

## SRO Scenario

*In this scenario, students will read about an incident at a local high school*

QFT.....	page 1
Simulation scenario.....	page 2
Witness summaries.....	page 4
Michigan Attorney General witness background.....	page 7
Michigan Superintendent of Education witness background.....	page 9
Director, Michigan State Police witness background.....	page 11
President, Michigan Parent Teacher Association witness background.....	page 13
Superintendent of the School District witness background.....	page 16
Executive Director, ACLU of Michigan witness background.....	page 19
CEO of Southcape Algorithm Solutions witness background.....	page 22
School Resource Officer witness background.....	page 24



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## Predictive algorithm leads to student arrest, lawsuit and uproar

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**By:** A Local Reporter

**A community in your state** - In August, a school resource officer tackled and arrested a seventeen-year-old high school student on school grounds after a computer-generated algorithm flagged his social media posts for exhibiting a potential for violence. A school resource officer interrogated him, and the school subsequently expelled the student. The student's name is being withheld due to his age, but he is being referred to as Michael. Michael has no history of violence or misconduct.



*The incident occurred earlier this week at a local high school.*

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**A community in your state** - In August, a school resource officer tackled and arrested a seventeen-year-old high school student on school grounds after a computer-generated algorithm flagged his social media posts for exhibiting a potential for violence. A school resource officer interrogated him, and the school subsequently expelled the student. The student's name is being withheld due to his age, but he is being referred to as Michael. Michael has no history of violence or misconduct.

The student's parents are threatening to sue the school for unlawful arrest, inappropriate use of unreliable surveillance software, and damages related to the physical and psychological mistreatment of their child. Activists have descended on the high school pressing a variety of issues, and the incident is gaining national attention.

The facts appear to be undisputed. On a Thursday evening two weeks ago, Michael, upset that his friends had recently been in a fight on school grounds, wrote and posted an angry social media statement online that included the claim that his high school was "asking for a shooting, or something."

The post was flagged by a machine-learning algorithm developed by a software company, Southcape. Michael's Public School District signed a contract with Southcape at a cost of tens of thousands of dollars per year to monitor students' social media posts for signs of potentially violent behavior that might threaten school safety.

Michael's post contained language that the algorithm determined was statistically correlated with an elevated likelihood to commit violence. As a result, Southcape's software system sent an alert to the school resource officer assigned to the high school. The alert included a copy of Michael's social media post but did not detail what features in the post triggered the alert.

When Michael arrived at school the following morning at about 8:00 am, School Resource Officer Jordan Taylor detained him at the door and asked to search his backpack. Michael refused to turn over the backpack, insisting the officer "get a warrant."

Several students were present at the time, some of whom filmed parts of the encounter on their cellphones. According to the student observers, when the officer informed Michael that they did not need a warrant and would handcuff him if he continued to refuse to comply, Michael



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attempted to turn around and leave the school. At that point, Officer Taylor wrestled Michael to the ground, and handcuffed his wrists behind his back, while stating, "If you are going to act like a fool, I am going to treat you like a fool."

Officer Taylor then searched Michael's backpack. The officer did not find a weapon but did find marijuana paraphernalia and some marijuana remnants at the bottom of the backpack. Officer Taylor placed the remnants in a plastic bag. According to the students, during the search, Michael continually demanded to be released.

After the search, Officer Taylor led Michael out of school in handcuffs, placed Michael in the back of a police cruiser, and drove off school grounds. According to the Police

Department, Michael was not formally arrested but he was questioned about his social media post and ultimately released into the custody of his parents.

That same day, Officer Taylor reported the incident, paraphernalia and marijuana possession, and detention to the high school's Vice Principal. The Vice Principal expelled Michael for violating the school's zero tolerance policy on drug-related activity.

Michael's parents recently announced that they intend to sue the school as part of an effort to rescind Michael's expulsion, end the school's use of the Southcape surveillance tool, and collect damages for their son's mistreatment. When interviewed for this article, Michael's parents emphasized that the school's actions had been triggered by a computer program reacting to a contextless social media post and not by any action taken by Michael.

"Our son is a good kid, and this upending of his life is outrageous," said his father.

Some are now petitioning the school board to end the use of what they're calling "invasive" and "unnecessary" surveillance tools like the Southcape algorithm. While the petition appears to be gaining momentum, not everyone is ready to condemn these practices.

As a concerned local citizen who identified as a former police officer put it, "I understand why the social media tracker is controversial. However, this is another tool for law enforcement in the growing struggle

to protect our children. I am open to any conversation on how to best ensure public safety and how to help students like Michael understand the consequences of his words and receive the mental healthcare he clearly needs."

Here are some of Michael's classmates' reactions, part of our continued coverage on this story.

"I was really worried about Michael after I saw that post," one classmate commented. "He was so mad, and it's like, you just can't say stuff like that with all of the scary things on the news. I feel bad for him, but better safe than sorry."

Another classmate asserted that the school should not be allowed to monitor students' social media without prior notice or initiate law enforcement actions without first talking to the student. Still another described the post as a warning, not a threat, and expressed confusion over why it was treated as violent and why the school officer didn't allow Michael to leave the school.

School officials have yet to comment on the lawsuit or the ongoing petition to end online surveillance of students' social media accounts. State legislators have taken notice of the incident in light of increasing media coverage.

In response to the growing controversy, the state legislature's oversight committee has decided to investigate the situation and hold hearings. Stay tuned for further coverage as the committee members work together to determine the big questions in play, organize effective hearings, and report the facts.

## **Witness Summaries for Students**

### **Witness: Michigan Attorney General**

*What is the job function of the Attorney General?*

As Attorney General, you represent Michigan in cases involving the state's interests, provide legal defense to state officials or agencies in court, prepare and review contracts and agreements involving the state, and provide formal legal advice to state officials on constitutional and legal questions. You do not make or recommend policy.

*What is the Office of the Michigan Attorney General?*

The Office of the Michigan Attorney General employs approximately 500 staff members. The agency provides legal representation to the State of Michigan; advises elected officials on state statutes, policies, and procedures; and provides comprehensive oversight of state and federal litigation for Michigan.

### **Witness: MI Superintendent of Education**

*What is the job function of the Superintendent of Education?*

As Superintendent of Education, you are the chief executive officer of the Michigan Department of Education (MDE). The State Board of Education of Michigan appointed you to this position and you also serve on the Board as its chair and non-voting member, attend the Governor's meetings with department directors, and advise the State Legislature on education policy. In each of these roles, you work to ensure that all students have access to the quality education needed to enjoy lifelong success.

*What is the Michigan Department of Education?*

The Michigan Department of Education oversees the education of approximately 1.4 million students, attending more than 2,950 schools. The Department's strategic priorities include (1) expanding early childhood learning opportunities; (2) improving early literacy achievement; (3) improving the health, safety, and wellness of all learners; (4) expand secondary learning opportunities for all students; (5) increasing the percentage of all students who graduate from high school; (6) increasing the percentage of adults with a post-secondary credential; (7) increasing the numbers of certified teachers in areas of shortage; and (8) providing adequate and equitable school funding.

