

NO. 86203-6

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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**STATE OF WASHINGTON,**

**Respondent,**

**v.**

**JAMAR MENESE,**

**Petitioner.**

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**BRIEF OF *AMICUS CURIAE* TEAMCHILD**

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## I. IDENTITY AND INTEREST OF AMICUS

*TeamChild* is a nationally recognized, non-profit civil legal advocacy program for children at risk of involvement or involved with juvenile and adult courts in Washington state. With offices in King, Snohomish, Yakima, Pierce and Spokane counties, *TeamChild* lawyers advocate for low-income youth across the state to help them access their basic rights to education, health care, and other social services. *TeamChild* has participated as amicus in several cases involving the civil liberties of children nationally and in Washington state. The identity and interest of *Amicus* in the current matter is further set forth in *Amicus*' Motion for Leave to File *Amicus Curiae* Brief.

## II. STATEMENT OF THE CASE

*Amicus* adopt the Petitioner's statement of the case.

## III. ARGUMENT

Washington students experience a dramatically different school environment than their parents did a generation ago. Schools now extensively employ zero tolerance school discipline policies and the use of school resource officers (hereinafter "SROs"). SROs primarily engage in law enforcement duties at school.

Schools throughout Washington State and the entire country have undergone significant changes regarding how they educate, supervise, and

police students and their activities since the United States Supreme Court issued its decision in the *TLO* case in 1985.<sup>1</sup> Despite these changes, however, there is no evidence that schools are safer due to zero tolerance policies.<sup>2</sup> There is also no consensus that having a SRO, or SROs, in the school building makes schools safer.<sup>3</sup>

As this Court examines the legality of a particular search of a student, the Court must consider how much the school environment has changed. These changes have been fueled by school resource officers (“SROs”) on school campuses and the use of zero tolerance school policies. These changes have also contributed to students dropping out of school and making contact with the juvenile and criminal justice systems.

**A. Today’s Children Attend Schools whose Policies and Personnel Have Changed Dramatically**

Since the 1990s school districts have brought law enforcement into the school building and have enforced discipline policies that remove students from the education environment for a wide variety of behaviors. The presence of law enforcement is now felt and seen by students on a daily basis as officers patrol school grounds and crime detection

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<sup>1</sup> *New Jersey v. T.L.O.* 469 U.S. 325, 105 S. Ct. 733, 83 L.Ed.2d 720 (1985).

<sup>2</sup> American Psychologist, *Are Zero Tolerance Policies Effective in the Schools?* 853, 860 (2008), <http://www.apa.org/pubs/info/reports/zero-tolerance.pdf>.

<sup>3</sup> Justice Policy Institute, *Education Under Arrest: The Case Against Police in Schools* 10-11 (2011), [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).

equipment is visible in the hallways. In conjunction, student discipline is now predominantly addressed by zero tolerance approaches to behavior. Zero tolerance encompasses both changes: discipline policies and the choice to station law enforcement personnel in school buildings. Both aspects are intentional; both have altered what it is like to be a student in the United States today. To fully explain their impact on students, this brief will touch upon the evolution of zero tolerance policies in schools. Then, the brief will turn to the changes schools have made in how they police students, namely the use of law enforcement personnel as SROs to deter and investigate potentially criminal and non-criminal student behavior at school.

**1. Zero Tolerance Policies Apply a Law Enforcement Approach to Student Behavior**

“Originally developed as an approach to drug enforcement, [zero tolerance] became widely adopted in schools in the early 1990s as a policy and practice that mandates the application of predetermined consequences, most often severe and punitive in nature, that are intended to be applied regardless of the gravity of behavior, mitigating circumstances, or situational context.”<sup>4</sup> Severe and punitive means long, indefinite, or

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<sup>4</sup> American Psychologist, *supra* at 852 (“Incidents of critical and deadly violence remain a relatively small proportion of school disruptions... and the data have consistently indicated that school violence and disruption have remained stable, or even decreased somewhat, since approximately 1985...”).

