Foundation Briefs

September/October 2016 Brief

Resolved: In United States public K-12 schools, the probable cause standard ought to apply to searches of students.

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Definitions

Explanation of Probable Cause. ABH

Wex Legal Dictionary. "Probable Cause." Cornell University Law School. Web. Accessed August 18, 2016.

Probable cause is a requirement found in the Fourth Amendment that must usually be met before police make an arrest, conduct a search, or receive a warrant. **Courts usually find probable cause when there is a reasonable basis for believing that a crime may have been committed** (for an arrest) **or when evidence of the crime is present in the place to be searched (for a search).** Under exigent circumstances, probable cause can also justify a warrantless search or seizure. Persons arrested without a warrant are required to be brought before a competent authority shortly after the arrest for a prompt judicial determination of probable cause.

Probable cause dictates that police must have reasonable suspicion ("probable cause") of a crime in order to search or arrest people.

SCOTUS Definition of Probable Cause. ABH

Wex Legal Dictionary. "Probable Cause." Cornell University Law School. Web. Accessed August 18, 2016.

Although **the Fourth Amendment** states that "no warrants shall issue, but upon probable cause", it **does not specify what "probable cause" actually means**. The Supreme Court has attempted to clarify the meaning of the term on several occasions, while recognizing that probable cause is a concept that is imprecise, fluid and very dependent on context. **In Illinois v. Gates, the Court favored a flexible approach, viewing probable cause as a "practical, non-technical" standard that calls upon the "factual and practical considerations of everyday life on which reasonable and prudent me**n [...] act".1 Courts often adopt a broader, more flexible view of probable cause when the alleged offenses are serious.

The Supreme Court has given probable cause a very flexible standard by recognizing that it is based on how reasonable people would view the situation at hand.

Current status of searches in public schools is vague. ABH

Ehlenberer, Kate [Assistant Executive Director, Commonwealth Educational Policy Institute, Virginia Commonwealth University]. "The Right to Search Students." Educational Leadership. 2002. Web. Accessed August 18, 2016.

Students in U.S. public schools have the Fourth Amendment right to be free from unreasonable searches. This right is diminished in the school environment, however, because of the unique need to maintain a safe atmosphere where learning and teaching can occur. Schools must strike a balance between the student's right to privacy and the need to maintain school safety.

The courts have recently expanded the right of school officials to conduct student searches, resulting in part from recent acts of school violence and heightened public scrutiny. A search that was illegal 20 years ago now may be a legal search. **Unfortunately, no definitive test exists for determining what constitutes a legal search. Moreover, what may be legal in one jurisdiction could be illegal in another locality because search law is so fact- and context-specific. This vagueness leaves teachers, administrators, policymakers, and school security and law enforcement personnel wondering what constitutes a legal search of a student in a public school.**

While the courts have expanded the right of schools officials to search students, there is still a lack of universal clarity and uniformity for applying these laws.

New Jersey v. T.L.O. explained. ABH

Ehlenberer, Kate [Assistant Executive Director, Commonwealth Educational Policy Institute, Virginia Commonwealth University]. "The Right to Search Students." Educational Leadership. 2002. Web. Accessed August 18, 2016.

The Fourth Amendment to the U.S. Constitution guarantees "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." Before 1985, doubt existed about whether this right applied to students in the public schools. Schools argued that administrators acted in loco parentis—in the place of the parent—while students were at school. **In 1985, the U.S. Supreme Court determined that the Fourth Amendment applies to students in the public schools (New Jersey v. T.L.O., 1985). The Court concluded, however, that the school environment requires an easing of the restriction to which searches by public authorities are normally subject. School officials, therefore, do not need probable cause or a warrant to search students. The Court articulated a standard for student searches: reasonable suspicion. Reasonable suspicion is satisfied when** two conditions exist: (1) t**he search is justified at its inception, meaning that there are reasonable grounds for suspecting that the search will reveal evidence that the student has violated or is violating the law or school rules, and (2) the search is reasonably related in scope to the circumstances that justified the search, meaning that the measures used to conduct the search are reasonably related to the objectives of the search and that the search is not excessively intrusive in light of the student's age and sex and the nature of the offense.**

In New Jersey v. T.L.O, the Supreme Court ruled that a school search could meet a standard called "reasonable suspicion", which is a lower standard than probable cause. However, it also ruled that students did have 4th amendment rights.

New Jersey v. T.L.O. Details. ABH

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

In 1985, the United States Supreme Court considered whether the Fourth Amendment10 applied, and if so, how, when public school officials search students.11 **The case arose after a teacher at Piscataway High School discovered T.L.O., a high school freshman, smoking in the restroom.**12 Because smoking in the restroom violated school policy, the teacher took T.L.O. to the assistant vice principal.13 **When T.L.O. denied smoking, the principal demanded to see her purse.**14 **He opened the purse and discovered a pack of cigarettes and a package of rolling papers**.15 **The principal believed rolling papers were associated with the use of marijuana, so he decided to more thoroughly search the purse.**16 **The search yielded marijuana, a pipe, empty plastic bags, a substantial quantity of money, and an index card and two letters that implicated T.L.O. in marijuana distribution**.17 After the Juvenile Court denied her motion to suppress the evidence on Fourth Amendment grounds, T.L.O. was convicted of drug distribution.18 **Although the state appellate court affirmed the finding that there was no Fourth Amendment violation, the Supreme Court of New Jersey held that even if reasonable suspicion was the proper standard, the principal did not have reasonable suspicion because he lacked specific information that cigarettes were in T.L.O.'s purse.19 The State appealed to the United States Supreme Court.20**

This card clarifies the specific details of the T.L.O. case, and provides the classic example of reasonable suspicion.

Examples of 'reasonable suspicion" being applied. ABH

Ehlenberer, Kate [Assistant Executive Director, Commonwealth Educational Policy Institute, Virginia Commonwealth University]. "The Right to Search Students." Educational Leadership. 2002. Web. Accessed August 18, 2016.

In New Jersey v. T.L.O., a teacher's report of a student smoking in the bathroom justified a search of the student's purse. Since this landmark decision, several cases have debated what constitutes reasonable suspicion: Four students huddled together, one with money in his hand and another with his hand in his pocket, does not provide reasonable suspicion (A.S. v. State of Florida, 1997). An anonymous phone call advising an administrator that a student will be bringing drugs to school, coupled with the student's reputation as a drug dealer, creates reasonable suspicion to search the student's pockets and book bag (State of New Hampshire v. Drake, 1995). A report made by two students to a school official that another student possesses a gun at school constitutes reasonable suspicion to search the student and his locker (In re Commonwealth v. Carey, 1990). An experienced drug counselor's observation of a student who appears distracted and has bloodshot eyes and dilated pupils justifies taking the student's blood pressure and pulse (Bridgman v. New Trier High School District No. 203, 1997). The fact that the search of all but one student in a class fails to reveal allegedly stolen property gives school officials reasonable suspicion to search that student (DesRoches v. Caprio, 1998). The odor of marijuana in the hall does not provide reasonable suspicion to search all students' book bags, purses, and pockets (Burnham v. West, 1987). Although the legal standard for reasonable suspicion is clear, the application of it in different contexts is not always as clear. The Court has even noted that articulating precisely what reasonable suspicion means . . . is not possible. Reasonable suspicion is a commonsense, nontechnical conception that deals with the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act. (Ornelas v. United States, 1996, at 695)

The Court's application of 'reasonable suspicion" has made it clear the standard calls for each situation to be evaluated individually, based on common sense as opposed to a clear technical standard.