### **Witness: Director, Michigan State Police**

*What is the job function of the Director of Michigan State Police?*

As the Director of the Michigan State Police (MSP), you oversee 83 counties and 3,000 law enforcement employees. You are in charge of managing MSP and ensuring law enforcement in the State of Michigan protects the life and property of all citizens.

*What is the Michigan State Police?*

The Michigan State Police is the statewide police agency of Michigan. The agency provides all-encompassing police services focused on criminal apprehension, crime reduction, traffic safety, and homeland security. In performing these duties, MSP officers assist educators in planning for a safe school environment.

**Witness: President, Michigan Parent Teacher Association**

*What is the job function of the President of the Parent Teacher Association?*

As president, you empower members of the organization to take action on important educational issues. You manage the organization; promote membership; seek donations, grants, and sponsorships; and engage members in advocating for children and families.

*What is the Michigan Parent Teacher Association?*

The Michigan Parent Teacher Association's mission is to make every child's potential a reality by engaging and empowering families and communities to advocate for students. As a member of the National Parent Teacher Association, the organization promotes the welfare of children and youth by advocating for laws that further the education, physical and mental health, welfare, and safety of students. The organization also promotes the collaboration and engagement of families and educators and works to secure the physical, mental, emotional, spiritual, and social well-being of all students.

**Witness: Superintendent of the School District**

*What is the job function of the Superintendent of the school district?*

As Superintendent, you are the chief administrative officer for the school district. You oversee the daily operations, work with the school board to create and institute long-term policy related to K – 12 education, and make recommendations to the board regarding personnel, curriculum, and budget. You are appointed by the school board.

**Witness: Executive Director, ACLU of Michigan**

*What is the job function of the Executive Director?*

As Executive Director, you are responsible for managing the organization's operations. You engage in strategic planning, set the organization's priorities, work with the Board of Directors to fundraise, and promote the organization in order to raise public awareness.

*What is the American Civil Liberties Union of Michigan?*

Established in 1955, the American Civil Liberties Union (ACLU) of Michigan is a nonprofit, nonpartisan organization dedicated to defending and protecting the civil liberties that the U.S. and Michigan Constitutions and civil rights laws guarantee.

**Witness: School Resource Officer**

*What is the job function of a school resource officer?*

As a school resource officer, you are a trained law enforcement officer and school safety professional who works with school administrators to provide a safe learning environment.

*What is the National Association of School Resource Officers?*

The National Association of School Resource Officers is a nonprofit organization for school-based law enforcement officers, school administrators, and school security/safety professionals working as partners to protect students, school faculty, and staff and the schools they attend.

**Witness: CEO of Southcape Algorithm Solutions**

*What is the job function of the CEO of Southcape Algorithm Solutions?*

As the chief executive officer, you are the company's highest-ranking executive and are responsible for managing the company's overall operations. This includes developing business strategies to reach long-term goals, growth, profit, and return-on-investment. You report to the board of directors.

*What is the Southcape Algorithm Solutions?*

Southcape Algorithm Solutions is a company that provides surveillance software to increase school safety. The algorithm reviews social media postings by students at a school and sends a warning to a designated school administrator when it identifies a troubling post.



## Your Role: Michigan Attorney General

### Background Information

*What is the job function of the Attorney General?*

As Attorney General, you represent Michigan in cases involving the state's interests, provide legal defense to state officials or agencies in court, prepare and review contracts and agreements involving the state, and provide formal legal advice to state officials on constitutional and legal questions. You do not make or recommend policy.

*What is the Office of the Michigan Attorney General?*

The Office of the Michigan Attorney General employs approximately 500 staff members. The agency provides legal representation to the State of Michigan; advises elected officials on state statutes, policies, and procedures; and provides comprehensive oversight of state and federal litigation for Michigan.

### Goals for Testimony

You have two primary goals if you are called to testify:

- (1) Present accurate information to legislators regarding school safety and identify the partner agencies in the Michigan School Safety programs.
- (2) Explain the bills and enrolled acts that keep children safe while they learn.

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

### How does the state of Michigan work to keep schools safe?

Michigan has been on the forefront of school safety efforts since the passage of Public Act 102 in 1999, which required all schools to develop school safety plans.<sup>1</sup> The Michigan Department of Education (MDE) works closely with the Michigan State Police's (MSP) Office of School Safety and Emergency Management and Homeland Security Division to improve communication between schools and law enforcement, encourage safe and secure learning environments, reduce threats to schools and students, promote the OK2SAY confidential reporting system, and coordinate relief activities in response to emergency or disaster.<sup>2</sup>

A large portion of the state's efforts are developed through grant-based funding programs. The state legislature provides \$25 million annually to the School Resource Officer Grant Program with a required 50% match to enable school districts and charter schools to employ SROs.<sup>3</sup> To be eligible for the grant, the school must demonstrate proof of an emergency operation plan (EOP) for each school building that aligns with the EOP guidance.<sup>4</sup>

### What laws govern the issues raised in this hearing?

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<sup>1</sup> Michigan State Police, *Final Recommendations of the School Safety Task Force* (2018), <https://www.michigan.gov/msp/-/media/Project/Websites/msp/gcsd/2022-files/PDF/Final-Recommendations-of-the-school-Safety-task-force.pdf?rev=097b45f0dd14415c8d4b6a4a4977fec4&hash=BC0F7580B68A46A5DAFB6F67A291BECB>

<sup>2</sup> School Safety, *Michigan*, available at <https://www.schoolsafety.gov/state-search-tool/michigan>.

<sup>3</sup> MI 2022 PA 144.

<sup>4</sup> Michigan State Police, *Grant Application Guide* (2022), available at [https://www.michigan.gov/msp/-/media/Project/Websites/msp/gcsd/2022-files/FY22-CSSGP-Application-Guide\\_FINAL.pdf](https://www.michigan.gov/msp/-/media/Project/Websites/msp/gcsd/2022-files/FY22-CSSGP-Application-Guide_FINAL.pdf).



As previously mentioned, all schools are required to school safety plans. Each school district also must designate an individual to serve as a School Safety Liaison for the district. This individual works with the School Safety Task Force and the MSP's Office of School Safety to identify and determine best school safety measures for their school district.<sup>5</sup> In 2018, the state legislature passed Public Act 551, requiring school districts to report certain incidents to MSP within 24 hours. These incidents include physical assault, criminal sexual conduct, illegal possession of controlled substances or alcohol, trespassing, vandalism, arson, larceny, robbery, extortion, and gang-related activity.<sup>6</sup>

Many school districts also work with law enforcement agencies to place officers in schools. Schools must enter into a memorandum of understanding with the law enforcement agency that employs or appoints the person who will perform the duties of a school resource officer.

With respect to student privacy, students have no presumption of privacy with regards to school lockers and items stored within them, provided the school has a locker search policy that has been made available to students.<sup>7</sup> In 2012, the state legislature passed the Internet Privacy Protection Act, which prohibits educational institutions from requiring students to disclose information that allows access to personal internet accounts, including social media. It does not, however, prevent schools or third parties from viewing a student's internet content that can be obtained without any access information.<sup>8</sup> Michigan's Student Online Personal Information Protection Act protects student information including educational records; home address; email address; name; biometric information; social security number; medical, health, and school records; and more.<sup>9</sup>

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<sup>5</sup> MI Comp L § 380.1241.