permanent periods of removal from school.<sup>5</sup> Zero tolerance school discipline policies first based on federal mandates regarding weapons have been expanded to cover a wide range of behavior – from drugs and alcohol, to fighting, threats, and swearing.<sup>6 7</sup>

One result of zero tolerance has been a near doubling in suspension rates for students in the United States. In 1973 3.7 percent of students of any age were suspended from school for at least one school day during the school year; by 2006 that number had increased to 6.9 percent of students.<sup>8</sup> The impact has been even worse for youth of color. For example, nationally the number of black students suspended from school each year has jumped from six percent in 1973 to fifteen percent in 2006.<sup>9</sup> In Washington, during the 2008-2009 school year, 46,855 students were

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<sup>5</sup> Prior to zero tolerance, student discipline was typically required to be individualized and incremental, meaning that a student should only have been removed from school for as short a period as possible. *See, e.g., Quinlan v. University Place School Dist. No. 83*, 660 P.2d 329, 34 Wash.App. 260 (Wash.Ct.App. 1983).

<sup>6</sup> Russell J. Skiba, *Zero Tolerance, Zero Evidence – An Analysis of School Disciplinary Practice 2* (2000), <http://www.indiana.edu/~safeschl/ztze.pdf>.

<sup>7</sup> Zero tolerance in school discipline has been a national priority as well. A year after signing the Gun-Free Schools Act (GFSA) of 1994 into law, President Clinton commented: "I'm very pleased to announce that our message of zero tolerance has been made a reality around the country." *Public Papers of the Presidents of the United States* 1686 (1996). The GFSA mandates a one year calendar expulsion for possession of a firearm and referral of law-violating students to the criminal or juvenile justice system. Skiba, *Zero Tolerance, Zero Evidence, supra* (Further legislation expended the law and coordinated its impact with federal law pertaining to special education students.).

<sup>8</sup> Daniel J. Losen & Russell J. Skiba, *Suspended Education Urban Middle Schools in Crisis* 2-3 (2010), <http://civilrightsproject.ucla.edu/research/k-12-education/school-discipline/suspended-education-urban-middle-schools-in-crisis/>.

<sup>9</sup> *Id.*

suspended or expelled from school.<sup>10</sup>

The Bellevue School District provides a local policy example of a zero tolerance approach. According to Bellevue School District policy, there are nineteen conduct violations for which a student can be disciplined but not suspended on the first offense.<sup>11</sup> On the other hand, there are twenty-eight exceptional misconduct violations (i.e., zero tolerance violations) that can result in suspension or expulsion, even on the first offense.<sup>12</sup> Arson, weapons, and robbery are among the offenses that can lead to immediate expulsion.<sup>13</sup> Also included, however, are immediate suspensions for insulting teachers, failure to comply with school rules, and forging a signature on a school document.<sup>14</sup>

## **2. The Tools and Personnel for Fighting Crime are Now Present in Schools**

Students now see the physical embodiment of zero tolerance every

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<sup>10</sup> *2010 Juvenile Justice Annual Report* 65-66, Washington State Department of Social and Health Services, <http://www.dshs.wa.gov/pdf/oji/AnnualReport2010/7-PublicSchoolEnrollment.pdf>. This number comes from school districts' reports to the Office of the Superintendent of Public Instruction. TeamChild suspects that this number is an underrepresentation because it tracks only certain types of discipline offenses and omits other types of offenses that could lead to suspension and expulsion. For example, discipline for possessing a weapon at school, which can result in a one year expulsion, is a noticeable omission.

<sup>11</sup> Bellevue School District Policy No. 4070, <http://www.bsd405.org/Portals/0/administration/Board%20Policy/4000%20Students/PO4070.pdf>.