School Searches and Police Officers. ABH

Ehlenberer, Kate [Assistant Executive Director, Commonwealth Educational Policy Institute, Virginia Commonwealth University]. "The Right to Search Students." Educational Leadership. 2002. Web. Accessed August 18, 2016.

School officials need only reasonable suspicion to search students in public schools, but sworn law enforcement officials normally must have probable cause to search students. Probable cause to search exists when "known facts and circumstances are sufficient to warrant a man of reasonable prudence in the belief that contraband . . . will be found" (Ornelas v. United States, 1996, at 696). But are law enforcement officials assigned to schools to maintain safety subject to the reasonable suspicion standard or the higher probable cause standard? The answer depends on whether the court views law enforcement personnel assigned to the school as school officials or law enforcement officials. When the police or school administrators act at one another's request, they run the risk of becoming one another's agents. Such a relationship could change the standard necessary to conduct a student search. Some courts treat police officers as school officials subject to the lower standard of reasonable suspicion when they search students at the request of school administrators (In the Interest of Angelia D.B., 1997). Other courts hold that school officials conducting a search on the basis of information from the school resource officer are acting as agents of the police and are, therefore, subject to the higher standard of probable cause (State of New Hampshire v. Heirtzler, 2000). The mere presence of a sworn law enforcement officer during a search by a school administrator does not trigger the need for probable cause (Florida v. D.S., 1996).

Unlike school officials who only need to meet the 'reasonable suspicion' standard, law enforcement needs to meet the 'probable cause' standard.

School resource officers are law enforcements officers. ABH

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

Twenty-nine years ago in New Jersey v. T.L.O., the United States Supreme Court held that school officials may search students when there are reasonable grounds to suspect the search will turn up evidence that the student violated the law or school policy.2 In other words, "[T]he constitutional rule that a search warrant must be [obtained] before a search may be made"3 does not apply when school officials search students who are under their authority.4 However, the Court expressly refused to decide whether this exception covered school resource officers,5 or whether the traditional warrant requirement applied.6 Since 1985, numerous state and lower federal courts have considered whether school resource officers fall within T.L.O.'s "school official" exception, and accordingly can conduct searches based on reasonable suspicion, or whether such persons must meet the constitutional standard of obtaining a warrant by showing probable cause.7 **Most cases hold that school resource officers need only reasonable suspicion to search students because they are "school officials**."8 Recently, **however, the Washington Supreme Court decided, in State v. Meneese, that a school resource officer acted as "a law enforcement officer," not as a "school official," and accordingly "required a warrant supported by probable cause to search [students]."**9 This Note examines the analysis, rationale, and practical consequences of Meneese. After examining Meneese and its practical consequences, as well as similar cases and the existing scholarship, it becomes clear that the probable cause standard is unworkable in schools, and that reasonable suspicion should apply to school resource officers.

State v. Meneese ruled that school resource officers (police officers who work full time in schools), are required to meet the standards of probable cause.

Voluntary consent for searches in schools. ABH

Ehlenberer, Kate [Assistant Executive Director, Commonwealth Educational Policy Institute, Virginia Commonwealth University]. "The Right to Search Students." Educational Leadership. 2002. Web. Accessed August 18, 2016.

School officials and sworn law enforcement officers may conduct a search without reasonable suspicion or probable cause if the student voluntarily consents to the search. Voluntariness is determined on the basis of the circumstances—including the student's age, education level, and mental capacity—and the context of the search. When consent is granted, officials may conduct the search only within the boundaries of the consent. If a student consents to the search of her purse, for example, an administrator may not search her locker unless the search of the purse provides probable cause or reasonable suspicion to search the locker. School officials and law enforcement officers are not required to advise students that they have a right to refuse to give consent to search. Some school policies or state regulations, however, may require that they advise students of their rights. Some school policies require students to provide consent to a search or risk discipline. In at least one federal circuit, the court has upheld this policy (DesRoches v. Caprio, 1998). In this case, all but one student consented to a search of their personal belongings. The search of the consenting students revealed nothing. Pursuant to school board policy, DesRoches was suspended for 10 days for failure to consent to the search. The student claimed that his Fourth Amendment rights were violated because the administrator did not have reasonable suspicion to search him. The court held that when the search of all other students in the class failed to reveal the stolen item, the administrator had reasonable, individualized suspicion to search DesRoches. Therefore, his discipline for failing to consent to a legal search was upheld.

Law enforcement and school officials can search students without either the reasonable suspicion or probable cause standard, if the student consents to the search.

Individual vs. random searches and reasonable suspicion. ABH

Ehlenberer, Kate [Assistant Executive Director, Commonwealth Educational Policy Institute, Virginia Commonwealth University]. "The Right to Search Students." Educational Leadership. 2002. Web. Accessed August 18, 2016.

School officials conduct individual searches when they suspect that a student or a small group of students possesses evidence of a violation of the law or school rules. Such searches are subject to the reasonable suspicion standard. Officials conduct random or blanket searches not because of individualized suspicion, but as a preventive measure. Examples of random searches include the use of metal detectors in school entrances and sweeps of parking lots and lockers. The legality of a random search depends on whether the school has a compelling interest or special need that warrants the use of a search without suspicion. The most common need articulated by schools is the prevention of drug abuse. Perhaps the most controversial random search is the use of drug-sniffing dogs in schools. The right of school officials or police to use dogs to detect drugs in students' belongings is well established. In fact, most courts conclude that such detection is not a search because the dogs merely sniff the air around the property and that students do not have an expectation of privacy in the air around their belongings. One federal court has recently held that the use of drug-sniffing dogs on a student's person requires individualized, reasonable suspicion. Prevention of drug abuse, according to this court, does not justify the dog sniffing the person because it intrudes on the expectation of privacy and security (B.C. v. Plumas Unified School District, 1999). This case changed practices in many school districts—those schools no longer use the dogs to sniff around students.

Individual searches in schools require that the reasonable suspicion standard is met, while the legality surrounding random searches is more vague.