<sup>6</sup> MI 2018 PA 551.

<sup>7</sup> MI 2000 PA 87.

<sup>8</sup> MI 2012 PA 478.

<sup>9</sup> MI 2016 PA 368.

## Your Role: MI Superintendent of Education

### Background Information

*What is the job function of the Superintendent of Education?*

As Superintendent of Education, you are the chief executive officer of the Michigan Department of Education (MDE). The State Board of Education of Michigan appointed you to this position and you also serve on the Board as its chair and non-voting member, attend the Governor's meetings with department directors, and advise the State Legislature on education policy. In each of these roles, you work to ensure that all students have access to the quality education needed to enjoy lifelong success.

*What is the Michigan Department of Education?*

The Michigan Department of Education oversees the education of approximately 1.4 million students, attending more than 2,950 schools. The Department's strategic priorities include (1) expanding early childhood learning opportunities; (2) improving early literacy achievement; (3) improving the health, safety, and wellness of all learners; (4) expand secondary learning opportunities for all students; (5) increasing the percentage of all students who graduate from high school; (6) increasing the percentage of adults with a post-secondary credential; (7) increasing the numbers of certified teachers in areas of shortage; and (8) providing adequate and equitable school funding.

### Goals for Testimony

You have three primary goals if you are called to testify:

- (1) Explain the Department of Education's school safety and wellness policies
- (2) Encourage additional funding for the Department
- (3) Remain consistent with and advocate for the Governor's education plan

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

### **How does the state of Michigan work to keep schools safe and to support students' well-being?**

MDE works with the Michigan State Police's Office of School Safety and Emergency Management and Homeland Security Division to keep students safe. Each school corporation must designate an individual to serve as a School Safety Liaison for the corporation. Some schools work with law enforcement officers to place officers in schools. A large portion of the state's efforts are developed through grant-based funding programs. The state legislature provides \$25 million annually to the School Resource Officer Grant Program with a required 50% match to enable school corporations and charter schools to employ SROs.<sup>1</sup> In addition, schools are encouraged to employ social workers and counselors to provide mental-health support to students and requires that instruction on recognizing signs and symptoms of mental health issues are incorporated into professional development and teacher education programs.<sup>2</sup>

In the 2017 – 2018 school year, there were 727 total arrests made in Michigan schools. This number includes students who were arrested off school property because of a school-initiated report to law enforcement.<sup>3</sup> Studies of school

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<sup>1</sup> MI 2022 PA 144.

<sup>2</sup> Michigan State Board of Education, *Policy on Integrating Mental Health in Schools* (2010), available at [https://www.michigan.gov/-/media/Project/Websites/mde/2016/07/06/MH\\_policy.pdf?rev=5033d4205c22491eb75c42a1b39ccf6e](https://www.michigan.gov/-/media/Project/Websites/mde/2016/07/06/MH_policy.pdf?rev=5033d4205c22491eb75c42a1b39ccf6e).

<sup>3</sup> Civil Rights Data Collection, *2017-18 School-Related Arrests Estimations*, available at <https://ocrdata.ed.gov/estimations/2017-2018>.

resource officers (SROs) suggest that the most important factors in a decision to arrest a student in school include the seriousness of the offense, the circumstances that surround the incident, and the attitude of the offender.<sup>4</sup> The most common offense leading to arrest in Michigan schools was possession of marijuana. This is on par with the national average – 58 percent of serious disciplinary action in schools across the country occurred in response to distribution, possession, or use of illegal drugs in high schools.<sup>5</sup>

To regulate these arrests and encourage respect for student rights, Michigan has strict and comprehensive laws regarding the use of seclusion and restraints on students and prohibits corporal punishment in all circumstances. Seclusion and restraints may only be used in emergency situations if essential for the safety of the student or safety of another. Personnel in every school must complete training on how to use tactics, and they may only be employed after other appropriate less restrictive methods have been exhausted. There are time limits for which these interventions may be used.<sup>6</sup> The purpose of these laws are to guide schools in providing a safe and healthy environment in which Michigan students can learn and that behavioral interventions for students ensure the right of students to be treated with dignity and respect.

### **What are some possible solutions to issues raised in the hearing?**

In 2018, the Governor created a School Safety Task Force of state leaders, parents, educators, mental health workers, and students to identify structural and policy recommendations to make Michigan schools safer for students. The final report consisted of 29 recommendations, including: (1) Establish and enforce minimum security requirements for interior rooms and minimum exterior security requirements; (2) integrate behavioral health considerations into Emergency Operations Planning Guidance; (3) adopt OK2SAY program in all schools to allow students to report information about suspicious behaviors, bullying, suicide threats, drugs, etc.; (4) require specific training for those involved in school safety and security; (5) approve school safety training for professional development credits; and (6) expand funding an availability of onsite behavioral health services.<sup>7</sup> All schools in Michigan, both public and private, are now required to register in the OK2SAY program, but the Department of Education needs more resources to achieve the rest of the recommendations.

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<sup>4</sup> Frank J. Mielke, Jeremy Phillips & Beth Sanborn, *Measuring the Strategic Fit of the School Resource Officer with Law Enforcement (Leaders), the Education System, the Community, and Other Interested Parties*, NATIONAL ASSOCIATION OF SCHOOL RESOURCE OFFICERS (March 2021), available at

[https://www.nasro.org/clientuploads/resources/Measuring\\_the\\_Strategic\\_Fit\\_of\\_the\\_School\\_Resource\\_Officer\\_section\\_1.pdf](https://www.nasro.org/clientuploads/resources/Measuring_the_Strategic_Fit_of_the_School_Resource_Officer_section_1.pdf).

<sup>5</sup> National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, Percentage of Public Schools that Took Serious Disciplinary Action in Response to Specific Offenses, by Type of Offense and Selected School Characteristics (Table 233.12) (2021), available at [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_233.12.asp?current=yes](https://nces.ed.gov/programs/digest/d21/tables/dt21_233.12.asp?current=yes).

<sup>6</sup> MI Comp L § 380.1307c.

<sup>7</sup> Michigan State Police, *Final Recommendations of the School Safety Task Force* (2018), <https://www.michigan.gov/msp/-/media/Project/Websites/msp/gcsd/2022-files/PDF/Final-Recommendations-of-the-school-Safety-task-force.pdf?rev=097b45f0dd14415c8d4b6a4a4977fec4&hash=BC0F7580B68A46A5DAFB6F67A291BECB>.

## Your Role: Director, Michigan State Police

### Background Information

*What is the job function of the Director of Michigan State Police?*

As the Director of the Michigan State Police (MSP), you oversee 83 counties and 3,000 law enforcement employees. You are in charge of managing MSP and ensuring law enforcement in the State of Michigan protects the life and property of all citizens.

*What is the Michigan State Police?*

The Michigan State Police is the statewide police agency of Michigan. The agency provides all-encompassing police services focused on criminal apprehension, crime reduction, traffic safety, and homeland security. In performing these duties, MSP officers assist educators in planning for a safe school environment.

