CONSTITUTIONAL LAW — CORPORAL PUNISHMENT — FIFTH CIRCUIT REJECTS A CORPORAL PUNISHMENT CLAIM FOR TASING BY SCHOOL POLICE OFFICER. — *J.W. v. Paley*, 81 F.4th 440 (5th Cir. 2023).

In *Ingraham v. Wright*,[1] the Supreme Court cited Blackstone's description of "moderate correction" to analyze a teacher's paddling a student so severely that he was hospitalized.[2] Over four decades after *Ingraham*, the nature of violence characterized as corporal punishment has changed, but its effects are no less brutal. Recently, in *J.W. v. Paley*,[3] the Fifth Circuit affirmed the district court's grant of summary judgment in a case where a school police officer[4] repeatedly tased a disabled student to prevent him from exiting a school building.[5] The Fifth Circuit declined to distinguish between punishment by school officials and excessive force at the hands of school police officers.[6] But formalist considerations rooted in the Supreme Court's and Fifth Circuit's early cases on corporal punishment, as well as pragmatic considerations about the role of police in schools, warranted treating this officer differently from typical school officials.

In November 2016, seventeen-year-old Jevon Washington was enrolled at Mayde Creek High School in Texas's Katy Independent School District.[7] Washington had diagnosed "intellectual disabilities and emotional disturbance," which impacted his daily functioning, communication, and emotional regulation.[8] He therefore received accommodations, including access to a designated room (his "chill out" room) to regulate his emotions as needed.[9] On the day in question, another student allegedly ridiculed Washington during a card game.[10] According to a school staffer's unsworn statement, Washington became angry, punched the other student, and left the classroom.[11] He then tried to go to his chill

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[1] 430 U.S. 651 (1977).

[2] *Id.* at 657, 661.

[3] 81 F.4th 440 (5th Cir. 2023).

[4] Officer Paley is employed by the Katy Independent School District Police Department. Washington *ex rel.* J.W. v. Katy Indep. Sch. Dist., 390 F. Supp. 3d 822, 837 n.2 (S.D. Tex. 2019). He is a school-based law enforcement officer (SBLE), although the Fifth Circuit panel called him a "school resource officer" (SRO), *Paley*, 81 F.4th at 445, which usually refers to police officers provided to schools by external entities like local or county law enforcement agencies. *See* Joseph M. McKenna et al., *The Roles of School-Based Law Enforcement Officers and How These Roles Are Established: A Qualitative Study*, 27 CRIM. JUST. POL'Y REV. 420, 422 (2016). In this comment, "school police officer" refers generally to law enforcement stationed in schools, whether SBLEs or SROs.

[5] *See Paley*, 81 F.4th at 444.

[6] *See id.* at 452–54.

[7] *Id.* at 444.

[8] Opening Brief for Plaintiffs-Appellants at 4, *Paley*, 81 F.4th 440 (No. 21-20671), 2022 WL 878447, at *31.

[9] *Paley*, 81 F.4th at 445.

[10] *Id.*

[11] Washington *ex rel.* J.W. v. Katy Indep. Sch. Dist., 390 F. Supp. 3d 822, 837 n.2 (S.D. Tex. 2019).

out room to calm down.[12] Upon seeing the room in use, Washington became more agitated and headed toward the school exit.[13] Several school officials intercepted him there.[14]

Elvin Paley, an officer in the school district's police force, arrived at the exit soon thereafter, and his body camera captured the ensuing interaction.[15] Washington told school staff that he wanted to walk home to calm down, and he attempted to open the door as a security guard blocked his exit.[16] At this point, Paley "pushed up against" Washington and told him, "[y]ou are not going to get through this door, just relax."[17] Paley stepped aside while another school police officer and the security guard attempted to hold Washington inside the doorframe.[18] Paley instructed the adults to "let [Washington] go."[19] As Washington walked through the door, Paley fired his taser.[20] Washington fell to his knees, and Paley continued to tase him for approximately fifteen seconds, even as Washington "was lying facedown on the ground and not struggling."[21] Following the tasing, Paley told Washington, "I did not want to tase you, but you do not run shit around here, you understand?"[22]

The altercation severely traumatized Washington. He urinated, defecated, and vomited on himself after being tased; was handcuffed while a school nurse and paramedics were summoned; and was later transported to a hospital.[23] He thought he was under arrest, struggled to breathe, and "felt like he was going to die."[24] In the aftermath, Washington stayed home from school for several months and "suffer[ed] from intense anxiety and PTSD."[25]