Legality of searches based on anonymous tips. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

Pockets, backpacks, and purses—items that are part of a student's clothing or carried by students—are subject to stiffer guidelines in terms of a search.57 **Where school administrators have specific information regarding a student's possession or use of drugs or weapons, a search of their pockets, backpacks, or purses is likely permissible**.58 **On the other hand, an anonymous tip or rumor is likely insufficient for a search of a student's personal belongings or pockets because the information prompting the search lacks the level of particularization that would warrant an intrusion of belongings being worn or carried by the student**.59 For example, **in a Pennsylvania case, a vice principal's search of a student's purse that was based on anonymous tips of her possible possession of a marijuana pipe was held unlawful**.60

Generally, schools will meet the reasonable suspicion standard when they have clear information that a student may have illegal objects among his/her personal belongings, but the school will not be acting lawfully if they act solely based on an anonymous tip.

Athletes have less privacy protections in public schools. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

If a student's lack of expected privacy in a locker is at one end of the spectrum, searches that involve the body are at the opposite end. Searches by school administrators that expose a student's body require a high degree of particularized suspicion.63 **The one notable exception involves searches of students engaged in athletics or co-curricular activities who are allowed somewhat less privacy than other students**.64 In Vernonia School District, **the Supreme Court upheld the urine testing of student athletes, partly because those students were said to be accustomed to a certain degree of exposure because they "suited up" in the locker room**, and followed rules that required physical exams.65 Seven year later, in Earls, the Supreme Court seemed to cast aside its "athletes are different" reasoning when it expanded authorization for suspicionless drug testing to all students involved in co-curricular activities.66 Claiming that their decision in Vernonia School District did not rely heavily on the fact that athletes are subject to decreased privacy, **the Court in Earls found that students involved in any extracurricular activity were subject to communal undress and "off-campus travel" and therefore, their expectation of privacy was limited**.67 In both Vernonia School District and Earls, the Court found that the level of intrusion (a was minimal and the governmental interest high.68 In fact, the Court in Earls seemed to back away entirely from any requirement of a real governmental interest, holding that a "demonstrated problem of drug abuse . . . [is] not in all cases necessary to the validity of a testing regime."69 **Instead, the Court allowed for a showing that simply "shores up"—a standard that appears to be decidedly vague—a special need for a suspicionless search**.70

The court has repeatedly ruled that the nature of participating in co-curricular athletics justifies have weaker protections for the privacy of athletes.

Definition of School Resource Officer (SRO). ABH

Pinard, Michael [Assistant Professor, University of Maryland School of Law] "From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public Schools Searches Involving Law Enforcement Authorities." Arizona Law Review. 2003. Web. Accessed August 19, 2016.

Law enforcement personnel are stationed in schools through a variety of programs and arrangements between school officials and law enforcement authorities. For instance, some schools participate in the School Resource Officer program, a national program that places police officers in schools to perform various duties, including traditional law enforcement functions.3 Independent of this program, officers are placed in some other schools through liaison programs between public schools and local police departments. Perhaps the most formal of these programs exists in New York City. The New York City Police Department has been primarily responsible for school security since 1998, when it assumed control from the New York City Board of Education.4 Lastly, outside of physically placing officers in public schools, some states,5 cities and school districts6 have forged interdependent relationships between school officials and local police departments.

The term 'School Resource Officer' or SRO appears quite often in the literature surrounding this topic, so it is helpful to know exactly what SRO's are.

Safford Unified School District No. 1 v. Redding Explained. ABH

Taslitz, Andrew [Professor, Howard University School of Law]. "What is Probable Cause, and Why Should We Care?: The Costs, Benefits, and Meaning of Individualized Suspicion." Law and Contemporary Problems. 2010. Web. Accessed August 22, 2016.

The United States Supreme Court found a violation of Savana's Fourth Amendment rights. The Court relied specifically on its probable-cause jurisprudence, at least concerning how reliable, credible, and specific the information upon which the state relied had to be to establish the necessary individualized suspicion.[17] **The Court did note, however, that probable cause requires sufficient proof of a "substantial chance" of discovering evidence of criminality, while the lesser school-searches standard of reasonable suspicion "could as readily be described as a moderate chance of finding evidence of wrongdoing**."[18] The Court determined whether this standard had been met by dividing the search into two stages: first, the search of Savana's backpack, outer clothing, and bag; second, the "strip search of Savana."[19] **The Court created this dichotomy because the humiliating nature of the strip search, especially given Savana's age, was far more intrusive than that of the backpack and related searches, thus requiring separate justification,** including separate individualized suspicion to believe that contraband was not simply on her person or property but in her underwear. **Indeed, the Court readily found reasonable suspicion for Wilson's believing that Savana may have had contraband on her person or in her backpack or outer clothing. But the Court found suspicion inadequate to believe either that the contraband posed a serious danger to the students (**after all, only small quantities of ibuprofen and related common pain relievers were involved) **or "that Savanna was carrying pills in her underwear."**[20] As to the latter, the Court carefully distinguished among generalizations about what sorts of students might possess the pills versus specific reasons, rooted in trustworthy evidence, to believe that this student, Savana—and not anyone else—had them in her underwear.[21]

This Supreme Court case illustrated that the reasonable suspicion standard is "low" enough to allow school officials to search the student's backpack, but the strip search was ruled unconstitutional.

Topic Analysis

Intro:

Welcome back to debate season!

This is a pretty cool topic to start off the year. I consider this to be more of an "old school" PF topic. It seems that the recent trend in PF has been weighing "body counts" and using tons of statistics with the team that's able to provide the biggest numerical impact winning the round. While that trend isn't necessarily a bad thing, this topic is not one where teams will be looking for the biggest number or using too many statistics to describe impacts.

This topic will really require an in-depth discussion about constitutional rights, student rights, and the classic privacy vs. security debate. I will get into more details about this in the section about framework, but mentally breaking down the topic into those three topic areas will make it easier to categorize the different arguments you hear.

Another interesting aspect of this topic is that it is not especially controversial. If you ask a random person on the street what the five most important or contentious topics facing the country right now are, it is safe to say that probable cause in public schools likely won't come up. In my opinion, this is a big advantage when compared to other topics. There is a much smaller chance that judges will be biased against certain sides or arguments. Generally, it is very clear which side a liberal or conservative, Northeast or Southern judge would learn towards, but I wouldn't expect much bias on this topic. That being said, most of your judges will either be college students (who were high school students not too long ago) or teachers/coaches working in high schools, so this will be a topic that judges and competitors care deeply about. I strongly recommend that you try to keep the round as non-controversial as possible, and focus on the discussion of the issues at hand. Please please please do not bring any of the extremely heated current event topics commonly discussed today into the round; it will only hurt your ability to convey your arguments related to probable cause to the judge. In short, what I'm trying to get at (and will probably mention in every topic analysis until December) is that a misused Trump or Clinton joke can absolutely cost you rounds.

In addition to the topic itself being a bit unique, it is also the only topic that covers two months (September and October), and that has been completely prepped out at debate camps. This definitely has many strategic implications. You may not want to run the best arguments you have stockpiled form camp in an early tournament in September, if you have many more tournaments in October. Additionally, I recommend investing time these two months in teaching your novices. There will be plenty of time later in the season to win tournaments and accumulate TOC bids, but this is really the critical period to help novices learn. This is a great

first topic for them, and it would really beneficial to dedicate a good chunk of your team's resources to helping them learn the ropes.