<sup>12</sup> Bellevue School District Policy No. 4071, <http://www.bsd405.org/Portals/0/administration/Board%20Policy/4000%20Students/PO4071.pdf>.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

day. In 2011 school hallways include students, lockers, and law enforcement equipment and personnel. Since the early 1990s schools began bringing in police officers, cameras, metal detectors, tasers, and canine units into schools.<sup>15</sup> These additions were a national priority made possible in part by federal funding, including \$900 million dollars from a United States Department of Justice program responsible for advancing community policing nationwide.<sup>16</sup> In particular, the use of security cameras to watch students has greatly increased. Across the country between 2001 and 2007 “the percentage of students who reported observing the use of one or more security cameras at their school increased from 39 to 66 percent.”<sup>17</sup>

The most distinctive change in the day to day school environment has been in the swelling number of police officers deployed in public schools. Since the mid-1990s police officers, often referred to as “School Resource Officers” (SROs), are in schools in unprecedented numbers.<sup>18</sup>

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<sup>15</sup> Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track* 17 (2005), <http://www.advancementproject.org/digital-library/publications/education-on-lockdown-the-schoolhouse-to-jailhouse-track>.

<sup>16</sup> United States Department of Justice, *US Department of Justice Cops Office Announces Over \$13 Million in School Safety Grants* (2011), <http://www.cops.usdoj.gov/Default.asp?Item=2599>.

<sup>17</sup> National Center for Education Statistics, Bureau of Justice Statistics, *Indicators of School Crime and Safety: 2010* 80 (2010), <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2011002>.

<sup>18</sup> Johanna Wald & Lisa Thureau, Charles Hamilton Houston Institute for Race and Justice, Harvard Law School, *First, Do No Harm: How Educators and Police Can Work Together More Effectively to Preserve School Safety and Protect Vulnerable Students* 1

The number of SROs placed permanently in schools has nearly doubled since 1997, going from an estimated 9,446 officers to 17,000 officers in 2010, partially due to the availability of federal funding for SROs in schools.<sup>19</sup> This brief will now explore what it means to have an SRO placed inside a school.

**B. The SRO Brings Law Enforcement Authority, Activities, and Practices into School Hallways**

A student in an American school in the 1980s would not have encountered anything similar to the SRO of today. The job duties and powers of a SRO stationed in a school are unlike that of any other member of school staff. For example, it is not uncommon for an SRO to not have any past experience working with children. It is common for an SRO to carry a gun in school and to arrest students. By looking at how SROs are trained, what their primary functions are, and what impact they have on students, this brief will now explain why the role of the SRO in the school in the case before the Court is significantly different from the role of law enforcement conducting searches in past school cases.

**1. SROs Fundamentally Differ from Actual School Staff**

The SRO is a police officer who patrols school grounds on a daily

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(2010),  
<http://www.charleshamiltonhouston.org/assets/documents/news/FINAL%20Do%20No%20Harm.pdf>.

<sup>19</sup> *Id.*

basis. Though stationed at a school, the SRO is not controlled by a school principal in the way that school staff are. "According to the National Center on Education Statistics, a school resource officer is a 'career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with school and community-based organizations.'"<sup>20</sup> SROs have the authority to make arrests and they carry a weapon on school grounds.<sup>21</sup> No other school staff or personnel has, or has ever had, the SRO's authority to carry a gun, or other weapons and law enforcement equipment, at school.

The SRO's power to arrest students is not subject to oversight by school administrators. Indeed, the SRO's arresting authority includes the power to overrule a school administrator who does not agree with the decision to arrest.<sup>22</sup> School administrators who interfere may find themselves arrested by their SRO.<sup>23</sup> SROs are typically accountable first