### Goals for Testimony

You have three primary goals if you are called to testify:

- (1) Explain how Michigan State Police assist educators in providing a safe school environment
- (2) Describe the importance of threat assessment and intervention in schools
- (3) Encourage additional funding for MSP

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

### How does Michigan State Police work to keep schools safe?

Michigan has been a leader in school safety since 1999, when the legislature developing safety plans became a legal requirement in all schools. The Michigan State Police's Office of School Safety takes an active role in providing resources to conduct threat assessments in schools, provides safety training, expedites communication between schools and first responders, and generally promotes school safety initiatives throughout the state.

One of the most important ways MSP does so is through the promotion and oversight of School Resource Officers (SROs). SROs are law enforcement officers who are assigned to assist school corporations or charter schools with the development and implementation of school safety plans. An SRO's specific responsibilities vary according to individual memorandum of understanding between school and law enforcement, but SROs may protect against outside threats to student safety, prevent unauthorized access to school property, and secure schools against violence and natural disasters. Just as important, SROs build trusting relationships between law enforcement and the school community.<sup>1</sup> To work as a school resource officer, a person must meet the minimum basic training and educational requirements for employment as a law enforcement officer.

### What are some possible solutions to issues raised in the hearing?

MSP has developed a series of basic suggestions for educators who seek to keep students safe and offers resources on its website such as de-escalation techniques for teachers, crisis support guidance, and employee vigilance to improve

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<sup>1</sup> Michigan Department of Education, *SROs* (2022), available at <https://www.michigan.gov/mde/services/health-safety/alt-expulsions-toolkit/sros>.

physical safety.<sup>2</sup> MSP encourages school corporations to work with School Resource Officers to provide security within schools to combat drug usage, bullying, and other issues often requiring law enforcement intervention. Having trained, sworn, uniformed law enforcement as the first line of defense in schools is imperative.

MSP recommends that each school develop a behavioral threat assessment tool, maintain control of the assessment processes, and regularly conduct such assessments. The risk assessment process begins with educating all members of the school community on early warning indicators, or characteristics that may be displayed by students who are exhibiting concerning behaviors and need support to prevent the development of a threat to themselves or others. A high-quality behavioral assessment tool identifies the risks and vulnerabilities a school faces from both internal and external factors and views the safety of the school environment from an overarching perspective. MSP's Office of School Safety hosts Michigan K-12 Behavioral Threat Assessment and Management training year-round, across the state, and free of charge for school-based threat assessment teams in public, charter, and private schools.

Finally, schools need a comprehensive safety plan developed in consultation with law enforcement as required by Michigan law. This plan should include tests, drills, and debriefings and be supported by a team of personnel within the school. A high-quality support team will also include first responders.

Additional funding to MSP would help the department assist schools in implementing each of these suggestions.

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<sup>2</sup> Michigan State Police, *Office of School Safety* (2022), available at <https://www.michigan.gov/msp/divisions/grantscommunityservices/school-safety>.

## Your Role: President, Michigan Parent Teacher Association

### Background Information

*What is the job function of the President of the Parent Teacher Association?*

As president, you empower members of the organization to take action on important educational issues. You manage the organization; promote membership; seek donations, grants, and sponsorships; and engage members in advocating for children and families.

*What is the Michigan Parent Teacher Association?*

The Michigan Parent Teacher Association's mission is to make every child's potential a reality by engaging and empowering families and communities to advocate for students. As a member of the National Parent Teacher Association, the organization promotes the welfare of children and youth by advocating for laws that further the education, physical and mental health, welfare, and safety of students. The organization also promotes the collaboration and engagement of families and educators and works to secure the physical, mental, emotional, spiritual, and social well-being of all students.

### Goals for Testimony

You have one primary goal if you are called to testify:

- (1) Advocate for the safety and security of students

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

### What issues arise as we struggle to keep schools safe on a day-to-day basis?

In the fall of last year, there were approximately 49.5 million public school students enrolled in pre-K to grade 12 in the United States.<sup>1</sup> One hundred percent of the schools charged with educating those students employed safety and security measures.<sup>2</sup> Over half (65%) of those schools employed security staff.<sup>3</sup>

A founding principal of the National Parent Teacher Association's (PTA) mission is to promote the safety and well-being of all children and youth.<sup>4</sup> School safety is a multi-faceted issue and efforts to address the issue must take into account a variety of factors. The most effective school safety plans build upon school-community partnerships; develop evidence-

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<sup>1</sup> National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, *Back to School Statistics* (2022), available at <https://nces.ed.gov/fastfacts/display.asp?id=372>.

<sup>2</sup> National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, *Percentage of Public Schools with Various Safety and Security Measures, by Selected School Characteristics* (Table 233.60), available at [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_233.60.asp?current=yes](https://nces.ed.gov/programs/digest/d21/tables/dt21_233.60.asp?current=yes).

<sup>3</sup> National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, *Percentage of Public Schools with Security Staff Present at Least Once a Week, and Percentage with Security Staff Routinely Carrying a Firearm, by Selected School Characteristics* (Table 233.70), available at [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_233.70.asp?current=yes](https://nces.ed.gov/programs/digest/d21/tables/dt21_233.70.asp?current=yes).

<sup>4</sup> National PTA, *Safe and Supportive Schools Position Statement* (2022), available at <https://www.pta.org/docs/default-source/files/advocacy/position-statements/safe-and-supportive-schools-ps.pdf>.

based standards for school discipline; fund sustainable crisis and emergency preparedness, response, and recovery; and provide multi-tiered systems of support.<sup>5</sup>

Schools must conduct regular and timely communication with families about safety policies and procedures and provide ongoing opportunities for students and parents to provide input on the school environment.<sup>6</sup> Such opportunities should promote a positive school climate that encourages mutual trust among students, staff (including student resource officers), and families. In keeping students safe, it is the position of the National PTA that restraint techniques should only be used when there is imminent danger of physical harm.<sup>7</sup> Additionally, research has shown that overly punitive discipline policies such as zero tolerance and automatic suspension and/or expulsion can have negative consequences and increase behavioral problems and involvement in the juvenile justice system. The PTA supports replacing these policies with positive behavioral interventions and supports to improve student outcomes and school safety.<sup>8</sup>

### **What are some possible solutions to issues raised in the hearing?**

Research by the U.S. Secret Service that analyzed school attack plots demonstrates that there are almost always intervention points available before a school experiences violence.<sup>9</sup> In nearly all (94%) investigated plans to perpetrate violence in school, plotters shared their intentions through verbal statements, electronic messaging, or online posts.<sup>10</sup> In many cases, these plots sought revenge for a perceived wrong or were the result of student feelings of resentment toward others.

As a result, schools have begun to monitor student expression on electronic media. Yet student expression through social media is not a cut and dried issue. Social media platforms offer opportunities for students to expand their world-views and to connect with diverse populations. Recent studies indicate that students use social media to express themselves and keep track of how their identity changed over time.<sup>11</sup>

However, acknowledging that students use social media for self-expression, the National Association of School Psychologists recognizes that social media monitoring can be used for crisis prevention, crisis intervention, and postvention.<sup>12</sup> Reflecting this scientific evidence, approximately 80 percent of parents and students are comfortable with schools monitoring student social media activity to identify threats of violence.<sup>13</sup>

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<sup>5</sup> National Association of School Psychologists, *A Framework for Safe and Successful Schools* (2015), available at <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-safety-and-crisis/systems-level-prevention/a-framework-for-safe-and-successful-schools>.