Overall, I think this is a great topic to start off the year. It's something y'all high school students can relate too, and it should lead to some interesting debates and constructive thinking about your school environments.

Background Info:

Understanding the background info for this topic is just as important as any other one. There is a ton of literature surrounding probable cause and more broadly, searches in public schools. I suspect that a lot of the evidence or discussion surrounding this topic will come from Supreme Court (or even lower court) rulings that have touched on similar subjects.

It is critically important to familiarize yourself with the relevant Court cases that dealt with student searches in public schools and general probable cause cases. You do not want to be in a position where your opponent mentions a specific case in a round, and you have absolutely no knowledge of it. Additionally, you should know your relevant constitutional amendments. Make sure to understand the differences between the 4th and 5th amendments, and feel very comfortable discussing their implications (this topic really focuses on the 4th).

The Supreme Court case that will likely come up in every round, and is absolutely essential to this topic is New Jersey v. T.L.O. In this case, a student was caught smoking in a high school bathroom. Schools officials searched her purse after the student refused to confess to smoking. While searching the purse, they found cigarettes, but also saw rolling papers. This led to school officials to continue searching the purse where they found marijuana, drug paraphernalia, and other evidence indicates that the student was likely dealing marijuana and possibly other drugs.

The case reached the Supreme Court, as the student alleged that her Fourth Amendment rights were violated during the search. The Supreme Court ruled that students have a legitimate right to privacy in school, but that the right to privacy for students must be balanced with the unique needs of school officials to create a safe learning environment. The Court stated that for school officials to search students, they do not need to meet the traditional standard of probable cause, but rather they only have to meet the lesser standard of reasonable suspicion. Theoretically, this distinction should give school officials the ability to keep schools safe, while still protecting the right of students to some privacy.

The distinction between reasonable suspicion and probable cause is absolutely critical to understanding this topic, so I want to elaborate on it a bit more.

Probable cause originates form the 4th Amendment, which states: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The relevant part of the text for this debate is: "…no warrants shall issue, but upon probable cause…" Probable cause applies differently to arrests and searches. Law enforcement must reasonably believe that someone was involved in a crime to arrest them, but to search a person or an area, law enforcement must have evidence that a crime has been committed (with some exceptions).

On the other hand, reasonable suspicion allows school officials to conduct searches without meeting the burden of probable cause. The standard of reasonable suspicion grants that a search is justified if there is a reasonable suspicion that the search will uncover illegal activity or contraband, and that the search is conducted in a manner that is reasonable and proportionate to the suspected illegal activity.

The entire topic basically revolves around this distinction. The PRO is arguing that school officials ought to have to meet the higher standard of probable cause in order to search students, while CON has to defend the reasonable suspicion standard used in the status quo.

While it is extremely important to understand the nuances relating to both reasonable suspicion and probable cause, and all the allowed exceptions for those standards, the debate can simply be described as PRO advocating for greater privacy for students, while CON is arguing that school officials should have more leeway to increase school safety.

Also, one last thing to consider is that the topic relates to public schools. This notation may not seem significant, but it's actually very important. Students in the United States are required to attend school up until 12th grade, and as a result the government gives all students the option of attending public schools. Privacy expectations for students in public schools will inherently be different than for those in private schools. Students (or their parents) choose to attend private schools, but are under no obligation to do so. However, students are forced to attend public schools, so the government must ensure that their rights are protected there. Effectively, students at private schools may have more of their rights restricted, because they are making the decision to attend a private school.

When reviewing all the background information on this topic keep in mind the clash between the increased calls for greater privacy and student rights in the United States, and the increased amount of security in schools. This is the key clash of the debate, and any literature that helps shed light on this complicated topic will be helpful. Also, be sure to consider how your judges' backgrounds may impact how they think and what the know about the entire security vs. privacy debate.

Framework:

When compared to other PF topics, I think that framing this round will be relatively straightforward. Teams may have subtle differences about the nuances of interpreting probable cause and its application in schools, but that will likely not be a major issue. I can also see teams using some very whacky interpretations of probable cause, but there is so much literature explaining the standard, that more unique interpretations will probably not be very successful. I highly doubt that there will be a bunch of annoying definition debates that seem to turn other seemingly good topics into a nightmare.

I think that the greatest amount of debate on the framework will be about what we should be prioritizing when consider what schools "ought" to do.

Now, if this wasn't Public Forum, you could find yourself in a whole argument about what "ought" means. In other forums of debate it is discussed if the word "ought" implies a moral obligation or actual ability to take action. Fortunately, this is PF, so you are unlikely to find yourself in a debate about the differences between ought and should.

With that mind, teams will have to declare and justify what the most important impacts are when discussing probable cause in schools. Without setting up a weighing mechanism for the judge to decide which impacts are more important, the round becomes a toss-up.

Imagine the very likely scenario where PRO successfully shows that voting PRO would better protect the privacy of students. However, CON also successfully shows that voting CON would increase school safety. If I'm the judge, I have no idea how to vote. I will have to rely on my personal bias as to whether I value privacy more than safety.

I really believe that the majority of the debate will be spent on impact analysis and establishing what impacts the judge should value most (weighing).

Teams need to make well-warranted arguments to explain why privacy is more important than security in schools, or vice versa. Students could use a variety of different justifications to argue both sides of this classic debate. It is important to note that if you use traditional privacy vs. security arguments recycled from other topics or popular debates, you must make sure they apply to the unique public school context.

A curveball to be aware of is constitutionality. Teams may argue that the Constitution asserts that students have the right to probable cause, so searches in the status quo are unconstitutional. While you would certainly want to refute the first half of that argument, it is important to understand that just because something is unconstitutional it doesn't automatically mean that it shouldn't be done.

Constitutionality is always a very interesting impact in Public Forum rounds. At first, it seems like a strong argument to claim that your opponent's side violates the Constitution. However, teams can't get lazy at that

point, and they often fail to articulate why violating the Constitution is a major impact. Why do I care if the Constitution is violated? If you're using constitutionality as an impact, you absolutely have to answer that question!

I have seen way too many rounds where teams debate as if violating the Constitution is an automatic red flag that loses you the round. A strong argument can be made as to why the government, and especially public schools shouldn't violate the Constitution.

However, a very strong counterargument can be made to explain why violating the Constitution is not a major impact at all, and it seems like many teams are too hesitant to make that argument. The government has violated the Constitution many times and the nation hasn't gone into chaos.

There are certainly legitimate ways to defend violating the Constitution, but you should keep in mind that to the average judge, "violating the Constitution" sounds like something really bad. In my experience, Constitutionality is a much stronger impact in front of lay judges, when compared to when you're debating in front of more experienced judges or coaches.