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<sup>20</sup> Justice Policy Institute, *supra* at 2.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> See, e.g. Jennifer Medina, *Police Arrest a Student, Then Her Principal, Too*, N.Y. Times, October 10, 2007, <http://www.nytimes.com/2007/10/10/nyregion/10school.html> (Principal who tried to intervene in arrest of student by school safety officers was arrested on charges of obstructing government activity and resisting arrest); *High School Principal Sues Cop, City For Wrongful Arrest*, CBS Chicago, March 10, 2011, <http://chicago.cbslocal.com/2011/03/10/high-school-principal-sues-cop-city-for-wrongful-arrest/> (Principal arrested by officer assigned to school campus after principal tried to intervene as the officer was arresting a student).

to the police department and then to the school.<sup>24</sup> The structuring of an officer's relationship with the school can vary. Some school districts create agreements with local police departments, which in turn assign officers to schools.<sup>25</sup> Other districts run their own police department; their officers have all of the powers of local police though their jurisdiction ends at the edge of school property.<sup>26</sup>

## **2. SROs are Primarily Trained to Investigate and Police Criminal Behavior on School Grounds**

The training and experience of SROs prepares them first and foremost to police school grounds. They are not trained to be educators or school administration. "SROs may be prepared to be law enforcement officers, but they are not prepared to work effectively with students in schools as the U.S. Department of Justice suggests."<sup>27</sup> One study found that "many resource officers worked in schools for months before receiving training in how to perform as a SRO."<sup>28</sup> If SROs receive training, their education tends to emphasize technical law enforcement aspects of the job, such as *Miranda* analysis and the use of security

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<sup>24</sup> Justice Policy Institute, *supra* at 2.

<sup>25</sup> Advancement Project, *Education on Lockdown: The Schoolhouse to Jailhouse Track*, *supra* at 17.

<sup>26</sup> *Id.*

<sup>27</sup> Justice Policy Institute, *supra* at 3.

<sup>28</sup> Lawrence F. Travis III & Julie K. Coon, *The Role of Law Enforcement in Public School Safety: A National Survey 2005*, Center for Criminal Juvenile Justice Research, University of Cincinnati (2005), <https://www.ncjrs.gov/pdffiles1/nij/grants/211676.pdf>.

devices and cameras within schools.<sup>29</sup> SROs interviewed between November 2008 and May 2009 as part of a Massachusetts study stated the following:

They “did not receive training in mediation, basic de-escalation techniques, or in detecting symptoms and behaviors of youths who have been exposed to violence, trauma, or abuse. They rarely had any formal knowledge of, or training in, adolescent psychology or development, how to secure the respect and cooperation of youths, or on the behavioral precautions and protections that need to be taken with youths on Individual Education Plans (IEPs). In many schools, this lack of training limits the arsenal of strategies available to SROs to use in place of arrest or summons.”<sup>30</sup>

SROs’ training and past experience seem to dictate their decisions and actions in their assignment at schools.<sup>31</sup> SROs make decisions like police officers, not like teachers or principals. When faced with decisions about how to respond to student misbehavior, a Massachusetts survey of SROs found that SROs turned to law enforcement responses in the absence of other strategies or mechanisms in place in schools.<sup>32</sup> The same

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<sup>29</sup> Johanna Wald, *supra* at 7.

<sup>30</sup> *Id.*

<sup>31</sup> The National Association of School Resource Officers (NASRO) offers training to help SROs gain the skills to work effectively in schools and with students. NASRO is a not-for-profit organization for school based law enforcement officers, school administrators, and school security/safety professionals. According to its website, [www.nasro.org](http://www.nasro.org), NASRO has over 6,000 members. “[S]ince SROs are usually recruited from the ranks of law enforcement, they typically have years of law enforcement training. Comparatively, SROs receive only three days of training in counseling and education.” Justice Policy Institute, *supra* at 2-3. See also, National Association of School Resource Officers, *Basic SRO* (2011), <http://www.nasro.org/mc/page.do?sitePageId=114186&orgId=naasro>.