<sup>6</sup> National PTA, Position Statement – Safe and Supportive Schools (2018), available at <https://www.pta.org/home/advocacy/ptas-positions/Individual-Position-Statements/safe-and-supportive-schools>.

<sup>7</sup> National Parent Teacher Association, *Position Statement: Restraint and Seclusion* (2022), available at [https://www.pta.org/docs/default-source/files/advocacy/position-statements/restraint-and-seclusion\\_u.pdf](https://www.pta.org/docs/default-source/files/advocacy/position-statements/restraint-and-seclusion_u.pdf).

<sup>8</sup> National Parent Teacher Association, *Position Statement: Positive School Discipline* (2016), available at <https://www.pta.org/docs/default-source/files/advocacy/position-statements/positive-school-discipline-ps.pdf>.

<sup>9</sup> National Threat Assessment Center, U.S. Secret Service, Department of Homeland Security, *Averting Targeted School Violence: A U.S. Secret Service Analysis of Plots against Schools* (March 2021) available at <https://www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf>.

<sup>10</sup> *Id.*

<sup>11</sup> Michael Shankleman, Linda Hammond, & Fergal W. Jones, *Adolescent Social Media Use and Well-Being: A Systematic Review and Thematic Meta-synthesis*, ADOLESCENT RESEARCH REVIEW (April 17, 2021), available at <https://link.springer.com/article/10.1007/s40894-021-00154-5>.

<sup>12</sup> National Association for School Psychologists, *Social Media and School Crises* (2016), available at <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-safety-and-crisis/media-and-social-media-resources/social-media-and-school-crises>.

<sup>13</sup> Elizabeth Laird, High Grant-Chapman, Cody Venzke, & Hannah Quay-de la Vallee, *Hidden Harms: The Misleading Promise of Monitoring Students Online*, CENTER FOR DEMOCRACY AND TECHNOLOGY (August 2022), available at: <https://cdt.org/wp->



Yet there is little evidence that schools with social media monitoring contracts have prevented threats of violence, bullying, or self-harm.<sup>14</sup> Furthermore, today's youth feel that social media leads to an inauthentic representation of themselves.<sup>15</sup> In addition, 78 percent of teachers in schools that use monitoring software report that their students have been flagged by such software for disciplinary measures as opposed to true threat.<sup>16</sup>

You hope that, in the future, student resource officers can work with parents to promote digital wellness, including teaching students to be mindful of their online presence and footprint, to protect their identity, and to balance time online within their daily life.<sup>17</sup>

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[content/uploads/2022/08/Hidden-Harms-The-Misleading-Promise-of-Monitoring-Students-Online-Research-Report-Final-Accessible.pdf](#)

<sup>14</sup> Aaron Leibowitz, *Could Monitoring Students on Social Media Stop the Next School Shooting?*, NEW YORK TIMES (Sept. 6, 2018), available at <https://www.nytimes.com/2018/09/06/us/social-media-monitoring-school-shootings.html>.

<sup>15</sup> Lybi Ma, *The Pros and Cons of Social Media for Youth*, PSYCHOLOGY TODAY (Oct. 16, 2021), available at <https://www.psychologytoday.com/us/blog/evidence-based-living/202110/the-pros-and-cons-social-media-youth>.

<sup>16</sup> Elizabeth Laird, High Grant-Chapman, Cody Venzke, & Hannah Quay-de la Vallee, *Hidden Harms: The Misleading Promise of Monitoring Students Online*, CENTER FOR DEMOCRACY AND TECHNOLOGY (August 2022), available at: <https://cdt.org/wp-content/uploads/2022/08/Hidden-Harms-The-Misleading-Promise-of-Monitoring-Students-Online-Research-Report-Final-Accessible.pdf>

<sup>17</sup> National PTA, *What Does It Mean to be PTA Connected?* (2022), available at <https://www.pta.org/home/programs/connected>.

# Your Role: Superintendent of the School District

## Background Information

*What is the job function of the Superintendent of the school district?*

As Superintendent, you are the chief administrative officer for the school district. You oversee the daily operations, work with the school board to create and institute long-term policy related to K – 12 education, and make recommendations to the board regarding personnel, curriculum, and budget. You are appointed by the school board.

## Goals for Testimony

You have three primary goals if you are called to testify:

- (1) Explain the school district's safety, wellness, and discipline policies
- (2) Defend the school district's use of surveillance software
- (3) Encourage additional funding for the school district

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

## What issues arise as we struggle to keep schools safe on a day-to-day basis?

In the fall of last year, there were approximately 49.5 million public school students enrolled in pre-K to grade 12 in the United States.<sup>1</sup> 100% of the schools charged with educating those students employed safety and security measures.<sup>2</sup> Over half (65%) of those schools employed security staff.<sup>3</sup> Your school district applied to the School Resource Officer Grant Program, which provides the school a 50% match to employ SROs.

School safety is a multi-faceted issue and efforts to address the issue must consider a variety of factors. The most effective school safety plans build upon school-community partnerships; develop evidence-based standards for school discipline; fund sustainable crisis and emergency preparedness, response, and recovery; and provide multi-tiered systems of support.<sup>4</sup>

You and the school board made the decision to use Southcape's surveillance software after reviewing the most recent available data on school safety. For example, research by the U.S. Secret Service that analyzed school attack plots demonstrates that there are almost always intervention points available before a school experiences violence.<sup>5</sup> In nearly

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<sup>1</sup> National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, *Back to School Statistics* (2022), available at <https://nces.ed.gov/fastfacts/display.asp?id=372>.

<sup>2</sup> National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, *Percentage of Public Schools with Various Safety and Security Measures, by Selected School Characteristics* (Table 233.60), available at [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_233.60.asp?current=yes](https://nces.ed.gov/programs/digest/d21/tables/dt21_233.60.asp?current=yes).

<sup>3</sup> National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, *Percentage of Public Schools with Security Staff Present at Least Once a Week, and Percentage with Security Staff Routinely Carrying a Firearm, by Selected School Characteristics* (Table 233.70), available at [https://nces.ed.gov/programs/digest/d21/tables/dt21\\_233.70.asp?current=yes](https://nces.ed.gov/programs/digest/d21/tables/dt21_233.70.asp?current=yes).

<sup>4</sup> National Association of School Psychologists, *A Framework for Safe and Successful Schools* (2015), available at <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-safety-and-crisis/systems-level-prevention/a-framework-for-safe-and-successful-schools>.

<sup>5</sup> National Threat Assessment Center, U.S. Secret Service, Department of Homeland Security, *Averting Targeted School Violence: A U.S. Secret Service Analysis of Plots against Schools* (March 2021) available at <https://www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf>.

all (94%) investigated plans to perpetrate violence in school, plotters shared their intentions through verbal statements, electronic messaging, or online posts.<sup>6</sup> In many cases, these plots sought revenge for a perceived wrong or were the result of student feelings of resentment toward others.

### **What, if any, are the district and state policies regarding restraint, zero tolerance, searches, and expulsion?**

Students may only be physically restrained in emergency situations and only if essential to providing for the safety of the pupil or safety of another. However, this law applies to school personnel, not law enforcement.<sup>7</sup>

Students do not have a right to privacy regarding school-owned property such as lockers. Backpacks can be searched if there is reasonable suspicion that they contain drugs or weapons.