Washington[26] sued the school district and Paley in the U.S. District Court for the Southern District of Texas, asserting claims under the

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[12] *Paley*, 81 F.4th at 445.
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] *Id.* The district court found that Paley tased Washington, then five seconds later began to "drive stun" Washington on his torso and upper back, continuing after Washington was on the ground. Washington *ex rel.* J.W. v. Katy Indep. Sch. Dist., 390 F. Supp. 3d 822, 828 (S.D. Tex. 2019). A taser deployed to drive-stun an individual "uses pain to get compliance." Sima Patel, *How Getting Struck by a TASER Affects the Human Body*, ABC NEWS (May 29, 2018, 5:35 PM), https://abcnews.go.com/Health/struck-taser-affects-human-body/story?id=55503687 [https://perma.cc/YZ9M-V3N5].
[22] *Paley*, 81 F.4th at 451.
[23] *Id.* at 445–46; *Washington*, 390 F. Supp. 3d at 828–29.
[24] *Washington*, 390 F. Supp. 3d at 828.
[25] *Id.* at 829 (alteration in original).
[26] The litigation began when Washington was a minor, and his mother initially filed on his behalf. *See Paley*, 81 F.4th at 446. This comment will refer to the plaintiffs as "Washington" throughout for simplicity.

Americans with Disabilities Act of 1990[27] (ADA), section 504 of the Rehabilitation Act of 1973,[28] and 42 U.S.C. § 1983 (for use of excessive force in violation of the Fourth Amendment and for violations of his Fourteenth Amendment rights, including his substantive due process right to bodily integrity).[29]

The district court denied Paley's motion for summary judgment on the Fourth Amendment claim.[30] On interlocutory appeal, the Fifth Circuit ruled Paley had qualified immunity on that claim, and granted him summary judgment.[31] The district court also granted the defendants' motion for summary judgment on the ADA and section 504 claims, and the other constitutional claims.[32] In evaluating the ADA and section 504 claims, the district court held that the Individuals with Disabilities Education Act[33] (IDEA) requires plaintiffs seeking relief that is *also* available under the IDEA to exhaust their administrative remedies under that statute prior to bringing those claims in court.[34] Washington had filed a petition pursuant to the IDEA procedures with a state agency, but he had not exhausted those procedures, and the IDEA therefore precluded the district court from hearing the ADA and section 504 claims.[35] Washington appealed the district court's grants of summary judgment on the ADA, section 504, and Fourteenth Amendment substantive due process claims.[36]

The Fifth Circuit then affirmed. Writing for the majority,[37] Judge Willett held that the IDEA exhaustion requirement was inapplicable[38] but agreed with the district court that Washington's claims failed on the merits.[39] Section 504 and the ADA both prohibit discriminating against individuals with disabilities or otherwise excluding them from public programs, services, or activities.[40] The Fifth Circuit's liability standards are identical for both statutes and require a showing of intentional

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[27] 42 U.S.C. §§ 12101–12213, 47 U.S.C. § 225.

[28] 29 U.S.C. § 794.

[29] *Washington*, 390 F. Supp. 3d at 830, 837–38.

[30] *Id.* at 843.

[31] *See* J.W. v. Paley, 860 F. App'x 926, 927, 930 (5th Cir. 2021) (per curiam).

[32] *Paley*, 81 F.4th at 446.

[33] 20 U.S.C. §§ 1400–1482.

[34] *Washington*, 390 F. Supp. 3d at 835–36.

[35] *Id.* at 836–37. Washington's petition contained a request for a hearing pursuant to the IDEA and other statutory and constitutional claims. *Id.* at 836. The district court held that exhaustion required "'findings and decision' by the administrative body." *Id.* at 837 (quoting Reyes v. Manor Indep. Sch. Dist., 850 F.3d 251, 256 (5th Cir. 2017)). Because Washington's petition was dismissed for untimeliness, it did not meet this standard. *Id.*

[36] *Paley*, 81 F.4th at 446.

[37] Judge Willett was joined by Judge Engelhardt.

[38] *Paley*, 81 F.4th at 448 (citing Luna Perez v. Sturgis Pub. Schs., 143 S. Ct. 859, 865 (2023)) (holding that exhaustion did not apply to Washington's suit because it sought compensatory and punitive damages, remedies not available under the IDEA).

[39] *Id.* at 449.

