement-in-student-discipline>.

implementing the federal legislation and programming with state and local law enforcement agencies.³² The DOJ further increased its initiative of law enforcement in schools with the “COPS in Schools” program which led to a large increase in SRO placements and hiring.³³ According to the DOJ, “COPS in Schools” provided close to 724 million dollars in grants to go directly to the hiring of SROs.³⁴ Though the “COPS in Schools” program ended in 2005, recent events, such as the Sandy Hook Elementary School shooting that killed twenty-six in 2012, inspired both Congress and the DOJ to appropriate millions of more dollars to fund the placement of SROs in schools around the nation.³⁵

III. CRITICISM OF SROs AND POLICING IN SCHOOLS

Since their introduction in mass, SROs have drawn criticism. Many organizations and researchers have noted that the direct introduction of police in schools has only facilitated issues relating to juvenile justice, including furthering racial disparities and stereotypes in arrests, criminalization of the school environments, and exposure of large numbers of children to the criminal justice system at an early age.³⁶

A. Use of Excessive Force by SROs

Notably, in 2015, video footage caught a confrontation between an SRO and a female student at Spring Valley High School in Columbia, South Carolina.³⁷ The female student was texting in class and refused to

32. *Id.*

33. *Id.*

34. *Id.* (citing *The COPS Office: 20 Years of Community Oriented Policing*, U.S. DEP’T OF JUST. 1 (2014), <https://cops.usdoj.gov/RIC/Publications/cops-p301-pub.pdf>).

35. Shaver & Decker, *supra* note 6, at 234.

36. ROBIN L. DAHLBERG, AM. CIVIL LIBERTIES UNION, *ARRESTED FUTURES* 5 (2012); Chongmin Na & Denise C. Gottfredson, *Police Officers in Schools: Effects on School Crime and the Processing of Offending Behaviors*, 30 JUST. Q. 619, 623 (2013); Sarah E. Redfield & Jason P. Nance, *The American Bar Association Joint Task Force on Reversing the School-to-Prison Pipeline Preliminary Report*, A.B.A. COALITION ON RACIAL AND ETHNIC JUST., CRIM. JUST. SEC., AND COUNCIL FOR RACIAL & ETHNIC DIVERSITY IN THE EDU. PIPELINE, 17 (2016).

37. Caitlin Byrd, *Former South Carolina School Officer Won’t Face Civil Rights Charges for Throwing High School Student Out of Desk*, POST AND COURIER (Jan. 13, 2017), https://www.postandcourier.com/news/former-south-carolina-school-officer-wont-face-civil-rights-charges-for-throwing-high-school-student/article_62dc518c-d9c1-11e6-bc32-8bba8b2e9482.html.

student to the ground.⁴⁹ The SRO was later fired and charged with misdemeanor child abuse.⁵⁰

B. SROs and the Furtherance of the School-to-Prison Pipeline

While the incidents described above show an alarming number of incidents of excessive force by SROs in their school duties, the presence of police in schools has forced other negative consequences into the forefront of discussion. Notably, research has connected the increase in the use of SROs to the facilitation of the “school-to-prison pipeline.”⁵¹ The school-to-prison pipeline refers to the increasing trend of criminalizing behavior in schools leading to students being referred to law enforcement instead of school administration, who have traditionally handled behavior issues.⁵² According to the American Bar Association’s Joint Task Force on Reversing the School-to-Prison Pipeline, the increased presence of SROs in schools has led to increased involvement of juveniles in the criminal justice system for minor violations of school codes of conduct.⁵³ Schools are more often referring student behaviors, including fighting, vandalism, and even tardiness, to the SRO as a disciplinary method for these behaviors.⁵⁴ As a result, students are being exposed to the police in a setting normally reserved for education, increasing their contact with law enforcement.⁵⁵ Research tends to point to the beginning of this nexus of discipline and law enforcement in the enactment of several “zero-tolerance” policies beginning with the Gun-Free Schools Act of 1994.⁵⁶ Extending past guns to drugs and alcohol, “zero-tolerance” polices now cover even more conduct.⁵⁷ The State of South Carolina has prescribed expulsion

49. Tim Pulliam, *Family Wants Upgraded Charges Against Fired Vance County Deputy Who Slammed Student*, ABC NEWS 11 (Jan. 7, 2020), <https://abc11.com/officer-slams-student-vance-county-resource-sro-middle-school/5823836/>.