The zero-tolerance drug policy was enacted by the school board and applies to all schools in the district. Michigan law only calls for zero-tolerance policies for students that commit physical or sexual assaults against students or employees, commit serious verbal offenses such as bomb threats, or possess a firearm on school property.<sup>8</sup> For other offenses, the school board, superintendent, principal, or other designee must consider factors such as the student's age, disciplinary history, whether the student has a disability, the seriousness of the violation, whether the violation threatened the safety of any student or staff member, whether restorative practices will be used to address the behavior, and whether lesser intervention would properly address the behavior. It is the responsibility of the school board to show that they have considered each of these factors.<sup>9</sup>

### **What are some possible solutions to issues raised in the hearing?**

As previously mentioned, research shows that in nearly all (94%) investigated plans to perpetrate violence in school, plotters shared their intentions through verbal statements, electronic messaging, or online posts.<sup>10</sup> As a result, schools have begun to monitor student expression on electronic media. While you acknowledge that student expression through social media is not a cut and dried issue, the National Association of School Psychologists recognizes that social media monitoring can be used for crisis prevention, crisis intervention, and postvention.<sup>11</sup> Reflecting this scientific evidence, approximately 80 percent of parents and students are comfortable with schools monitoring student social media activity to identify threats of violence.<sup>12</sup>

Under Michigan law, school resource officers must meet the minimum basic training and educational requirements for employment as a law enforcement officer but require no specific training to work in a school setting. Greater emphasis on how to identify legitimate threats in the digital world could help improve outcomes in situations such as this one. Additionally, SROs have many duties in schools – they are law enforcement officers, law-related counselors, and law-related educators. It can be difficult to balance how much time the officers spend with students, school administrators, and other educators when performing these roles, which can interfere with how they respond to unexpected issues. An

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<sup>6</sup> *Id.*

<sup>7</sup> MI Comp L § 380.1307c.

<sup>8</sup> MI Comp L § 380.1310, 380.1311a.

<sup>9</sup> MI Comp L § 380.1310d.

<sup>10</sup> National Threat Assessment Center, U.S. Secret Service, Department of Homeland Security, *Averting Targeted School Violence: A U.S. Secret Service Analysis of Plots against Schools* (March 2021) available at <https://www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf>.

<sup>11</sup> National Association for School Psychologists, *Social Media and School Crises* (2016), available at <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-safety-and-crisis/media-and-social-media-resources/social-media-and-school-crises>.

<sup>12</sup> Elizabeth Laird, High Grant-Chapman, Cody Venzke, & Hannah Quay-de la Vallee, *Hidden Harms: The Misleading Promise of Monitoring Students Online*, CENTER FOR DEMOCRACY AND TECHNOLOGY (August 2022), available at: <https://cdt.org/wp-content/uploads/2022/08/Hidden-Harms-The-Misleading-Promise-of-Monitoring-Students-Online-Research-Report-Final-Accessible.pdf>

extensive and widely-recognized research report conducted by the U.S. Department of Justice on the issue emphasizes that SROs' isolation from and differential responsibilities when compared to other law enforcement officers can create challenges when determining how to act in a threat situation.<sup>13</sup>

Finally, the American School Counselor's Association recommends a student-to-counselor ratio of 250:1;<sup>14</sup> in Michigan, it is 638:1.<sup>15</sup> In their 2020 study of 7,000 school counselors, respondents reported spending, on average, 27.4% of their time directly counseling students.<sup>16</sup> With more funding, perhaps through grants, schools could hire more qualified school counselors and psychologists to improve the student-to-counselor ratio and allow school mental health professionals to spend more of their time counseling students in need.

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<sup>13</sup> Peter Finn, Michael Shively, Jack McDevitt, William Lassiter, & Tim Rich, *Comparison of Program Activities and Lessons Learned among 19 School Resource Officer (SRO) Programs*, U.S. DEPARTMENT OF JUSTICE (March 2005), available at <https://www.ojp.gov/pdffiles1/nij/grants/209272.pdf>.

<sup>14</sup> American School Counselor Association, *ASCA Research Report: State of the Profession 2020* (2021), available at <https://www.schoolcounselor.org/getmedia/bb23299b-678d-4bce-8863-cfcb55f7df87/2020-State-of-the-Profession.pdf>.

<sup>15</sup> American School Counselor Association, *Student-to-School-Counselor Ratio 2020 – 2021* (2021), available at <https://www.schoolcounselor.org/getmedia/238f136e-ec52-4bf2-94b6-f24c39447022/Ratios-20-21-Alpha.pdf>.

<sup>16</sup> American School Counselor Association, *ASCA Research Report: State of the Profession 2020* (2021), available at <https://www.schoolcounselor.org/getmedia/bb23299b-678d-4bce-8863-cfcb55f7df87/2020-State-of-the-Profession.pdf>.

## Your Role: Executive Director, ACLU of Michigan

### Background Information

*What is the job function of the Executive Director?*

As Executive Director, you are responsible for managing the organization's operations. You engage in strategic planning, set the organization's priorities, work with the Board of Directors to fundraise, and promote the organization in order to raise public awareness.

*What is the American Civil Liberties Union of Michigan?*

Established in 1955, the American Civil Liberties Union (ACLU) of Michigan is a nonprofit, nonpartisan organization dedicated to defending and protecting the civil liberties that the U.S. and Michigan Constitutions and civil rights laws guarantee.

### Goals for Testimony

You have three primary goals if you are called to testify:

- (1) Discourage the use of machine-learning software programs to monitor students' social media posts
- (2) Advocate for additional funding and training for in-school mental health resources
- (3) Enlarge the ACLU's influence in policymaking

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

### What evidence supports the use of surveillance technology in schools?

In the wake of high-profile mass tragedies in schools such as Columbine, Sandy Hook, Parkland, and Uvalde, schools have faced increased pressure to find ways to detect and prevent violence in schools. One trend in recent years is for schools and school districts to surveil students' social media activities. Because 95 percent of teens in the United States have access to a smartphone and most use social media sites to express their thoughts, views, and feelings, schools have begun to contract with private companies to implement new technologies to monitor student activity on these websites.<sup>1</sup>

However, there is little evidence that social media surveillance effectively addresses issues such as cyberbullying, students' mental health, or violence in schools.<sup>2</sup> Furthermore, the algorithms used by social media surveillance services are flawed. Automated content analysis like that used by Southcape does not necessarily work across different contexts. For example, a tool trained to recognize the language people use when posting about their pets on social media sites cannot reliably analyze social media comments on major geopolitical events. Even the best software with the highest accuracy rates gets one out of every five posts wrong.<sup>3</sup>

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<sup>1</sup> National Center for School Safety, *Considerations for Social Media Monitoring and Response* (Nov. 2022), available at <https://www.nc2s.org/wp-content/uploads/2022/10/Considerations-for-Social-Media-Monitoring-and-Response.pdf>. The 5 most used social media sites among teens in 2022 included YouTube (95%), TikTok (67%), Instagram (62%), Snapchat (59%), Facebook (32%), and Twitter (23%). *Id.*

<sup>2</sup> Colin Burke and Cinnamon Bloss, *Social Media Surveillance in Schools: Rethinking Public Health Interventions in the Digital Age*, JOURNAL OF MEDICAL INTERNET RESEARCH (2020), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7691090/>.