[40] *Id.*; *see also* Melton v. Dall. Area Rapid Transit, 391 F.3d 669, 671–72, 676 (5th Cir. 2004).

discrimination.[41] Washington argued two theories over the course of the litigation.[42] First, he contended that Paley failed to accommodate his disability.[43] Second, he posited that *because* of his disability, Paley refused to let him leave the school by using a taser, and that Paley would not have similarly restrained a nondisabled student.[44] The majority rejected both theories, finding Washington had not "create[d] a genuine dispute on the issue of whether Officer Paley *intentionally discriminated* against [Washington] by reason of his disability" and had instead shown only differential treatment at most.[45]

Last, Judge Willett held that the Fifth Circuit's precedent in *Fee v. Herndon*[46] was controlling, and Washington therefore could not state a substantive due process claim for excessive corporal punishment.[47] Under *Fee*, students may not state claims for excessive corporal punishment if the state offers alternative legal remedies.[48] Whether an act constitutes corporal punishment turns on "whether the school official intended to discipline the student for the purpose of maintaining order and respect or to cause harm to the student for no legitimate pedagogical purpose."[49] This standard makes the Fifth Circuit the only circuit that has weighed in on the issue to deny any constitutional remedy for excessive school corporal punishment.[50] While Washington had argued that the tasing was not corporal punishment because Paley was "not trying to punish or discipline [Washington] for an infraction," the court held that Paley was "intend[ing] to assert order or control over [Washington] for a legitimate pedagogical purpose" of "maintaining order."[51] Because

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[41] *Paley*, 81 F.4th at 449. The only difference between the two standards is the causation requirement. *Id.*

[42] *See* Washington *ex rel.* J.W. v. Katy Indep. Sch. Dist., 390 F. Supp. 3d 822, 832 (S.D. Tex. 2019); *Paley*, 81 F.4th at 450.

[43] *See Washington*, 390 F. Supp. 3d at 832.

[44] *See* Opening Brief for Plaintiffs-Appellants, *supra* note 8, at 31.

[45] *Paley*, 81 F.4th at 450–51. Judge Willett went so far as to suggest that Paley's efforts to restrain Washington were rooted in "*consideration* of the vulnerabilities surrounding [Washington's] disability," rather than "indifference, . . . ill-will or discriminatory animus." *Id.* at 451.

[46] 900 F.2d 804 (5th Cir. 1990).

[47] *Paley*, 81 F.4th at 454.

[48] *Fee*, 900 F.2d at 806.

[49] *Paley*, 81 F.4th at 453 (quoting Flores v. Sch. Bd. of DeSoto Par., 116 F. App'x 504, 511 (5th Cir. 2004) (per curiam)).

[50] *See* Lekha Menon, Note, *Spare the Rod, Save a Child: Why the Supreme Court Should Revisit* Ingraham v. Wright *and Protect the Substantive Due Process Rights of Students Subjected to Corporal Punishment*, 39 CARDOZO L. REV. 313, 335–38 (2017) (listing the Second, Third, Fourth, Sixth, Eighth, Tenth, and Eleventh Circuits as permitting claims for a substantive due process violation for excessive corporal punishment). The Seventh and Ninth Circuits likewise find a constitutional violation but analyze claims under the Fourth Amendment. *Id.* at 338. As a result, public school students in the Fifth Circuit are uniquely vulnerable to horrific violence in schools. *See* Recent Case, T.O. v. Fort Bend Independent School District*, 2 F.4th 407 (5th Cir. 2021)*, 135 HARV. L. REV. 1989, 1989 (2022).

[51] *Paley*, 81 F.4th at 453.

Texas provides adequate state law remedies,[52] the constitutional claim was precluded.

Judge Graves dissented in part. He agreed with the majority that Washington's IDEA claims were not subject to an exhaustion requirement.[53] But he argued that the ADA and section 504 claims were viable on the merits and that a sufficient dispute of material fact existed to overcome a motion for summary judgment.[54]

J.W. v. Paley is the first binding Fifth Circuit case to analyze a school police officer's use of force as corporal punishment[55] — and therefore the first to accord school police the circuit's generous legal treatment of corporal punishment. In its decision, the panel did not distinguish between the constitutionality of corporal punishment by school officials and excessive force at the hands of school police officers. As a result, school police officers can find cover under the court's relaxed definition of what constitutes a legitimate pedagogical or educational goal,[56] when the Fifth Circuit's justifications for that deference do not apply equally to law enforcement and school officials.