The last note I have about framework is a relatively minor one. The topic explicitly refers to the searches of students. That means any arguments or literature exclusively discussing the arresting, detaining, or questioning of students will likely not be relevant to the round. In the articles and papers I've seen so far, it seems like some of these topics are grouped together, so that's something to keep an eye out for.

Pro Arguments:

On the pro side, you have a relatively clear story to tell: voting pro means students have a greater right to privacy. I cannot really imagine a situation where CON can show that holding school officials to the probable cause standard will actually lead to less privacy for students when compared to the status quo. I am sure there will be a few teams that find arguments about how backlash from probable cause may decrease privacy, but PRO should not have too much trouble showing that holding school officials to a higher standard in order to search students will increase privacy.

Showing that Pro increases privacy for students, is the relatively easy part, the difficult part is showing that schools ought to increase privacy for students.

The way I see it, this argument breaks down into two parts:

1. Giving students a greater right to privacy is the right and moral thing to do.
2. Giving students a greater right to privacy helps achieve the goals of the public school system

Lets break down these claims individually, starting with the first one.

Of the two claims, it is likely that the first one will be easier to prove in most rounds. There are a few ways that PRO teams could go about showing that students have a right to be protected by the probable cause standard when it comes to searches. PRO could dive into some deep Constitutional law, and explain why legally and Constitutionally probable cause must apply to student searches

This may be a bit difficult because of New Jersey v. T.L.O. As mentioned earlier, in this case the Supreme Court acknowledged that a lower standard than probable cause could apply to student searches. However, in a public forum round, a team could definitely argue that the Supreme Court got it wrong, because the topic is inherently challenging that decision. Teams could argue that the purpose of probable cause and the Fourth Amendment would be lost if it doesn't apply to students. The argument could become one that claims if students don't have their privacy rights protected, then other sections of the population will lose those rights, or those rights become meaningless as a whole.

Stepping aside from the legal/Constitutional perspective, PRO could argue that protecting the privacy of students is the morally correct thing to do. PRO could explain the virtues of privacy, and the moral dangers that any violation entails. PRO especially has strong ground if they explain that the government is effectively forcing a people (students) to attend an institution (public schools), and then declaring that people in said institution have lesser rights. While this kind of argument would need to be carefully articulated, it could be very persuasive. There is a ton of literature out there about the importance of privacy, and dangers of government overreach. Whether the topic is the NSA, wiretapping, or even abortions, any cards discussing the impact of violations of privacy could become useful on this topic.

The second claim under the larger pro argument was: Giving students a greater right to privacy helps achieve the goals of the public school system.

This is a more difficult argument to win, but it is also much more strategically helpful for PRO. This argument effectively solves the issues CON is likely to bring up, better than the actual CON proposals. The claim asserts that by increasing privacy protections students will be safer and receive a better education, rather than by increasing security and violating privacy.

For this argument, lets split it up into safety and education.

Initially, it might seem difficult to prove that giving students less privacy would increase safety. Theoretically, if students have more privacy protections, it would allow to carry drugs and weapons in schools with a lower risk of getting caught. Additionally, applying probable cause to student searches, would limit the ability of school officials and law enforcement to use preventative efforts to remove contraband. With that in mind, PRO can still argue that giving students more privacy would benefit security.

The argument is based on the idea that if school officials and law enforcement violate the privacy of students, then students become less trusting of them. The deteriorated trust makes it less likely that students will report potential crimes to school officials, or go to law enforcement when they feel that their safety is threatened.

Additionally, there a ton of psychological studies arguing that when people (and students) are treated like criminals (loss of privacy, heightened security, frequent searches), then they are more likely to actually act like criminals.

It may difficult, especially for lay judges, to accept this argument based on logic alone, so definitely make sure to back it up with studies that show increased security and policing in schools has actually caused more violence.

The second part of the argument is about education. PRO can argue that applying probable cause to student searches will better fulfill the goals of the public school system, by creating a better learning environment for students. This argument also relies on the notion that violating the privacy of students decreases their trust of school officials. However, this argument is less concerned about the safety of schools. Instead, focus this argument on how students will learn better if they can trust their teachers.

Students who come from troubled homes or rough neighborhoods may be in situations that hurt their academic achievement that could be solved if they spoke to their teachers or guidance counselors. However, if students do not trust school officials, they are less likely to speak to professionals about these issues. Public school should not take actions that would make students are afraid to disclose information to officials who may be able to help their personal lives and academic experience.

Overall, the PRO side has two basic jobs. First, it has to demonstrate the harms of schools violating the privacy of students, and how applying probable cause to student searches would solve those harms. Second, PRO must refute the argument that CON will almost definitely make, stating that applying probable cause will decrease safety in schools.

Con Arguments:

Personally, I find the CON a bit more challenging to debate than PRO, or at the very least less fun. In my opinion, CON has a smaller range of good arguments that it can make, but that doesn't necessarily mean that they are worse arguments.

I really think that the single major argument on the CON side is that applying probable cause to student searches will decrease school safety, and that a safe school environment is a prerequisite to any successful learning.

Now, this is a very solid argument, but beyond this, I don't really see where CON can get much offense. I can't really think of other potential negative impacts associated with giving students more privacy. CON could try to argue that the way probable cause would be applied may hurt low-income or minority students, but it wouldn't be difficult for PRO to counter that by saying that even if probable cause isn't perfect it would be much better

for disadvantaged students than the status quo (this could actually be a really good PRO argument if developed well).

While school safety may be CON only point of major offense, CON still has a lot of defensive work to do. CON will have a good amount of the round downplaying the benefits of privacy, and the rights of students to privacy. Theoretically, CON doesn't need to a fantastic job showing that probable cause would hurt school safety, if they manage to prove that students don't have the right to increased privacy, and that there are no benefits of it. I think most CON rounds will be won by CON proving a relatively minor net harm to safety by implementing probable cause, and PRO failing to impact the benefits of increasing privacy for students.

My ideal CON strategy would be an entire case dedicated to school safety. I think a one contention case with a few sub-points would work, but be sure to have 2-4 contentions anytime you debate in front of a lay judge, so that they don't get confused. The case would be devoted to showing the importance of students searches to keep schools safe. You would want to include as many warrants as possible, give as many different reasons as you can to show why using the probable cause standard would make schools less safe. Then, impact school safety big time!

Lets talk a little bit more what arguments to actually use to back up this case. The easiest argument to start off with is deterrence. In the status quo, students know they could be randomly searched, so they are less likely to bring in drugs or guns to school for fear that they will be caught. The more privacy students have, the more likely they are to bring in weapons or illegal drugs into school, because they know that there is a smaller risk of them getting caught. This argument is very straightforward and easy to explain to a judge. It's easy to use a bunch of analogies that will this argument very clear. Tell the judge that it makes sense that if a student has to pass through a metal detector, then he/she is a lot less likely to try to bring a gun or knife into school. However, if a student knows that law enforcement needs a warrant to search them, and that if they avoid acting suspiciously they have a very slim chance of being searched, then students may be more likely to bring in weapons to school.