50. *Id.*

51. CONG. RESEARCH SERV., *supra* note 5, at 21.

52. Redfield & Nance, *supra* note 36, at 2; see also Lisa H. Thureau & Johanna Wald, *Controlling Partners: When Law Enforcement Meets Discipline in Public Schools*, 54 N.Y. L. SCH. L. REV. 977, 981 (2009).

53. Redfield & Nance, *supra* note 36, at 102.

54. *Id.*

55. CONG. RESEARCH SERV., *supra* note 5.

56. Na & Gottfredson, *supra* note 36, at 621.

57. *Id.*; CONG. RESEARCH SERV., *supra* note 5, at 23.

District III, Fort Mill School District, and Florence County School District III. The Charleston County School District, Clover County School District, and Georgetown School Districts did not respond to FOIA requests. Further research should include requesting and receiving FOIA requests for every school district in the state to get a fuller picture of the MOU requirement in school districts. FOIA rights should also be enforced against districts who do not respond. Transparency and informational exchange are key in formulating effective regulations and MOUs in the school districts.

1. Richland County School District One and Richland County School District Two

The MOUs from Richland County School District One and Richland County School District Two will be analyzed together because the documents are identical. The MOUs were executed in the 2019-2020 school year and are with the Richland County Sheriff's Office. In reviewing these MOUs, it is apparent that sections of the MOUs in both districts authorize SRO involvement that is out of compliance with the state regulations. Even though the state regulations include gaps and contradictions, specifically in defining student conduct and how law enforcement may intervene in specific conduct, the SRO involvement authorized by these districts through their MOUs does not even rise to the low standard the state regulations prescribe.

Section IV(A) of the document describes the duties of the School Resource Officer in a two-part designation.¹³⁰ The role of the SRO is described in two-fold framing of the position as a "law enforcement officer" and "law related advisor."¹³¹ Regarding the "law enforcement officer" role SROs in these districts will "perform law enforcement duties in the school," "be present for school activities and provide a visible and positive image," and "work to protect the school

130. Memorandum from Richland County School District One to Richland County Sheriff's Department (June 1, 2019) (on file with Richland County School District One); Memorandum from Richland County School District Two to Richland County Sheriff's Department (June 1, 2019) (on file with Richland County School District Two) [hereinafter *Richland Memoranda*].

131. *Id.*

or gaps of the regulation at all. The twenty-fifth additional duty listed in the MOU also stands in violation of the section of the state regulation prescribing that SROs only be involved in Level III conduct. The duty in question states, “Any reported crime {i.e., Larceny, Assault, Disturbing Schools, etc.} or knowledge of a suspected crime is to be reported to the School Resource Officer immediately.”¹⁴¹ The conduct regulations note that “disturbing schools” is not a Level III conduct classification.¹⁴² Therefore, if an SRO were to intervene in the ground prescribed by these MOUs and the school were to report a ground to the SRO, the officer and the school would be out of compliance and intervening in conduct that is reserved for school administrators only. If an administrator or SRO were to consult this document to determine when and in what way they can act, the MOU would put them out of compliance.

2. *Aiken County School District*

Aiken County School District’s MOU, executed with the Aiken County Department of Public Safety for the 2019-2020 school year, is similar to the previous MOUs in that the primary responsibility of the SRO is law enforcement.¹⁴³ The SRO is relegated to “investigating criminal activity on the school campus” and “gathering information on criminal and law enforcement activities.”¹⁴⁴ While this description of the SRO varies slightly from the Richland County MOUs, it prescribes the exact same language regarding the SRO acting as a disciplinarian. Although it states that SROs will not act as school disciplinarian, the MOU states, “the SRO shall not as a school disciplinarian, as disciplining students is a school responsibility . . . if the incident is a violation of law . . . the SRO shall determine whether law enforcement action is appropriate.”¹⁴⁵ Again, the MOU and the school district is out of regulation. The provision does not follow the regulation’s

141. *Richland Memoranda*, *supra* note 130.