Constitutional justifications for corporal punishment are rooted in historical recognition of a unique relationship between teachers and students. In *Ingraham*, the Supreme Court looked to the common law privilege justifying teacher-inflicted corporal punishment in both its Eighth Amendment[57] and procedural due process[58] analyses. The Court referenced Blackstone, who wrote that, at common law, a parent could "lawfully correct his child" and therefore "delegate part of his parental authority . . . to the tutor or schoolmaster of his child; who is then *in*

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[52] *See, e.g.*, *Fee*, 900 F.2d at 808 (holding that Texas's criminal penalties and tort remedies were adequate). The Fifth Circuit has also held that Mississippi and Louisiana afford adequate remedies for excessive corporal punishment. *See* Coleman v. Franklin Par. Sch. Bd., 702 F.2d 74, 76 (5th Cir. 1983) (per curiam); Clayton *ex rel.* Hamilton v. Tate Cnty. Sch. Dist., 560 F. App'x 293, 297 (5th Cir. 2014) (citing Scott v. Smith, 214 F.3d 1349, 1349 (5th Cir. 2000) (per curiam) (unpublished table decision)).

[53] *Paley*, 81 F.4th at 454–55 (Graves, J., dissenting in part).

[54] *Id.* at 455.

[55] The only other Fifth Circuit case to analyze law enforcement actions in the context of school corporal punishment was an unpublished, nonprecedential case involving a D.A.R.E. officer who allegedly slammed a kindergartener to the ground. Campbell v. McAlister, No. 97-20675, 1998 WL 770706, at *1 (5th Cir. Oct. 20, 1998) (per curiam). The panel in *Paley* recognized that *McAlister* was not published precedent. *Paley*, 81 F.4th at 454.

[56] The Fifth Circuit has defined corporal punishment to include ordering excessive exercise, *see* Moore v. Willis Indep. Sch. Dist., 233 F.3d 871, 875 (5th Cir. 2000); throwing a student against a wall, *see* Flores v. Sch. Bd. of DeSoto Par., 116 F. App'x 504, 506, 511 (5th Cir. 2004) (per curiam); and holding a student in a chokehold for several minutes, *see* T.O. v. Fort Bend Indep. Sch. Dist., 2 F.4th 407, 412, 415 (5th Cir. 2021). The Fifth Circuit's definition is not without limits, however. *See* Doe v. Taylor Indep. Sch. Dist., 15 F.3d 443, 452 (5th Cir. 1994) (noting there is no legitimate state interest or educational objective in sexually molesting a student).

[57] *See* Ingraham v. Wright, 430 U.S. 651, 659–63 (1977).

[58] *See id.* at 674–75.

loco parentis."[59] The cases establishing the Fifth Circuit's corporal punishment substantive due process test echoed the Supreme Court's acknowledgment that schools' right to use corporal punishment was a "common law principle" that "predate[d] the American Revolution."[60] Even as courts have shifted toward a view of public education "more consonant with compulsory education laws,"[61] they have retained a vision of school officials and students' unique relationship and afforded corresponding flexibility in constitutional norms.[62]

The *Paley* court failed to explain how this reasoning could apply to school police officers, and whether any comparable, historically recognized relationship exists between them and students.[63] Given that police officers have been stationed in schools only since the mid-twentieth century at the earliest,[64] they cannot rely on centuries of recognized and legally protected practices to justify their uses of force against students.[65] The *Paley* opinion contrasts with other courts' decisions, which examined objective indicators of the relationship between school police officers and students.[66] Without analogous justifications, whether from history, the common law, or other sources, extending the corporal punishment privilege to school police officers cuts the rule loose from its doctrinal mooring.

Beyond these distinctions, the pragmatic considerations underlying corporal punishment jurisprudence and the more deferential approach toward school officials' actions do not extend to police officers' conduct. In carving out constitutional exceptions for school officials, the Supreme Court has expressed concern about burdening overextended school officials with formal legal tests. In the Fourth Amendment context, for

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[59] 1 WILLIAM BLACKSTONE, COMMENTARIES *451–53; *see also Ingraham*, 430 U.S. at 661 (quoting excerpts from Blackstone).

[60] Fee v. Herndon, 900 F.2d 804, 807 (5th Cir. 1990) (citing *Ingraham*, 430 U.S. at 661).

[61] *Ingraham*, 430 U.S. at 662.