Building off the deterrence argument, the more searches security can execute, the more actual contraband they remove from schools and the community. Every time school officials find drugs or weapons on students and confiscate them, then they are preventing those objects and substances from being used in a way that would hurt students.

CON will want to use statistics and studies to back up these claims. CON really has to make it clear that applying probable cause will hurt school safety, and will increase the presence of weapons and drugs in our public schools. Then, CON really needs to do a good job of explaining why school safety is such an important impact.

First, explain that the government is obligated to guarantee students safety in public schools. Because students are obligated to attend school until 12th grade, the government has to ensure that schools are a safe environment.

Otherwise, CON could claim that the government is effectively telling children they must go to a place that is dangerous, which is clearly a pretty bad thing, and powerful impact in a debate round. CON should focus on the awful impact drugs and weapons have in schools, and really hammer home the government responsibility to keep students in public school safe from such dangers.

Then, CON should bring up all kinds of evidence stating that if students do not feel safe, then they struggle to succeed in school. There is plenty of evidence that suggests an unsafe school environment negatively impacts a student's academic career and personal growth. CON wants to convince the judge that student privacy becomes irrelevant, if it means that students will be unsafe and not be able to learn at schools. If schools cannot guarantee students safety and effectively teach them, what's the point of sending kids to school anymore?

The entire CON case should be about explaining how probable cause hurts safety, and why safety is so important. However, once the case is over it's time to start playing defense. I don't recommend including anything about why privacy for students is less important in the case, because it is not a reason for the judge to vote CON, it only weakens the PRO position. That being said, a good chunk of the CON rebuttal will probably include responses to PRO's arguments that the privacy of students is essential.

CON will want to be ready to respond to student privacy on two fronts.

First, CON will want to demonstrate that students have a lesser right to privacy. There are several court cases and much legal precedent that would back up this idea. Moreover, CON will have to show that there is nothing morally wrong with restricted the privacy of students, especially when it comes to the unique and difficult safety situation of a public school.

Second, CON will need to respond to the idea that giving students more privacy protections will increase their trust of school officials, and create a better learning environment. This is honestly a tough argument for CON to win. CON is probably best off responding by explaining that the harms of an unsafe school environment outweigh the benefits of students trusting school officials more. CON could argue that if law enforcement and school officials fail to keep schools safe, then that will actually erode the trust students might have gained due to their increase privacy.

Overall the CON strategy is strong, but simple. Show that school safety is absolutely necessary for schools and students to be successful, and that applying probable cause to student searches decreases school safety.

Concluding Remarks:

As I mentioned earlier, I think this is a really interesting topic. It's really great that you all have an opportunity to learn more about your rights as students, and get educated about the debate surrounding expanding or restricting those rights.

To be successful on this topic you will really need to know your court cases, understand different legal analysis, and have plenty of evidence on hand discussing the impact of searches and privacy on school safety. As always, evidence is important and helpful, but for this topic you will really need to use some strong logic (as opposed to a ton of statistics) to convince judges, especially lay ones.

I also do not suspect that there will be much of a side bias. I believe that CON has a very strong argument with school safety, but that PRO can take on a more diverse range of positions that will make rounds very competitive.

Good luck, and have fun!

Pro Evidence

Rationale for Current Standard is Flawed

Case law for current standard is not based in research, only outdated social norms. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

the three foundational cases in school discipline— Goss v. Lopez, involving school suspension; Ingraham v. Wright, involving corporal punishment; and New Jersey v. T.L.O., involving student searches. Each of these cases relied on the view that school discipline educationally benefits the punished youth to justify restrictions on students' rights. Interestingly, although the Court frequently relies on social science evidence in determining educational rights in other contexts, most famously in footnote eleven of Brown v. Board of Education, 26 **these foundational school discipline cases are notable for the conspicuous absence of social science support for their conclusions. Rather, in these cases, members of the Court relied almost exclusively on personal intuitions** regarding the operation of school discipline, **even when those intuitions conflicted with empirical evidence properly before the Court.**

Original Supreme Court rulings ignored evidence.

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

Importantly, neither opinion cited any social science support for its assumptions about the benefits of school discipline—nor could it. The record before the Court—far from validating the educational value of school suspensions—was **replete with facts indicating that school suspensions harm students**. Students testified at trial to the negative impact that the suspension and subsequent loss of instruction time had on their academic progress, and two prominent psychologists gave expert testimony regarding the adverse consequences of suspensions.37 Based on this evidence, the district court entered factual findings that **school suspensions are harmful to students and may compromise academic achievement**.38 On appeal, the student-appellees cited numerous scholarly articles further demonstrating the educational harms associated with suspensions, and amicus briefs filed by the NAACP, the Children's Defense Fund, and the ACLU likewise cited studies describing the negative repercussions of school suspensions on children, including reputational harm to the student, loss of instructional time, exacerbation of deviant behavior, lower high school graduation rates, and fewer future employment opportunities.39 Yet **the majority ignored these facts altogether**. Justice Powell's dissent acknowledged them, but dismissed them with little discussion as "generalized opinion evidence."

The rationale for reasonable suspicion is that the discipline has the student's best interests at heart and therefore teachers and administrators should be trusted without 4th Amendment rights. This shows that rationale is not likely to be true.

No special relationship exists between student and teacher. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

Indeed, the contention regarding an alignment of interests between student and school official, purported to distinguish the relationship from that between police officer and suspect, was undercut by the facts of T.L.O. itself: the school official ultimately referred the student to law enforcement and the juvenile court.57 Yet, rather than performing any empirical inquiry into the frequency with which the interests of accused students conflict with those of school officials, the Court deemed that rate to be sufficiently "rare" to justify restricting students' rights. Underscoring the absence of evidentiary support for the majority's claims, Justice Brennan's dissenting opinion characterized the majority's rationales as "brief nods by the Court in the direction of a neutral utilitarian calculus while **the Court in fact engages in an unanalyzed exercise of judicial will" designed to "reach[] a predetermined conclusion** acceptable to this Court's impressions of what authority teachers need."5

Probable Cause Should Apply to Cellphone Searches

'Reasonable Suspicion' is used to search cellphones in the status quo. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

Most schools appear to adhere to a "reasonable suspicion" standard with respect to cell phone searches when they suspect that a law or school policy has been broken. However, it is not always clear what types of evidence justify reasonable suspicion. For example, if a student is caught texting in class, that in itself is a violation of school policy and clearly justifies confiscation, but does the conduct justify a search of the cell phone? "Reasonable suspicion" is a standard applied by police as justification for a "Terry" stop—a stop-and-frisk of an individual suspected of criminal activity.182 In this context, "reasonable suspicion" means that a "police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion."183 Whether reasonable suspicion exists will depend on the "totality of the circumstances" and the officer's own experience and expertise.184 Courts sanction this lesser standard because, though circumstances warrant some intrusion given officer safety or crime prevention concerns, the intrusion to the individual is correspondingly minimal when compared to a full-blown arrest or search.185

Currently, schools tend to use the reasonable suspicion standard to search cell phones, which means students have less privacy, than if schools had to adhere to a probable cause standard.