142. *See id.*

143. Memorandum from Aiken County School District One to Aiken County Department of Public Safety (2019) (on file with Aiken County School District) [hereinafter *Aiken Memorandum*].

144. *Id.*

145. *Id.*

determinations of when conduct warrants SRO involvement. SROs, by this language, are given free discretion into what conduct they may intervene. This language is in direct contradiction to the state regulations which prevent some acts, even though they are considered crimes under South Carolina law, to be reported to the SRO. By the MOU, the SROs are given latitude to involve themselves in these non-reportable acts because they are technically crimes and to an SRO, law enforcement should be involved in dealing with crime. However, the state regulations carve out a sphere of non-intervention for law enforcement and the MOUs do not comply with this.

3. *Florence County School District III*

The MOU analyzed in this section is the most recent document from Florence County School District III for the 2019-2020 school year.¹⁴⁶ This agreement was executed with the Florence County Sheriff's Office. This document details the duties of the SRO in the same general language as stated in the Richland County MOUs.¹⁴⁷ Additionally, like the previous MOU, an item in the document notes that the SRO is not a school disciplinarian and includes the exact same problematic language of "if the incident is a violation of the law . . . the SRO shall then determine whether law enforcement action is appropriate."¹⁴⁸ Of particular note with this MOU is the phrase that "if there is a problem, the SRO shall assist the school until the problem is solved."¹⁴⁹ Again, SROs are only permitted to interfere when Level III conduct is present, and the act is criminal.¹⁵⁰ The phrase "a problem" could mean a number of things that the SRO could be involved in. For example, if a child is screaming in the classroom, according to this, the SRO could "assist" the school administrators in solving this problem of the child yelling. Therefore, minor issues, like being loud, could initiate law enforcement presence based on this document's provisions. Also, this MOU contains the same provision as the previous MOU in that "disturbing schools" is

146. Memorandum from Florence County School District III to Florence County Sheriff's Office (2019) (on file with Florence County School District III) [hereinafter *Florence Memorandum*].

147. *Richland Memoranda*, *supra* note 130.

148. *Id.*

149. *Id.*

150. S.C. CODE REGS. 43-279(IV)(C)(1) (2017).

referenced as a crime.¹⁵¹ Again, this violates the state regulation specially prohibiting SRO involvement in that type of conduct.

4. *Greenville County School District*

The Greenville County School District MOU, executed with the Greenville Police Department, follows the tune of the other MOUs in that it lays out the basic roles of SROs.¹⁵² In addition, it also contains the provision “if the incident is a violation of the law . . . the SRO shall then determine whether law enforcement action is appropriate.”¹⁵³ However, the Greenville MOU goes far beyond the previous MOUs in that it states “SROs shall provide reasonable assistance to the school principal in the event of a routine disciplinary problem.”¹⁵⁴ In violation of the state statute, the MOU clearly allows for the SRO to be the school disciplinarian. The MOU even contradicts itself with this language from a prior sentence that states, “the SRO shall not act as disciplinarian.”¹⁵⁵ This MOU is the closest example of language providing the SRO with the ability to become involved in traditional school discipline. With these provisions in their MOU, the Greenville County School District is plainly out of compliance with the state regulations.

5. *Rock Hill School District Number Three*

The MOU provided from this district was executed in 2013 and remains in effect until 2039 and was in agreement with the Rock Hill Police Department.¹⁵⁶ While this document was executed before the state regulations went into effect, the document has not been updated since 2013 and will remain in effect for another nineteen years unless updated by the parties.¹⁵⁷ This document did not meet any

151. *Id.*

152. Memorandum from Greenville County School District to City of Greenville, South Carolina (2015) (on file with the Greenville County School District) [hereinafter *Greenville Memorandum*].