[62] *See* New Jersey v. T.L.O., 469 U.S. 325, 340 (1985) ("[W]e have respected the value of preserving the informality of the student-teacher relationship." (citing Goss v. Lopez, 419 U.S. 565, 582–83 (1975); *Ingraham*, 430 U.S. at 680–82)); Tenenbaum v. Williams, 193 F.3d 581, 607 (2d Cir. 1999) ("Public schools have a relationship with their students that is markedly different from the relationship between most governmental agencies . . . and the children with whom they deal.").

[63] The panel's analysis of how, if at all, Paley's law enforcement status affected the substantive due process claim was limited to a single sentence analogizing to an unpublished and nonprecedential case also involving law enforcement. *Paley*, 81 F.4th at 454 ("Like Officer McAlister, Officer Paley is a law enforcement officer." (citing Campbell v. McAlister, No. 97-20675, 1998 WL 770706, at *1 (5th Cir. Oct. 20, 1998) (per curiam))).

[64] *School Resource Officers — A Brief History*, A.B.A., https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/policing-in-schools/school-resource-officers-a-brief-history.pdf [https://perma.cc/59ZQ-AD4E].

[65] *Cf. Fee*, 900 F.2d at 807 (noting common law acceptance of corporal punishment by teachers).

[66] *See In re* R.H., 791 A.2d 331, 334 (Pa. 2002) (finding school police officers were acting as law enforcement and required to give *Miranda* warnings in part because they were "explicitly authorized to exercise the same powers as municipal police" and wore uniforms and badges); State v. Meneese, 282 P.3d 83, 87–88 (Wash. 2012) (holding that a uniformed police officer who arrested and handcuffed a student was acting as law enforcement for Fourth Amendment purposes).

example, the Supreme Court declined to require that school officials have probable cause to search a student's items in part because of concerns that the legal test was unduly complex.[67] School police officers are law enforcement officers, and therefore trained on use of force[68] and the probable cause standard,[69] and required to apply some legal tests.[70] The concern and deference offered to school officials does not apply to sworn law enforcement officers.

Another consideration, invoked by the Supreme Court in *Ingraham*[71] and echoed in Fifth Circuit opinions,[72] counsels against judicial involvement in routine school discipline. When considering *Ingraham v. Wright*[73] prior to the Supreme Court's review of the case, the en banc Fifth Circuit held: "We think it a misuse of our judicial power to determine . . . whether in a particular instance of misconduct five licks would have been a more appropriate punishment than ten licks."[74] This rationale does not logically extend to school police officers. Granting remedies for unconstitutional conduct by police outside of schools is emphatically within the ambit of federal courts.[75] Other circuits' decisions demonstrate it is both workable and a proper judicial function to hear such cases. Federal courts regularly evaluate claims against school police officers, either on excessive corporal punishment or excessive force grounds[76] — including for the very act in this case, tasing.[77] And in the

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[67] *See T.L.O.*, 469 U.S. at 343 ("[T]he [reasonable suspicion] standard will spare teachers and school administrators the necessity of schooling themselves in the niceties of probable cause."); *Ingraham*, 430 U.S. at 680 ("School authorities may well choose to abandon corporal punishment rather than incur the burdens of complying with [additional] procedural requirements.").

[68] *See* Ion Meyn, *The Invisible Rules that Govern Use of Force*, 2021 WIS. L. REV. 593, 600 (describing how police department use of force trainings invoke the Supreme Court's decision in Graham v. Connor, 490 U.S. 386 (1989)).

[69] *See* JUSTIN DRIVER, THE SCHOOLHOUSE GATE: PUBLIC EDUCATION, THE SUPREME COURT, AND THE BATTLE FOR THE AMERICAN MIND 208 (2018).

[70] *See* J.D.B. v. North Carolina, 564 U.S. 261, 281 (2011) (holding that SROs must incorporate a child's age into their analysis of whether a child is in custody and a *Miranda* warning is required).

[71] *See Ingraham*, 430 U.S. at 681–82 ("Assessment of the need for, and the appropriate means of maintaining, school discipline is committed generally to the discretion of school authorities subject to state law.").

[72] *See, e.g.*, Ingraham v. Wright, 525 F.2d 909, 920 (5th Cir. 1976) ("Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems . . . ." (quoting Epperson v. Arkansas, 393 U.S. 97, 104 (1968))), *aff'd*, 430 U.S. 651 (1977).

[73] 525 F.2d 909, *aff'd*, 430 U.S. 651 (1977).

[74] *Id.* at 917; *see also* Fee v. Herndon, 900 F.2d 804, 809 (5th Cir. 1990) (noting the court had "consistently avoided any inquiry into whether five, ten, or twenty swats invokes the fourteenth amendment").