Cellphones contain extremely private information. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

The problem with applying the "reasonable suspicion" standard to a student cell phone search is that the level of intrusion is far higher than the analogous "pat down" or brief seizure of a suspect. As numerous cases demonsrate, searching a cell phone is likely to uncover information or images that are highly personal. Adolescents' lives revolve around communication. Just as Justice Souter in Redding acknowledged that a teenage suspect's sensibilities needed to be taken into account when contemplating a strip search,186 the same justification can reasonably be extended to student cell phone searches. Students may feel that the contents of their cell phones, with all the photos, texts, appointments and other personal information, are as private to them as their bodies themselves and should therefore be afforded a high level of acknowledged privacy.187

Teens have so much private information of their cellphones, that the standard to search them should be one greater than reasonable suspicion.

Illegal activity on cellphones does not pose an imminent threat at schools. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

This position is not contrary to the goal of maintaining safety. Whereas cell phones are not inherently dangerous, they may be used to further criminal activity or rule-breaking. In this case, evidence of illicit activity stored on a cell phone is not time-sensitive. While a strip search might be warranted immediately in order to prevent a student from disposing of evidence, information on a confiscated cell phone can be preserved until a warrant is obtained. Tighter restrictions on cell phone searches would not hamper administrators from performing other searches if they had reason to believe that a student was involved in illegal activity; this would remain consistent with a school's mandate to assure student safety and wellbeing. Similarly, if a student is suspected of using a cell phone for cheating or bullying, administrators may confiscate the cell phone and continue questioning the student. The results of the investigation may lead to a punitive sanction or, in the case of bullying, the administrators may seek a warrant.188

If a student is carrying weapons or drugs, there is a clear need to immediately search him/her to remove the contraband and obtain evidence. However, cellphones can be confiscated with a search warrant, and they will still contain all the evidence of previous illegal activity.

Searching student cellphones without probable cause violates the 4th amendment. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

Justifying a warrantless cell phone search with a subjective "reasonable suspicion" standard in the school setting ignores a fundamental aspect of students and their privacy. Students' freedoms are already restricted because they are compelled by law to go to school and their in-school lives are governed by school regulations.189 Add to the mix that the majority of students carry cell phones (often at parents' request), 190 and that young people may lack judgment and discretion concerning what they store in their phones. Given these conditions, allowing school officials wide latitude to perform searches of cell phones violates fundamental Fourth Amendment principles.191 School administrators naturally assume authority for younger children under an in loco parentis paradigm, but the natural parental qualities of tolerance, understanding, and permanence recede as administrators are faced with the management of adolescents. While educators may still guide their older students with care and devotion, the modern high school must necessarily adopt a law enforcement model to cope with the range of student misbehavior. Schools have increased security procedures and staff; metal detectors, school police officers (known as SROs), random searches of students, and zero tolerance policies are now common in many public schools. . 192 Indeed, in T.L.O., the Supreme Court recognized that "in carrying out searches and other disciplinary functions pursuant to such policies, school officials act as representatives of the State, not merely as surrogates for the parents."193

Students are forced by law to go to school, and subjecting them to warrantless cellphone searches violates their privacy to an extent that would be forbidden by the 4th amendment.

Requiring a warrant brings in an unbiased 3rd party. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

A school administrator should therefore not be able to operate like a magistrate and render decisions on cell phone searches in school. **The purpose of the warrant requirement is to have a "neutral and detached" magistrate, i.e., a disinterested party, draw reasonable inferences from evidence to determine if an individual's Fourth Amendment protections can be justifiably waived.**194 **A judicial officer who reviews a warrant request should be severed and disengaged from the activities of law enforcement and have the capacity to determine probable cause**.195

Using the probable cause standard would require a school official to get a warrant from an unbiased judge, who could more properly assess if a search is reasonable.

Probable cause would still allow for emergency searches of cellphones. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

According to the Center for Disease Control, the most recent survey data (through 2009) shows that drug and tobacco use on school property is flat and that neither the sale of drugs nor violence is on the increase.199 The decrease is part of an overall decline in both youth and adult crime. **A warrant requirement that allows for an exception in emergency situations involving the health and safety of students would cover circumstances where examination of phone messages or data could prevent imminent harm. Such an exception is not without ample precedent. The Supreme Court has carved out numerous exigencies justifying a warrantless search**.200 **Underlying these exceptions is an acknowledgment that the warrant requirement must give way when there is an immediate risk of physical harm or destruction of evidence. In the school context, maintaining safety is of paramount concern. Thus, when school administrators have credible, reliable information that a threat of imminent harm necessitates ascertaining information from a student's cell phone, they should be permitted to search without a warrant.**201 But anything less than such an immediate and particularized threat should not suffice. If there is no immediate threat, the phone should be removed from the student's possession and preserved until a warrant is obtained. A cell phone and its data can be preserved while authorities notify the police, who have the option to get a warrant.202

It is clear from past Supreme Court rulings, that there is no need to obtain a warrant when there is a clear imminent threat that could be prevented by a search.

Cellphone searches are more intrusive than drug-testing. ABH

Vorenberg, Amy [Professor of Law, University of New Hampshire School of Law]. "Indecent Exposure: Do Warrantless Searches of a Student's Cell Phone Violate the Fourth Amendment." Berkeley Journal of Criminal Law. 2012. Web. Accessed August 19, 2016.

There is an obvious contradiction between, on the one hand limiting school administrators because they lack neutrality, and on the other hand entrusting them to distinguish the cases where imminent harm is at stake. However, this is precisely the same balancing act that police officers are entrusted to perform. The key lies in applying a standard that tips in favor of privacy protection rather than near-baseless intrusion. **A search of a cell phone is far more intrusive than the suspicionless drug-testing regimes authorized by the Supreme Court. In a random drug test, the student reveals nothing ancillary to the object of the test. They are simply found to be "clean" or not. However, a suspicionless search of a cell phone might reveal a broad range of information—medical, psychiatric, romantic, or otherwise deeply private—completely unrelated to the school's interest in monitoring compliance with school regulations.**

A drug test only reveals if a student has been using a certain illegal substance, while a cellphone search could uncover a wide range of personal information, unrelated to illegal activity or school policy.

Too Many Students Interact With the Juvenile Justice System

Rationale for reduced juvenile rights is faulty. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

Traditionally, youth in juvenile court were not entitled to the procedural protections guaranteed to adults in criminal court, on the ground that juvenile courts, unlike criminal courts, were assumed to be nonadversarial institutions designed to further the best interests of the youth; young people would receive the benevolent protection of court officials in exchange for giving up their procedural rights.12 Accumulating evidence of juvenile courts' failure to achieve those beneficent goals, however, led the U.S. Supreme Court in Gault to reconsider prior doctrine and extend to youth at least some of the procedural rights formerly limited to adults in criminal court.13 Courts today likewise should evaluate evidence of school discipline's achievement of its beneficent goals, and modify accordingly the procedural protections available to youth in public schools.