<sup>3</sup> Natasha Duarte, Ema Lianso, and Anna Loup, *Mixed Messages: The Limits of Automated Social Media Content Analysis* (Nov. 2017), available at <https://cdt.org/wp-content/uploads/2017/11/Mixed-Messages-Paper.pdf>

Additionally, this software tends to reflect or amplify bias against groups that already face discrimination. As the ACLU commented in a joint letter sent at the beginning of the 2022-2023 school year to the U.S. Department of Education, monitoring software results in disproportionate disciplinary and law enforcement interactions for students of color; creates targeting opportunities for LGBTQI+ students to be outed and/or disciplined; and can harm student mental health.<sup>4</sup> Furthermore, these monitoring tools can lead vulnerable students to feel less comfortable expressing themselves and prevent them from turning to peers, counselors, or other professionals for help.<sup>5</sup>

### **How effective are School Resource Officers in preventing violence in schools?**

The expansion of the use of school resource officers began in 1999 as a response to the school shooting at Columbine High School. After that tragedy and several other high-profile events over the past decades, 41 states have authorized the presence of law enforcement officers on their school campuses.<sup>6</sup> In the state of Michigan, schools establish memorandums of understanding with local law enforcement that define the roles and responsibilities of officers in school settings.

While such arrangements are designed to prevent violence in schools, there is no evidence that increased police presence improves school safety and, in many cases, it can cause harm.<sup>7</sup> As a recent study by the Brookings Institution shows, rather than preventing crime, School Resource Officers have been linked with increased arrests for noncriminal behavior.<sup>8</sup> As a result of increased presence of law enforcement in schools, children are increasingly likely to be subject to school-based arrests for things such as disruptive behavior.<sup>9</sup> The ACLU discourages the use of law enforcement in schools, except in emergency situations.<sup>10</sup>

Because most School Resource Officers view themselves as law enforcement,<sup>11</sup> their presence can contribute to a “hardening” of schools and a lack of support for students’ mental health needs. This combination can lead to greater student alienation and a more threatening school climate.<sup>12</sup>

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<sup>4</sup> Joint letter to Assistant Secretary for Civil Rights, Department of Education (Aug. 2, 2022), available at <https://cdt.org/wp-content/uploads/2022/08/OCR-Letter-Final-August-2022.pdf>

<sup>5</sup> Mack DeGeurin, *Rights Groups Demand DOE Take a Stand on ‘Invasive’ Student Surveillance Software*, GIZMODO (Aug. 3, 2022), available at <https://gizmodo.com/surveillance-software-schools-computers-1849365527>.

<sup>6</sup> Deborah Temkin, Victoria Stuart-Cassel, Kristy Lao, Brissa Nunez, Sarah Kelley, & Claire Kelley, *The Evolution of State School Safety Laws Since the Columbine School Shooting*, CHILDTRENDS (Feb. 12, 2020), available at <https://www.childtrends.org/publications/evolution-state-school-safety-laws-columbine>.

<sup>7</sup> American Civil Liberties Union, *Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students* (2022), available at <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors>.

<sup>8</sup> Ryan King & March Schindler, *A Better Path Forward for Criminal Justice: Reconsidering Police in Schools* (March 2021), available at <https://www.brookings.edu/research/a-better-path-forward-for-criminal-justice-reconsidering-police-in-schools/>.

<sup>9</sup> American Civil Liberties Union, *Police Presence in Schools: What’s at Stake* (2022), available at <https://www.aclu.org/issues/juvenile-justice/juvenile-justice-school-prison-pipeline/police-presence-schools>.

<sup>10</sup> American Civil Liberties Union, *Bullies in Blue: The Origins and Consequences of School Policing* (2017), available at [https://www.aclu.org/sites/default/files/field\\_document/aclu\\_bullies\\_in\\_blue\\_4\\_11\\_17\\_final.pdf](https://www.aclu.org/sites/default/files/field_document/aclu_bullies_in_blue_4_11_17_final.pdf).

<sup>11</sup> Frank J. Mielke, Jeremy Phillips, & Beth Sanders, *Measuring the Strategic Fit of the School Resource Officer with Law Enforcement (Leaders), the Education System, the Community, and Other Interested Parties* (March 2021), available at [https://www.nasro.org/clientuploads/resources/Measuring\\_the\\_Strategic\\_Fit\\_of\\_the\\_School\\_Resource\\_Officer\\_section\\_1.pdf](https://www.nasro.org/clientuploads/resources/Measuring_the_Strategic_Fit_of_the_School_Resource_Officer_section_1.pdf).

<sup>12</sup> American Civil Liberties Union, *Cops and No Counselors: How the Lack of School Mental Health Staff is Harming Students* (2022), available at <https://www.aclu.org/issues/juvenile-justice/school-prison-pipeline/cops-and-no-counselors>.

**What are some possible solutions to issues raised in the hearing?**

Over time, school-based mental health and student support professionals including school counselors, social workers, and psychologists have proven effective at identifying and addressing student needs. Michigan should invest more in these services rather than social media surveillance or School Resource Officers.

In addition, the state could adopt regulations like those enacted in California.<sup>13</sup> That state has set standards for when and how a school district, county office of education, or charter school can collect information from social media.

Finally, the legislature could provide additional funding for school chief information officers and chief privacy officers to assess the values, limitations, and risks of various electronic monitoring technologies.

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<sup>13</sup> Cal. Educ. Code § 49073.6(b).



## Your Role: CEO of Southcape Algorithm Solutions

### Background Information

*What is the job function of the CEO of Southcape Algorithm Solutions?*

As the chief executive officer, you are the company's highest-ranking executive and are responsible for managing the company's overall operations. This includes developing business strategies to reach long-term goals, growth, profit, and return-on-investment. You report to the board of directors.

*What is the Southcape Algorithm Solutions?*

Southcape Algorithm Solutions is a company that provides surveillance software to increase school safety. The algorithm reviews social media postings by students at a school and sends a warning to a designated school administrator when it identifies a troubling post.

### Goals for Testimony

You have three primary goals if you are called to testify:

- (1) Protect the company from damage to reputation, allegations of wrongdoing, or loss of contracts with schools
- (2) Protect the algorithm and the company's proprietary data
- (3) Promote use of the alert system to ensure school safety

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

### **How does Southcape Algorithm Solutions work to keep schools safe on a day-to-day basis?**

Southcape developed the algorithm specifically to improve school safety, which is your critical objective. The company is dedicated to that mission, and it has developed an innovative and effective new tool to strengthen safety.

Southcape provides surveillance software that quickly and accurately reviews social media postings by students at schools and warns the school when it identifies a troubling post. The software simply delivers the information, but it is not responsible for how individual schools and administrators use the information. It is, in essence, a technological progression of a police tip line – it is up to law enforcement and the schools to use the information to ensure public safety.

### **How does the algorithm work? Did the algorithm fail in this case?**

Southcape's algorithm is proprietary software and revealing how it works would put your company's profits in jeopardy. However, you dispute any allegations that the algorithm is discriminatory or inaccurate. The surveillance tool looks at language, posts, and social media behavior that are statistically correlated with a higher likelihood of violence and does not use race, gender, class, or other demographic information as a factor for analysis. The company is constantly improving the algorithm.

