

“Reasonable Suspicion” in the Digital Age

The relationship between a person’s right to privacy and the government’s need to protect its citizens has been hotly contested since the Constitution was first written. Individuals may think the issue is black and white. However, the intricacies of a citizen’s Fourth Amendment rights make the issue controversial, especially when it comes to a student’s right to privacy. Students, as minors receiving a government-funded education, pose a unique situation when it comes to an individual’s liberties.

The discussion has only grown more complex over time. New technology has swept our society, and has settled into the hands of young people. When these young people bring their personal devices into the classroom, their right to privacy becomes all the more controversial.

If a student brings a cell phone to school, how is that cell phone treated in regards to Fourth Amendment rights? When does a school have the right to search a student’s phone? With this essay, I will explain why a school does not have the legal right to search a student’s cell phone after confiscation unless they have reasonable suspicion that the safety or learning environment of the school is being threatened. I will prove this definitively, using evidence from landmark cases from around the country.

To analyze the complexity of search and seizure, one must start at the basic level: the United States Constitution. The Fourth Amendment states that “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated” (U.S Amend IV). This means that citizens of this country have a right to privacy, unless the court issues a warrant.

One of the first tests of this Amendment was in 1914 with *Weeks v. United States*. Mr. Fremont Weeks was searched by police, who suspected he was sending lottery tickets illegally. The police used Weeks' extra hidden key to break into his home without a warrant (Oyez). In this case, the Supreme Court decided the police were wrong to search Weeks, and from that point on, all searches had to be justified by 'probable cause': "In a criminal investigation, in order for a search to be legal, there must be probable cause" (Judicial Learning Center). This was a very important case for the discussion of the Fourth Amendment, because it set a benchmark that evidence must be produced to justify a search of a citizen's property.

I agree with this wholeheartedly; an individual must have probable cause against them in order to warrant a breach in their right to privacy. However, the courts have decided that it is not so simple for students.

Since students are generally minors and are receiving a federally funded education, their rights in the classroom are laid out differently by the court, especially regarding search and seizure. This was defined in 1985, with *New Jersey v. T.L.O.* A fourteen year-old high school student was caught smoking in her school, which she lied about to school disciplinarians. Her purse was searched against her will. Inside, they found cigarettes and pipes, and the evidence was used against her in juvenile court (Oyez). Eventually, the Supreme Court decided that students do not have the same rights as the general public, for the reasons I listed. They decided that probable cause and a warrant are not needed for the search of a student, only 'reasonable suspicion': "Schoolchildren have legitimate expectations of privacy.... But striking the balance between schoolchildren's legitimate expectations of privacy and the school's equally legitimate need to maintain an environment in which learning can take place requires some easing of the

restrictions to which searches by public authorities are ordinarily subject” (Judicial Learning Center).

This decision by the Supreme Court set a very different set of standards for students versus the public. Students can be searched if there is reasonable cause that the safety or learning environment of the school is being threatened. I very much agree with the text of this decision, and it stands as my personal stance on search and seizure in schools.

However, I acknowledge that the wording is vague and up to interpretation. After reading the New Jersey v. T.L.O decision, I was curious how schools define ‘reasonable suspicion,’ and what they believe disrupts the safety or learning environment of the school. Interested, I consulted my school’s Assistant Principal Matthew Dass, who deals with school discipline.

Talking to Mr. Dass was interesting. He told me that most of the time he searches a phone, it is because multiple sources came forward with claims that someone was cyberbullying, or making physical threats online or through text. The school believes that personal accounts should be treated as reasonable suspicion, and that bullying affects both the safety and the learning environment of students. I was pleasantly surprised that we agreed so much on this complex issue. I believe the way my school handles discipline is in line with my reasonable suspicion, safety, and learning environment standards based on past court decisions.

While I was satisfied with my school’s interpretation of the legal language, the vagueness of the decisions’ wording leads to many different interpretations by all the schools in the country. As I did more research into court cases, I was pleased to find that a particular landmark decision made in the last decade agreed with my interpretation, adding validity to my argument.

This landmark case was *G.C. v. Owensboro Public Schools* in 2013. A high school student was caught texting in class, so his cell phone was confiscated and then searched. The student sued the school district, claiming that his cell phone was rightfully confiscated, but it did not need to be searched through. After many trials, the Sixth Circuit New Jersey Appeals Court decided that the student's cell phone should not have been searched. The court cited the parameters of *New Jersey v. T.L.O* in its decision: "A search is justified at its inception if there is reasonable suspicion that a search will uncover evidence of further wrongdoing or of injury to the student or another. Not all infractions involving cellphones will present such indications" (Lexology).

I was happy to hear that the court agreed with my interpretation. The student was wrongfully searched, because what he was doing did not threaten the safety or environment of his school, nor did the school have reasonable suspicion that there was incriminating evidence on his phone.

My position is that a school cannot search a student's cell phone unless they reasonably suspect that the content of the phone will help them provide a safer learning environment for kids. Students need to understand their complex rights to privacy so they can protect themselves and others from unfair searches. However, they also need to recognize that a school can search their phone within certain parameters, so they should keep damaging information off of their cell phone, or keep their phone at home.

After researching both online, with teachers, and with my school disciplinary staff, I stand firm that a school does not have the legal right to search a student's cell phone after confiscation unless they have reasonable suspicion that the safety or learning environment of the

school is being threatened. This is a complicated legal issue, but that is the clear message that has come out of over a century of legal case study.

Word Count: 1,223

Works Cited

G.C. v. Owensboro Public Schools. Sixth Circuit Appeals Court. 2013. *Lexology*. Globe Business Media Group, 23 Apr. 2013. Web. 2 Jan. 2017.

New Jersey v. T.L.O. United States Supreme Court. 1985. *Oyez*. 2017. Web. 2 Jan. 2017.

United States Constitution. Amend IV.

Walsh, Mark. "Court Rejects School's Search of Student's Cell Phone." *EducationWeek.org*. 28 March, 2013. Web. 17 Jan, 2017.

Weeks v. United States. United States Supreme Court. 1914. *Oyez*. 2017. Web. 5 Jan. 2017.