153. *Id.*

154. *Id.*

155. *Id.*

156. Memorandum from Rock Hill School District III to City of Rock Hill, South Carolina (2013) (on file with Rock Hill School District III) [hereinafter *Rock Hill Memorandum*].

157. *See id.*

of the requirements in the state regulation, and no provision was present that stated the roles of the SRO or the school administrators. The document only referred to items such as equipment, payment, and the fact that the SRO was not considered an employee of the school district.¹⁵⁸ This MOU is out of compliance with current regulations as it is grossly out of date and does not set out any rules or regulations for the SRO in reference to school discipline. The MOU being executed before the updated SRO regulations in 2017 and not further amended to stand in compliance only adds to its inadequacy as a guide to the school district and SROs in their relationship.

6. Fort Mill School District

Fort Mill School District's MOU is interesting because it is an agreement with a private security agency, Defender Service, Inc.¹⁵⁹ This was the only district that responded to the FOIA request that did not use a city or county law enforcement agency. This agreement employs Security Services Officers (SSOs), which according to the agreement must only have "a valid security officer registration certificate."¹⁶⁰ These SSOs do not even have to be trained and licensed law enforcement. They can even carry a firearm if properly licensed through state law enforcement.¹⁶¹ The individuals under this contract may not have proper grasp of the law of South Carolina, proper questioning or detaining of juveniles, or at the minimum, any experience or contact with children. This document governing the SSOs is referred to as the "Security Services Statement of Work" and is much longer than the other MOUs received.¹⁶² According to this agreement, SSOs are to perform a variety of duties that schools include but are not limited to activities such as "serv[ing] as first responder to violent, disruptive, or other emergency incidents on school property" and "report[ing] matters of concern to school administration or law enforcement."¹⁶³ This language is akin to the concerning language of the prior MOUs in that SROs seem to be

158. *Id.*

159. Memorandum from Fort Mill School District to Defender Services, Inc. (2019) (on file with Fort Mill School District) [hereinafter *Fort Mill Memorandum*].

160. *Id.*

161. *See id.*

162. *Id.*

163. *See id.*

able to insert themselves into administrative discipline “with matters of concern.” These “matters of concern” could mean a lot of situations and reach far beyond the boundaries of Level III behavioral conduct SROs can intervene in.

Even though the SSOs must report to law enforcement and, therefore, lack arrest power, it is not hard to imagine that these SSOs are seen as actual law enforcement by the administration and the students. The SSOs do much of what an SRO can do, but they can do it without a law enforcement license. The students likely are not aware that the individuals are private security and not actual law enforcement. All they see is an individual that responds to disruptions at the school and carries a firearm. The fact that the SSO is technically not law enforcement does nothing to dispel all the issues that law enforcement in schools may bring if no one can tell they are not actually law enforcement. To any outsider not aware, and this is likely to include the teachers and students at the school, of the private security contract, these SSOs are on the same level of the SRO.

This agreement stands out among the other MOUs in that officers are given much wider latitude of law enforcement provision, and this latitude is clearly violative of state regulations. Although the SSO is not technically law enforcement, the state regulations should still apply to the private security contract. If these security officers can intervene in the behavior that the SRO can intervene in (disruptive, violent conduct) and carry a firearm like an SRO, they should be considered SROs under the regulation. The school district wants the security and presence of an SRO but has chosen a private security officer to fill that role. Therefore, the school district should expect the regulation of these officers if they are going to use them in place of an SRO who is an actual law enforcement officer.

The student behavior provisions further this placement of the SSO on the level of an SRO in that they are involved with student conduct. The student behavior provisions state the SSO shall “monitor student activity . . . warn students of rule violations when appropriate and notify school personnel of continued or serious rule violations, disorderly student behavior, or otherwise unsafe conditions.”¹⁶⁴ If the SSO was strictly a security officer, the officer would mostly be involved in the

