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# **Justice Department takes an interest in S.C.'s 'disturbing schools' law**

**BY PAUL BOWERS PBOWERS@POSTANDCOURIER.COM**

NOV 30, 2016



A North Charleston police officer parks his cruiser outside as he serves as the Security Resource Officer at Chicora Elementary School in North Charleston in this file photo from the 2015-2016 school year.

**FILE/GRACE BEAHM/STAFF**

The U.S. Department of Justice has taken an interest in a lawsuit challenging South Carolina's law against "disturbing schools." Police arrest a disproportionate number of African-American students on the charge, which encompasses all "obnoxious" behavior on school grounds.

Five days after The Post and Courier published an investigation of the law's impact on Aug. 5, the American Civil Liberties Union helped four arrestees and the local nonprofit group Girls Rock Charleston file a federal lawsuit challenging the constitutionality of the law's "broad reach and arbitrary and discriminatory enforcement."

On Monday, the Department of Justice filed a statement of interest in the case.

"Many students who are or will become productive members of society could be characterized as behaving in an 'obnoxious' or 'boisterous' manner, each of which is prohibited under the criminal statutes challenged in this case," the filing says.

"Protecting children's developmentally appropriate behavior from being inappropriately, arbitrarily, and discriminatorily criminalized is an important duty of the Department."

The disturbing schools law was written nearly a century ago to protect girls' schools from intruders. It was not initially enforced against students.

But since school resource officers became a more common sight following the 1999 shooting at Columbine High School in Littleton, Colo., it has consistently ranked among the most common reasons why police arrest students in South Carolina

## **schools.**

The filing highlights a few applications of the disturbing schools and disorderly conduct laws that have been described in the case's preliminary motions, including the arrest of a student who "jokes repeatedly in class; takes photographs of friends in a group ... or practices a loud breakdance routine."

The lawsuit names S.C. Attorney General Alan Wilson and 13 law enforcement agency leaders from across the state as defendants. The plaintiffs are seeking a court order that would stop police from enforcing the disturbing schools law. They also seek to prevent police from arresting elementary or middle school students on the charge of disorderly conduct.

Charleston attorney Sandy Senn represents Charleston Police Chief Greg Mullen, North Charleston Police Chief Eddie Driggers and Charleston County Sheriff Al Cannon as defendants in the case. Senn frequently represents public agencies and officials in South Carolina, and she said she has seen a surge of cases where the Department of Justice has sided with the ACLU since President Barack Obama took office.

The president requested a \$17 million budget increase for the DoJ's Civil Rights Division in 2010 and said the division was "once again prosecuting civil rights violations and employment discrimination."

"The only thing to be happy about when the Department of Justice steps into a case, as far as I'm concerned, is knowing that it will no longer be Obama's DoJ in January," said Senn, who also was elected as a Republican state senator this year.

Susan Dunn, legal director for the ACLU of South Carolina, said the filing provides a constitutional context to the case.

“There are people who want to reduce this to a battle between people who think there ought to be discipline in schools, and those who don’t, when it’s really about appropriate use of police power,” Dunn said. “It’s not that we want chaos in schools, it’s that arresting kids is the inappropriate way to teach them how to behave.”

The case’s next hearing is scheduled for Dec. 8 at 2:30 p.m. before U.S. District Judge C. Weston Houck in Charleston.

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Paul Bowers is an education reporter and father of three living in North Charleston. He previously worked at the Charleston City Paper, where he was twice named South Carolina Journalist of the Year in the weekly category.