<sup>32</sup> Johanna Wald, *supra* at 6.

study also found that an SRO's evaluation of "whether a student's behavior crossed into the 'criminal' category was often based on the experiences and temperaments of the officers and predilections of school officials more than on any set of guidance or protocols they had received."<sup>33</sup>

### **3. The SRO's Predominant Activities are Law Enforcement Activities**

Principals who have law enforcement officers placed in their schools and those officers themselves believe that law enforcement activities are by far the predominant activity of an officer placed at school.<sup>34</sup> According to a group of principals and law enforcement agencies surveyed by the University of Cincinnati, "patrol activities" (e.g., patrolling school facilities; patrolling school grounds; patrolling drug-free zones beyond school boundaries; patrolling student travel routes) were the most common daily activities of law enforcement at school.<sup>35</sup> Responding to and investigating crime and disorder reports were the next most frequent activities.<sup>36</sup> Another study conducted a nation-wide assessment of SROs and found that SROs self-reported spending "approximately 20

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<sup>33</sup> *Id.*

<sup>34</sup> Lawrence F. Travis III, *supra* at 36-39, 57-62.

<sup>35</sup> *Id.* The survey question language used the term "public law enforcement." This means that the answers could include other public law enforcement officers in addition to school resource officers.

<sup>36</sup> *Id.* at 37, 60.

hours per week on law enforcement activities,” which were by far their predominant activities.<sup>37</sup>

#### 4. The SRO Makes Searches and Arrests at School a Daily Possibility for Students

The SRO’s power to arrest students makes SROs unlike a school principal or any other school staff.<sup>38</sup> School staff and administrators, parents, students, and law enforcement at fourteen school campuses said that “[t]he most common description of the role of law enforcement on each campus was that of deterrent presence (occasional or full-time) and law enforcer.”<sup>39</sup> The SRO’s presence in the hallway puts them in the middle of school disciplinary matters they would likely have never been aware of otherwise.

“Having police nearby transforms the daily school experience into a minefield of potential crimes: fighting in the hallway becomes a “battery” or even “aggravated battery”; swiping a classmate’s headphones can be classified as “theft” or “robbery”; and talking back to an officer or a teacher is “disorderly conduct.”<sup>40</sup>

Students’ perception of school as a place where they could be arrested is “also fed by the expanded use of metal detectors, surveillance

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<sup>37</sup> Additionally, SROs self-reported spending “10 hours on advising and mentoring, 5 hours on teaching (e.g. G.R.E.A.T. or D.A.R.E. programming), and another 6 or 7 hours on other activities.” Justice Policy Institute, *supra* at 2.

<sup>38</sup> Advancement Project, *Test, Punish, and Push Out: How “Zero Tolerance” and High-Stakes Testing Funnel Youth Into the School-To-Prison Pipeline* 16 (2010), <http://www.advancementproject.org/digital-library/publications/test-punish-and-push-out-how-zero-tolerance-and-high-stakes-testing-fu>.

<sup>39</sup> Lawrence F. Travis III, *supra* at 202-203.

<sup>40</sup> Advancement Project, *Test, Punish, and Push Out*, *supra* at 16.

cameras, locked campuses, and other techniques associated with prisons.”<sup>41</sup>

In some schools, there is a cycle of perceived hostility between SROs and students. School resource officers who view students with suspicion and as potential criminals can cause the students to also act with hostility, suspicion, and mistrust toward the SROs. Such a cycle of antagonism could cause more incidents of violence and the opportunity for SROs to overreact resulting in more arrests.<sup>42</sup>

These realities of today’s school world were not present twenty-five years ago before the rise of zero tolerance policies. Arrest precludes something else that can be a positive result: the opportunity to use a behavioral incident as a “teachable moment.” Instead of being taught how to deal with an argument as students in the past may have been, fighting students now may be arrested and adjudicated in juvenile court or adult court.<sup>43</sup>

**C. The Use of SROs and Zero Tolerance School Discipline Policies Significantly Impact a Student’s Ability to Remain in School and Out of the Juvenile Justice System**

Schools had well-meaning intentions when they implemented zero tolerance school policies and hired SROs. Yet, evidence shows these practices have contributed to more students being suspended or expelled from school, which in turn detrimentally impacts these students’ ability to remain in school and achieve success. Some of these disciplined students

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<sup>41</sup> *Id.*

<sup>42</sup> Justice Policy Institute, *supra* at 19.