164. *Id.*

security of the building, keeping intruders off of school property, and other matters. However, the SSO is ingrained deeply within student conduct. Because the SSOs are able to monitor and warn students of rule violations, the students are being disciplined by individuals who are not school administration and not law enforcement. This adds on an extra layer of enforcement and authority that will be detrimental to the school environment. The students must deal with the administration, these security officers, and then law enforcement if the conduct takes them that far through the system in this school district. The distinct concept of school discipline is even further buried within the relationship between school administration and law enforcement and the added layer of a private security officer. Again, kids are likely not able to discriminate between these SSOs and law enforcement. They see an individual with a gun who intervenes in their school environment, and based on the agreement, for even minor behavioral misconduct. This position of the private security officer acting in the guise of the SRO is a clear violation of the extent to which law enforcement can act in schools and likely adds to the confusion of delving out school discipline related responsibilities.

V. ANALYSIS OF MOUs AND HOW THEY MAY BE IMPROVED

In analyzing the state regulations and MOUs found in South Carolina school districts, several shortfalls are apparent.

A. *Pro Forma* Mechanics and Vague References

First, in South Carolina, the school district and the law enforcement agency, not the individual schools, initiate the construction and dissemination of the MOU.¹⁶⁵ Having the larger school district draft and execute the MOU ignores all the specifications and diverse populations that exist in each individual school in the district. Not all schools, even when geographically similar, are similar in all other respects. Schools may vary in the ethnic composition of their students, socioeconomic status, access to resources, and caliber of administration and teachers. Different schools are going to present different behavioral challenges

165. See S.C. CODE ANN. REGS. 43-210(IV) (2019).

and safety related issues. Therefore, it would be more efficient, and an SRO program would be more successful, if MOUs were executed between the individual schools and individual officers. The SRO program would be able to mold their roles and duties to the needs of the individual schools rather than act within a vague and *pro forma* bracket of regulations.

It would be wrong to disregard the impracticalities that might exist with this argument. Administrators of school districts sometimes must deal with dozens of schools at one time, tens of thousands of students, and as we have seen, a sizeable amount of law enforcement. These MOUs were also crafted by the legal departments of school districts. Individual schools are not assigned individual general counsel so it is easy to imagine that executing a required legal document as a school administration would be difficult. Sending out an attorney to work with each school to craft and MOU would likely be costly and time-consuming. Some smaller districts may just have one attorney employed.

However, school districts simply cannot ignore the characters and challenges of their individual schools and the school district. If school districts want to improve the weak state of their regulations involving SROs, they need to involve the variations of the school district in their MOUs. District wide MOUs, while easy and efficient to draw up, do not involve the input of the individual school administrators that are the key to discipline within their schools. The administrators are the ones who will come into contact with the students and the law enforcement the most and experience the difficulties that everyday school administration carries. District wide administration is more concerned with the “big picture” concepts of running a school district and does not encounter students often, which is reflected in the MOUs. To the teachers, SROs, and especially students, the school district and their legal departments are vague, somewhat omnipotent organs. School districts may need to sacrifice ease and efficiency for detail and close research of the schools and their issues. Again, each individual school may not be able to execute their own MOUs, but the school district must consider the characters of their schools and react accordingly. This may be somewhat easier for South Carolina districts. South Carolina is a small state and has smaller school districts than larger states have. The smaller size of the districts could work in favor of the argument of individualized

MOUs as it could be a more attainable goal.

SRO rules and regulations must meet the different challenges of school districts as well. For example, school districts like Greenville County, which includes the urbanized area of Greenville along with rural areas, could craft two or three different MOUs to fit the needs of the students within the area. If it knows students have different disadvantages, such as exposure to certain types of crime in particular areas, its MOUs could craft roles of the SRO and school administrators to respond in a proportionate way to the students that would achieve the most favorable outcomes. SRO regulations must also provide flexible discipline strategies. Districts that have students that come from more impoverished and crime exposed areas should not be subjected to more zero-tolerance, heavy handed law enforcement that is likely used in the communities. It is undoubtedly detrimental that students are further exposed to law enforcement within their schools when they may be regularly exposed at higher rates in their community. SRO regulations should be crafted to take this into account. This does not mean that schools in impoverished or high-crime areas should be treated completely differently from schools in non-impoverished areas. However, it cannot be ignored that law enforcement may affect these students differently. SROs cannot treat the children in the school like the individuals engaged in criminal acts in their community. Children are children, not adult offenders. Although some juveniles certainly engage in criminal acts, the vast majority of juvenile crime or disorder is minor. SRO regulations and training need to institute an approach to their involvement that takes into account the specialized needs of children and bend to these needs. SRO involvement should be coupled with other behavioral strategies such as mental health treatment, community involvement, and mentoring relationships. These behavioral strategies should be clearly and confidently implemented along with the intervention of the SRO.