[75] *See, e.g.*, Thompson v. Clark, 142 S. Ct. 1332, 1341 (2022).

[76] *See* Richmond v. Badia, 47 F.4th 1172, 1186 (11th Cir. 2022) (denying qualified immunity on a Fourth Amendment claim against a school police officer who threw a student to the ground without justification); J.I.R. *ex rel.* Robinson v. Normandy Schs. Collaborative, No. 19 CV 2464, 2020 WL 820330, at *4 (E.D. Mo. Feb. 19, 2020) (denying a school police officer's motion to dismiss on a substantive due process excessive corporal punishment case).

[77] *See* Brown *ex rel.* J.B. v. Lower Swatara Twp. Police Dep't, No. 23-CV-373, 2023 WL 5512232, at *7 (M.D. Pa. Aug. 25, 2023) (allowing a student's Fourth Amendment claim for tasing by an SRO to proceed past a motion to dismiss).

nonschool context, a police officer's tasing of a disabled individual would be straightforward grounds for a § 1983 federal lawsuit against that officer.[78]

The distinction between school police officers and other school officials is not a bright line, a fact recognized by the muddled lower court splits on other constitutional issues regarding law enforcement actions in schools.[79] The Fifth Circuit's corporal punishment cases demonstrate that police and school official violence toward students often look remarkably similar.[80] But the Fifth Circuit's own test is rooted in deference toward specific actors, school officials, afforded particular discretion because of their status. The panel failed to address these considerations in *Paley*.[81]

Paley represents a missed opportunity to draw a line in the sand differentiating school police officers from other school officials when evaluating corporal punishment. The number of police officers in schools has risen dramatically since the Supreme Court's *Ingraham* decision,[82] and that surge is associated with an increase in disciplinary measures like suspensions, expulsions, and arrests in schools.[83] As police presence in schools becomes more pervasive, *Paley* signals that students cannot seek legal protection from the Fifth Circuit.

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[78] *See* Oliver v. Fiorino, 586 F.3d 898, 906, 908 (11th Cir. 2009) (denying qualified immunity to police officers who repeatedly and fatally tased a man).

[79] *See, e.g.*, DRIVER, *supra* note 69, at 207 n.66 (describing lower courts' disagreement on whether SROs conducting student searches must show reasonable suspicion or probable cause).

[80] *See Paley*, 81 F.4th at 453 (comparing Paley's actions to those of a teacher in a recent Fifth Circuit case, which also involved an attempt to keep a student from going through a door for the "legitimate pedagogical purpose" of "maintaining order").

[81] Although briefs in the case did not argue that *Fee*'s test should be modified for school police officers, both plaintiffs and amici curiae invoked Paley's position as a law enforcement officer to argue that his actions were not protected corporal punishment. *See* Opening Brief for Plaintiffs-Appellants, *supra* note 8, at 39–40. *See generally* Brief of the ACLU et al. as Amici Curiae Supporting Appellees' Petition for Rehearing En Banc at 12, J.W. v. Paley, 860 F. App'x 926 (5th Cir. 2021) (No. 19-20429), 2021 WL 3887096 (arguing that the substantive due process corporal punishment test is wholly inapplicable to school resource officers).

[82] Chelsea Connery, *The Prevalence and the Price of Police in Schools*, UCONN: NEAG SCH. EDUC. (Oct. 27, 2020), https://education.uconn.edu/2020/10/27/the-prevalence-and-the-price-of-police-in-schools [https://perma.cc/G4EL-RWD5].

[83] *See* Margaret Hartley, *Research Shows Having Police in Schools Results in Fewer Fights, But Harsher Discipline*, UNIV. ALB. (July 25, 2023), https://www.albany.edu/news-center/news/2023-research-shows-having-police-schools-results-fewer-fights-harsher-discipline [https://perma.cc/X5GD-9DMA]. Although there is limited data on the relationship between school police officers and police violence against students, data from the Advancement Project indicates a rise in police assaults at schools over the last decade. *See* TYLER WHITTENBERG ET AL., ADVANCEMENT PROJECT & ALL. FOR EDUC. JUST., #ASSAULTATSPRINGVALLEY: AN ANALYSIS OF POLICE VIOLENCE AGAINST BLACK AND LATINE STUDENTS IN PUBLIC SCHOOLS 6 (2022), https://advancementproject.org/resources/assaultatreport [https://perma.cc/R8KB-4W8V].