In your opinion, the algorithm did not fail in this case. If a person had reviewed this social media post, an alert still would have been sent to the school. Michael's post stated that his school was "asking for a shooting," and any person seeing that language would be worried about the potential for violence. As the news article showed, his post made others fearful. One of his classmates was quoted saying, "I was really worried about Michael after I saw that post. He was so mad...I feel bad for him, but better safe than sorry."

### **What are some possible solutions to issues raised in the hearing?**

The school using Southcape's software decides which school official receives alerts from the algorithm. This school selected the school resource officer as the designated official, instead of a psychologist or school counselor. If the school district had sent the alert to a school counselor instead, perhaps Michael would not have been detained. It is up to schools to ensure that they have responsible policies regarding how the information provided by the algorithm is addressed.

Some might argue that students shouldn't be surveilled by their schools and this practice violates their right to privacy. However, your algorithm only analyzes public social media posts and therefore people do not have an expectation of privacy. There are no laws in your state prohibiting schools from surveilling their students' public posts.

These types of tools keep students safe. In nearly all (94%) investigated plans to perpetrate violence in school, plotters shared their intentions through verbal statements, electronic messaging, or online posts.<sup>1</sup> By tracking thousands of students in real time and providing reasonable links between troubling posts and potential violence, these surveillance tools help prevent the next Columbine or Parkland shootings. In fact, underage students have always been under school surveillance – subject to backpack and locker searches, hall passes, and school cameras – and software monitoring of social media posts is no different.

Risk-based assessment tools similar to the ones used here are being used across the country. For example, police, probation officers, and the courts use different tools to help them gather data on a person's criminal history, behavior, and habits. This data is statistically analyzed to predict future behaviors. Predictive surveillance tools are not rare, but increasingly common innovative tools.

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<sup>1</sup> National Threat Assessment Center, U.S. Secret Service, Department of Homeland Security, *Averting Targeted School Violence: A U.S. Secret Service Analysis of Plots against Schools* (March 2021) available at <https://www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf>.

## Your Role: School Resource Officer

### Background Information

*What is the job function of a school resource officer?*

As a school resource officer, you are a trained law enforcement officer and school safety professional who works with school administrators to provide a safe learning environment.

*What is the National Association of School Resource Officers?*

The National Association of School Resource Officers is a nonprofit organization for school-based law enforcement officers, school administrators, and school security/safety professionals working as partners to protect students, school faculty, and staff and the schools they attend.

### Goals for Testimony

You have three primary goals if you are called to testify:

- (1) Advocate for the necessity of school resource officers to maintain the peace and safety of a school environment
- (2) Provide information about current certification and training requirements for school resource officers
- (3) Protect yourself and other officers from litigation

Below you will find information to help you achieve these goals. Legislators may or may not ask about some of this information. Remember that it is okay not to know the answer to legislators' questions. If this happens, simply tell the legislators that you will look into the issue and get back to them.

### How do school resource officers work to keep schools safe on a day-to-day basis?

In Michigan, a School Resource Officer (SRO) is a person who is assigned to assist school corporations or charter schools with safety and security matters, which vary by district. Just as important, SROs build trusting relationships between law enforcement and the school community using the triad model outlined by the National Association of School Resource Officers. This model identifies the three major roles SROs perform as they collaborate with the school and community to keep students safe.<sup>1</sup>

First, SROs are law enforcement officers. SROs must have a working knowledge of and training in constitutional and state law, crime prevention and mitigation, interview and investigation techniques, advocacy within the juvenile justice system, patrol operations, and mandatory reporting. Schools benefit from this training, knowledge, and experience as SROs work to maintain a safe and secure environment. However, SROs are not school disciplinarians and do not get involved in efforts to enforce school rules. Rather, they work as visible presences to uphold the law and serve as positive role models.

Second, SROs serve as law-related counselors. SROs not only are trained in crime prevention, but also in mentoring, youth trauma, and student wellness. For example, SROs can connect at-risk students to needed social services, provide information on how a victim of domestic violence can obtain protection, and assist guidance counselors in conflict mediation efforts. The opportunities provided for such counseling consistently are identified as key to successful school resource officer programs.<sup>2</sup>

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<sup>1</sup> National Association of School Resource Officers, School Resource Officer Program Recommendations (July 2021), available at [https://www.nasro.org/clientuploads/resources/91667\\_NASRO\\_Best\\_Practices\\_FINAL.pdf](https://www.nasro.org/clientuploads/resources/91667_NASRO_Best_Practices_FINAL.pdf).

<sup>2</sup> Stephen Sawchuk, *School Resource Officers (SROs), Explained: Their Duties, Effectiveness, and More*, EDUCATIONWEEK (Nov. 16, 2021), available at <https://www.edweek.org/leadership/school-resource-officer-sro-duties-effectiveness>.

Finally, SROs are law-related educators. High-quality SROs are capable of teaching on a variety of subjects, including laws that affect student interactions, school safety, healthy decision-making, and other public safety topics. Through positive interaction with students, SROs promote responsible citizenship and educate students on the legal system. SROs can also lead in-service trainings for school personnel on crime prevention and justice issues.

**What certification or training is required for officers who regularly interact with students, educators, and schools?**

To work as a school resource officer, a person must meet the minimum basic training and educational requirements for employment as a law enforcement officer.

**What are some possible solutions to issues raised in the hearing?**

Most important, legislators should remember that school resource officers enter into the field to help people. SROs not only serve in the safety and crime prevention roles of a traditional law enforcement officer, but also must regularly meet with students, school counselors, social workers, and school administrators.

In order to perform the three roles as identified by the triad model described above, SROs must have discretion when deciding how to respond to an issue.<sup>3</sup> Ironically, balancing how much discretion to exercise in any given moment can be difficult because of how much time the officers spend with students, school administrators, and other educators. An extensive and widely-recognized research report conducted by the U.S. Department of Justice on the issue emphasizes that SROs' isolation from and differential responsibilities when compared to other law enforcement officers can create challenges when determining how to act in a threat situation.<sup>4</sup>

Increased resources and funding targeted towards strengthening SRO networks would go a long way towards improving the safety of schools. SROs should have regular interaction with their peers so that they can discuss best practices, benefit from peer-to-peer mentoring, and develop a community of practice.

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<sup>3</sup> Faye Elkins, *Safety and Crime Prevention in Schools: A Day in the Life of a School Resource Officer*, COMMUNITY POLICING DISPATCH (July 2017), available at [https://cops.usdoj.gov/html/dispatch/07-2017/safety\\_and\\_crime\\_prevention.html](https://cops.usdoj.gov/html/dispatch/07-2017/safety_and_crime_prevention.html).

<sup>4</sup> Peter Finn, Michael Shively, Jack McDevitt, William Lassiter, & Tim Rich, *Comparison of Program Activities and Lessons Learned among 19 School Resource Officer (SRO) Programs*, U.S. DEPARTMENT OF JUSTICE (March 2005), available at <https://www.ojp.gov/pdffiles1/nij/grants/209272.pdf>.