Second, the MOUs presented also take a formulaic approach in the way they are written. All, even the Fort Mill agreement with the private security company, contain broad language that seems ill equipped to handle the different issues of each individual school.¹⁶⁶ This broad

166. See generally, *Richland Memoranda*, *supra* note 130; *Aiken Memorandum*, *supra* note 143; *Florence Memorandum*, *supra* note 146; *Greenville Memorandum*, *supra* note 152; *Rock Hill Memorandum*, *supra* note 156; *Fort Mill Memorandum*, *supra* note 159.

language does little to clear up the intertwined intervention of law enforcement and school discipline. The regulations and MOUs permit large gaps in the roles of law enforcement and school administration that it is not surprising that a hybrid administrator-cop figure has evolved. While the state regulations do require that the language regarding the roles of SROs and their involvement in discipline be present, the *pro forma* aspect of the MOUs makes them less accessible, less effective, and less usable by the individual schools. Research shows that when MOUs take this formulaic approach, they act more like a document just executed for legal purposes and then filed away, rather than a guide to be used by administrators and law enforcement.¹⁶⁷ Authors Lisa Thureau and Johanna Wald found in interviewing several SROs, the officers often barely knew the MOU existed.¹⁶⁸

It is not hard to imagine that in many situations, administrators call on the SRO without consulting any regulations on how they are used, and the SROs answer without consulting any regulations. School administrators have a tough and complex job. They must juggle the varying issues that the school environment and the students present. When a situation presents itself, there may not be time to consult a document or wonder if the SRO can even be involved in the situation. However, executing an individualized MOU may give administrators a standard to have in mind when addressing behavioral issues. They need to know what their jurisdiction is and in which jurisdiction the SROs may intervene. If an MOU is tailored to the specific school and the issues are known by the administration at that school, a plan of resolution to behavioral issues can already be in place, and the parties can operate in the most efficient and beneficial way to the school environment and the students. If the administrators of the school and the SRO know what special issues the school faces, they should be able to subscribe their input and knowledge to the MOU. Administrators and the SROs should be required to meet and discuss these issues the school is facing and prescribe to the school district in the MOU in what ways the SRO should be involved with the issues their school is facing and when they should step back. While, of course, these prescriptions should be in compliance with the state regulations, the administrators and the

167. Thureau & Wald, *supra* note 52, at 991.

168. *Id.*

SRO will know what situations each party is in charge of and when they may collaborate to the needs and behaviors of the students.

B. Broad Definitions of “Criminal Behavior”

As previously noted, the state regulation regarding the levels of student conduct in South Carolina is problematic in its construction.¹⁶⁹ Broad definitions of criminal behavior exist, and student conduct can easily rise to high levels of disciplinary action warranting law enforcement involvement.¹⁷⁰ Regarding student behaviors, the MOUs do not address the broadness, keep vague language, and even maintain language in violation of the regulations. If read plainly, the MOUs allow the SROs to get involved in conduct they are not permitted to be involved in. The MOUs mention vague forms of conduct and even prohibited conduct for SROs to intervene in, such as “disturbing schools.” In addition, there is no mention of the levels of conduct in any of the MOUs. The MOUs just mention criminal behaviors, which are only one portion of behaviors that the SRO may get involved, as seen with the provisions of Level I behavior (lying, cheating, truancy) and Level II behavior (minor vandalism, violation of Level I behavioral contract, fighting) being able to rise to Level III behavior.¹⁷¹ If reading the documents broadly, SROs may be able to get involved in many more types of behaviors than they should. The Florence County District MOU goes so far as to note that SROs may assist until “problems” are resolved, and the Fort Mill District MOU allows their officers to get involved in “school rule violations.”¹⁷² This language goes out of the bounds set by the state regulations prohibiting SROs as school disciplinarians. The language of “problems,” “matters of concern,” and “school rule violations” could mean any number of things that does not have to do with criminal activity. The broad language of criminality will cause confusion and reliance on behalf of the school administrators. School administrators are likely aware of the levels of student conduct and generally what those levels contain. However, in practice, the SRO is likely much more involved with general matters of discipline than the regulations would prescribe. Many acts could be considered “criminal”