<sup>43</sup> *Id.* at 20.

simply drop out. Educators, community organizations, and the legal community locally and nationally have scrutinized and expressed concern about these school discipline policies and practices. Those concerns include the practice of SROs arresting students in schools. When courts evaluate the activities of an SRO in a search and seizure case, courts must take into account how school environments have changed by considering these practices and their impact upon students.

**1. School Discipline Policies are One of the Reasons for Student Dropout and Juvenile Justice Involvement**

The effect of zero tolerance school discipline practices, including the work of the SRO, has led to an increase in students dropping out of school<sup>44</sup> and being at greater risk for juvenile justice involvement.<sup>45</sup> Washington schools developed school discipline policies which include the ability to suspend or expel students who violate a myriad of rules contained in the school's student handbook. The reality is that when a school decides to suspend or expel a student, the student cannot attend any school within that school district until either the sanction ends or the student is successful in seeking re-entry by appealing the sanction or

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<sup>44</sup> Advancement Project, *Test, Punish, and Push Out*, *supra* at 17 (“... research has found that students suspended three or more times by the end of their sophomore year are five times more likely to drop out than students who have never been suspended.”).

<sup>45</sup> *Id.* (A Texas study found that “the single most important predictor of involvement in the juvenile justice system is a history of disciplinary referrals at school.”).

petitioning the school for readmission.<sup>46</sup> Attempting to enroll in a different district is typically not a solution, even if the student has become a resident of the different district. TeamChild has repeatedly observed Washington school districts refuse to enroll students who have been suspended or expelled from another district. With no school to attend, many of these students drop out.

The Washington education community has found that zero tolerance policies contribute to students dropping out of schools. To ascertain reasons for Washington's student dropout crisis, the Washington State Office of the Superintendent of Public Instruction ("OSPI") commissioned a report to track the reasons and suggest recommendations for mitigating the problem.<sup>47</sup> The resulting report described one of the categories contributing to the crisis as "education-related factors."<sup>48</sup> Those factors include school discipline policies and practices.<sup>49</sup> According to the National Dropout Prevention Center, an ineffective discipline system is a reason why some students drop out of school.<sup>50 51</sup>

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<sup>46</sup> See WAC Ch. 392-400 regarding school discipline practices in Washington State.

<sup>47</sup> Washington State Office of Superintendent of Public Instruction, *Helping Students Finish School: Why Students Drop Out and How to Help Them Graduate* (2003, 2006), <http://www.k12.wa.us/research/pubdocs/dropoutreport2006.PDF>.

<sup>48</sup> *Id.* at 31.

<sup>49</sup> *Id.* at 33.

<sup>50</sup> *Id.* at 32.

<sup>51</sup> Washington State Office of the Education Ombudsman, *Public Policy Recommendations 2011 1-2* (2011), [http://www.governor.wa.gov/oeo/reports/OEO\\_2011\\_recommendations.pdf](http://www.governor.wa.gov/oeo/reports/OEO_2011_recommendations.pdf).

