

Carly Dammann

carlydammann24@gmail.com

When children are required to go to school, administrators need to provide a level of security for the students. Considering this, administrators need to provide safety and a safe school environment. For the security of schools, the education system in America does not follow the Probable Cause Standard that the Fourth Amendment institutes. Probable cause is defined by Cornell Law as “a requirement found in the Fourth Amendment that must usually be met before police make an arrest, conduct a search, or receive a warrant.” Instead, schools implement the Reasonable Suspicion standard, which is similar to Probable Cause, but lowers the bar for what is considered dangerous or necessary to investigate. The Reasonable Suspicion standard started with the Supreme Court case *New Jersey vs. T.L.O* in 1985. The court case was based off of the premise of a teenage girl (T.L.O) who had been caught smoking in the ladies restroom. When she denied this fact, the principal searched her purse and found that she was also involved in selling marijuana. T.L.O claimed the principal had no grounds to search her bag. However, the Supreme Court ruled against T.L.O and changed the standard that schools had to follow to reasonable suspicion. However, the rulings of T.L.O are starting to become outdated with the invention of smart cellular devices. There have been problems with the privacy of student’s cell phones and personal devices being searched. There are problems with both the probable cause standard and the reasonable suspicion standard, but privacy violations should be taken into account when discussing technological devices in schools.

Since schools are mandatory for all youth in the United States, schools need to provide a safe environment for their students. It is much easier to keep the environment student friendly with reasonable suspicion. First, drug use is stifled with reasonable suspicion. Drugs are a major

problem in America's schools. According to Eileen Fitzgerald an Illinois Attorney, "The 17th annual back-to-school survey just released by the National Center on Addiction and Substance Abuse focused this year on use at school -- and it's not good. For the sixth consecutive year, 60 percent or more of teens in the survey reported that drugs are used, kept or sold at schools and 52 percent said there's a place on or near school grounds where students go during the day to use drugs, drink or smoke cigarettes." If probable cause were implemented into schools, the capability of those searching students would be diminished. The St. Louis Law Review states, "A probable cause standard would frustrate the fulfillment of the resource officer's duty, make it harder for schools to keep contraband off school property, and make it easier for students to conceal drugs or weapons at school. This high standard will not mitigate drug and gun problems, but will make them worse." Furthermore, after examining a multitude of statements and studies, James Kearney of Loyola Law states "These sentiments capture the real threat drugs have on America's school children and supports the public policy argument behind limiting a student's 4th Amendment rights in schools." If schools followed the probable cause standard, administrator's' ability to protect the school from things like drugs would be at a disadvantage. Second, students would be more likely to commit crimes inside the school with probable cause. The US Department of Justice, in summarizing their collected evidence surrounding deterrence, found that "Research shows clearly that the chance of being caught is a vastly more effective deterrent than even draconian punishment." Switching to probable cause would greatly reduce this deterrence factor. After the change was made, students would clearly see that it had become harder for School Resource Officers and teachers to both search and charge students with wrongdoing. The U.S Department of Justice goes on to say, "Certainty refers to the likelihood of being caught and punished for the commission of a crime. Research underscores the more

significant role that certainty plays in deterrence than severity — it is the certainty of being caught that deters a person from committing crime, not the fear of being punished or the severity of the punishment. Effective policing that leads to swift and certain (but not necessarily severe) sanctions is a better deterrent than the threat of incarceration.” Thus, this chance of being caught will be perceived to have gone down, and as a result, crime in schools will increase. This crime increase would reduce safety in schools. Staying in reasonable suspicion helps the school maintain a safe environment.

With new issues of technology privacy being invaded, it’s important to weigh in the idea of switching schools back to probable cause. Under the reasonable suspicion standard, student’s privacy is being violated. According to Justice David Souter “The issue here is whether a 13-year-old student’s Fourth Amendment right was violated when she was subjected to a search of her bra and underpants by school officials acting on reasonable suspicion that she had brought forbidden prescription and over-the-counter drugs to school.” Denying students expected privacy goes beyond mere discomfort. According to Bruce Schneier, a Fellow at the Berkman Center for Internet and Society at Harvard Law School, “Privacy protects us from abuses by those in power... if we are observed in all matters, we are constantly under threat of correction, judgment, criticism, even plagiarism of our own uniqueness.” By implementing a higher search standard, this privacy can protected to the same standard as the rest of the US. TLO is now violating of student privacy after the advancement of technology. Cell phones are highly personal tools with much more information stored on them than what was previously conceived as possible. Sean Cooke of the Capital University Law Review states “The lack of clarity about the appropriate standard for searches of student's’ personal electronic devices, combined with billowing pressure on schools to combat cyberbullying, drugs, and violence, leaves schools

stretching to police their students without clear guidelines. As the Court determined in Redding, the doctrine of qualified immunity insulates school officials from damages claims when such a lack of clarity clouds their conduct. Therefore, school officials have an incentive to make even highly intrusive searches of student's' personal electronic devices.” This holds the large negative impact of privacy violation.

Taking into account the pros and cons of both reasonable suspicion and probable cause, it is logical to claim that the reasonable suspicion standard is important for schools to maintain. With the reasonable suspicion standard, drugs are easier to search for and students will be less likely to bring in weapons. However, the privacy violations cannot be tossed to the side. New Jersey vs. T.L.O. is becoming out of date with the increased usage of cellular devices and personal electronics. The solution to this problem is to keep reasonable suspicion, but hold teachers to a strict search method when it comes to technology. For example, if a student is using his/her phone and it is against the class policy, the teacher can take away the phone, but cannot search the phone for signs of cheating. On the other hand, if a teacher notices a student researching weapons, they should be aloud to search their device for evidence of a possible school attack. There is a fine line, which the teachers would have to navigate themselves. However, these steps are necessary to take if both fourth amendment rights and safety want to be taken into account in schools.

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