169. See S.C. CODE REGS. 43-279 (2017).

170. *Id.*

171. *Id.*

172. *Florence Memorandum, supra* note 146; *Fort Mill Memorandum, supra* note 159.

by school administration or cause the administrators to want SROs as back up. For example, while fighting is considered “disruptive conduct,” it may be hard for school administrators to distinguish between a small scuffle with pushing and shoving to what may be considered lower degree criminal assault and battery. Therefore, the SRO is likely to be used as tool for differentiating this type of conduct. The students involved in a small scuffle could be expelled or further punished and exposed to law enforcement in the same way as someone who committed a serious criminal act would. Criminal punishment could be prescribed for minor offenses when they may be better served by intervention by school administration. If the South Carolina MOUs want to be effective, they need to be more specific and address the levels of conduct prescribed in the wider state regulations. Administrators need to be aware that the SRO can only act in the most serious of situations.

C. Lack of School Administrator Roles

In addition to the broad references to criminality, the MOUs lack any real mention of the specific role that educators hold. The MOU, as required in the state regulation, must clearly state the roles of the SRO and educator.¹⁷³ The MOUs analyzed above make little mention of the administrator’s role aside from the provisions that the SRO cannot act as disciplinarian. The administrators are not recognized in the MOUs in specific terms of what they may and may not handle in terms of discipline. “Ordinary school discipline” or other similar language may mean a number of things. The blurring of lines with the roles of the SRO and the administrators may impact the entire disciplinary response and affect the school culture as a whole.

If the administrator roles are not clearly defined and there is this morphing of law enforcement and traditional school discipline, reliance of administrators on SROs may become apparent and eventually affect how the students view school. Students may equate any type of school discipline with law enforcement if the school administrators are not clearly visible as the main disciplinarians. Law enforcement-based school discipline may lead to a criminalized environment that creates a

173. See S.C. CODE REGS. 43-210(IV) (2019).

bevy of issues that affect student perception, academic success, and future student behavior.¹⁷⁴ More effective MOUs would specifically display or have their own section regarding the jurisdiction of the school administrators. In addition to the limits of the SROs, the administrators should have specifically and clearly defined areas they are entitled to act within. There must be more specific language, perhaps with the addition of the levels of conduct, than the simple “ordinary school discipline” phrase or, as Florence County School District puts it, “problems.”¹⁷⁵

VI. CONCLUSION

The relationship between School Resource Officers and the school districts they serve is complex. Broader issues of juvenile justice, police reform, school environment, and criminal law influence the actions of both school administrators and law enforcement officers. While many different strategies and tools have been imagined to hash out and control the harm that police presence in schools may bring, the Memorandum of Understanding has received considerable attention for its ability to define and clarify specific roles and jurisdictions school and law enforcement officials must take. South Carolina school districts, like those in many other states, are not immune from the pitfalls of trying to regulate law enforcement activity in schools. While schools in South Carolina have tried to temper the problem by instituting regulations and MOUs, several gaps exist in the language and execution of these documents that render many school districts out of compliance with state education regulations. To resolve this issue, South Carolina schools must further their efforts to delineate the roles and responsibilities of SROs and school administrators; better explore and define student conduct and its rise to criminality; and empower school administrators to remain the foremost disciplinarian and guardians of their students.

174. DAHLBERG, *supra* note 36, at 5.

175. *Florence Memorandum*, *supra* note 146.