## 2. Zero Tolerance Policies and Student Dropout Rates Impact Students' Involvement in the Juvenile Justice System

An analysis of the SRO's role in schools necessarily requires review of the connection between school discipline practices and increased risk for juvenile justice or criminal justice involvement for students. This systemic pattern has been described as the "school-to-prison pipeline" phenomena which has drawn much scrutiny and concern by educators, community organizations, and the legal community.<sup>52</sup> Higher rates of youth drop out of school when law enforcement arrest and bring the youth into contact with the juvenile justice or criminal justice system.<sup>53</sup> In fact, "...first-time arrest during high school nearly doubles the odds of high school dropout, while a court appearance nearly quadruples the odds of dropout."<sup>54</sup>

In Washington, youth suspended or expelled from school face a greater likelihood of making contact with the juvenile justice system.<sup>55</sup>

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<sup>52</sup> See, e.g., Justice Policy Institute, *supra* at 17-19; Press Release, United States Department of Justice, *Attorney General Holder, Secretary Duncan Announce Effort to Respond to School-to-Prison Pipeline by Supporting Good Discipline Practices* (July 21, 2011), <http://www.justice.gov/opa/pr/2011/July/11-ag-951.html>; Podcast, Washington League of Education Voters, *Schools 2 Prisons: Breaking Schools' Rules* (2011), <http://www.educationvoters.org/2011/07/27/schools-2-prisons-breaking-schools-rules/>

<sup>53</sup> Gary Sweeten, *Who Will Graduate? Disruption of High School Education by Arrest and Court Involvement*, *Justice Quarterly*, Vol. 23, No. 4, 473 (December 2006), [http://www.masslegalservices.org/system/files/H.S.ed\\_and\\_arrest\\_-\\_ct\\_involvement\\_study\\_by\\_Sweeten.pdf](http://www.masslegalservices.org/system/files/H.S.ed_and_arrest_-_ct_involvement_study_by_Sweeten.pdf).

<sup>54</sup> *Id.*

<sup>55</sup> Robert Barnoski, *Suspensions and Expulsions from School and Juvenile Court Involvement*, Washington State Institute for Public Policy & Washington State Center for

Data collected by the Washington State Institute for Public Policy and Washington State Center for Court Research verified that the majority of low-risk juvenile offenders had a history of suspensions and expulsions.<sup>56</sup> During the last school term in 2008, 30 percent of low-risk juvenile offenders and 50 percent of moderate-risk juvenile offenders were suspended, expelled, or not enrolled in school.<sup>57</sup>

#### IV. CONCLUSION

The use of SROs and the adoption of zero tolerance school policies exemplify the most apparent changes that have occurred in the school environment since 1985. SROs now patrol the halls of public schools while carrying a weapon. SROs are authorized to arrest students. SROs are trained to investigate and police criminal behavior. They usually lack the training required to perform other educational or social work tasks with students. The data shows that SROs primarily engage in law enforcement duties when placed in schools.

A student subjected to school discipline practices, including the use of SROs and zero tolerance school policies, finds himself at greater risk for suspensions or expulsion, dropping out of school, failing to obtain a high school diploma, and involvement in the juvenile and criminal

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Court Research (2008), available from author and from Washington State Institute for Public Policy.

<sup>56</sup> *Id.* at slides 7, 8.

<sup>57</sup> *Id.* at slides 11, 12.

justice systems. With so much at stake for students, this Court should take into account the use of SROs in the school environment during a search and seizure legal inquiry.

*Amicus* respectfully urge the Court to find in favor of petitioner Jamar Meneese and reverse the Court of Appeals decision, reverse the conviction for possessing a weapon at school, and reverse the order denying Meneese's motion to suppress the evidence recovered from the unlawful search of his backpack.

DATED this 22<sup>nd</sup> day of December, 2011.

Respectfully submitted,

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## DECLARATION OF SERVICE

I declare, under penalty of perjury, under the laws of the State of Washington, that on the date below I served a copy of the foregoing document by emailing the same, pursuant to their agreement to receive service by email, to:

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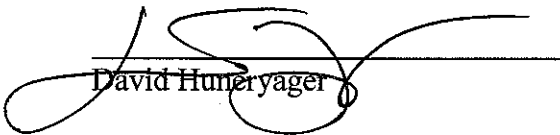
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Signed this 22<sup>nd</sup> day of December 2011, at Seattle, King County,  
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