Lack of privacy protections allows more students to be arrested. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Students, Police, and The School-to-Prison Pipeline." Washington University Law Review. 2015. Web. Accessed August 19, 2016.

Despite the Supreme Court's ambitious pronouncement that students do not "shed their constitutional rights … at the schoolhouse gate,"73 **students' constitutional protections with respect to investigation, detainment, interrogation, and punishment at school are quite limited.**74 For example, **over the last few decades, courts have weakened students' Fourth Amendment rights in schools in order to support school officials in their efforts to promote safety and discipline within schools.**75 This movement in the law has emboldened school officials to rely on intense surveillance methods to maintain control. **Before conducting a search, school officials need not obtain a warrant, show probable cause, or have an individualized suspicion that a student violated a school rule**.76 **Consequently, school officials may rely on a host of suspicionless search practices in schools to uncover violations of school rules**. For instance, school officials may use metal detectors,77 search through students' lockers,78 conduct random sweeps for contraband,79 and install surveillance cameras in the hallways and public rooms throughout the school.80 In fact, many schools throughout the country routinely rely on these strict measures to monitor students. 81 In addition, school officials may interrogate students without providing Miranda warnings, regardless of how serious the suspected offense might be or the possibility that the student might be referred to law enforcement for wrongdoing.82 Some courts have even held that it is unnecessary to provide these constitutionally-based protections when a police officer participates in the investigation.83 **These methods, especially when coupled with the zero tolerance policies, end up pushing more students out of school or directly into the juvenile justice system.**

Law enforcement's ability to search students without warrants, among other practices, leads to more students going to jail, instead of continuing their education.

Being arrested negatively impacts students' future. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Students, Police, and The School-to-Prison Pipeline." Washington University Law Review. 2015. Web. Accessed August 19, 2016.

Of course, if a student ultimately is arrested and convicted, having a criminal record severely hampers a youth's ability to apply for college, obtain a scholarship or government grant, enlist in the military, find employment, or find housing.168 But even if the student is not convicted, an arrest still has carries severe consequences. Sometimes schools will refuse to readmit arrested students. 169 If arrested students are readmitted, they often face emotional trauma, embarrassment, and stigma in their schools and among their classmates and teachers. 170 They may also face increased monitoring from teachers, school officials, and SROs. 171 These conditions often lead to lower standardized test scores, increased interaction with the justice system, and a higher likelihood that the student will drop out of school.172 As the United States Court of Appeals for the Tenth Circuit recently observed, "[t]he criminal punishment of young school children leaves permanent scars and unresolved anger, and its far-reaching impact on the abilities of these children to lead prosperous lives should be a matter of grave concern for us all."173 Using data from the National Longitudinal Survey of Youth, criminologist Gary Sweeten found that, even after controlling for other relevant factors, a first-time arrest during high school almost doubles the odds that a student will drop out of school, and a court appearance associated with an arrest nearly quadruples those odds.174 In another study involving inner-city students, most of whom lived in minority-dominated neighborhoods in Chicago, sociologist Paul Hirschfield found that those who were arrested in ninth or tenth grade were six to eight times more likely than students who were not arrested to dropout from high school.175 These results held firm even after controlling for other demographic, behavioral, and academic variables. 176

PRO can use this to argue that having a higher standard for searches, would prevent more students from being arrested, which would prevent severe negative consequences.

Minority students are more likely to be arrested or suspended. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Students, Police, and The School-to-Prison Pipeline." Washington University Law Review. 2015. Web. Accessed August 19, 2016.

Another serious ramification of these laws, practices, and policies is their disproportionate impact on minority students. 180 Using a variety of measures, racial disciplinary disparities have been documented using national, state, and local level data at all school levels across all settings.181 For example, the U.S. Department of Education's Office of Civil Rights Data Collection (CRDC) demonstrates that although African-American students make up only fifteen percent of the students in the CRDC database, they comprise thirty-five percent of students who were suspended once, forty-four percent of students suspended more than once, and thirty-six percent of the students who were expelled from school.182 These disparities are not explained by more frequent or more serious misbehavior by minority students.183 According to the Office of Civil Rights, "in our investigations we have found cases where African-American students were disciplined more harshly and more frequently because of their race than similarly situated white students. In short, racial discrimination in school discipline is a real problem."184 And while very little data exist demonstrating that SROs arrest minorities more frequently than white students,185 there are data showing that that youth of color are disproportionately arrested and convicted compared to white youth for similar offenses. 18

This card can be used to show that having a stricter standard for searches, would protect minority students who are disproportionately arrested in the status quo.

Minority and disabled students are hurt by the current system. ABH

Thurau, Lisa & Wald, Johanna [Thurau is the Executive Director of Strategies for Youth, Wald is the Director of Strategic Planning at the Charles Hamilton Houston Institute for Race and Justice]. "Controlling Partners: When Law Enforcement Meets Discipline in Public Schools." New York Law School Law Review. 2010. Web. Accessed August 19, 2016.

Soon thereafter, the term "school-to-prison pipeline" and the "schoolhouse-tojailhouse track" became part of the national lexicon. These phrases describe the growing trend of school officials to refer students to law enforcement for acts committed while in school, and the increasing deployment of police in schools. Advocates' concerns focused primarily on two issues. The first was that the presence of police in schools had the effect of "criminalizing" behaviors—such as minor scuffles, thefts, and "disruptions of school assembly"—that would otherwise be handled by school officials. **The second concern involved the disproportionate numbers of children of color, most notably black boys, and children with disabilities who were being referred to the juvenile justice system for school-based offenses. These disproportionate numbers were particularly troubling in light of the huge racial disparities that characterize the juvenile and criminal justice systems within every state**, and the high dropout rates among these populations. **In terms of children with disabilities, many advocates observed that their clients were being charged for behaviors that were, in fact, manifestations of their disabilities, and therefore were legally required to be handled therapeutically, rather than through law enforcement.**

The status quo shows that there clearly needs to be greater restriction on law enforcement's ability to arrest (and therefore search) students.

Violating student rights is part of the larger trend of policing and incarceration in the U.S. ABH

Bacy, Nicole [Adjunct Professor of Criminal Justice at San Diego State University]. "Circumventing the Law: Students' Rights in Schools With Police." Journal of Contemporary Criminal Justice. 2010. Web. Accessed August 22, 2016.

Public perceptions of failing, disorderly schools and fears of increasing school violence have created demands for accountability and reform in public schools across the country.[1] **Contemporary public schools can be described as high security environments, complete with police officers** (known as School Resource Officers or SROs), security guards**, surveillance cameras, metal detectors**, in-school suspension rooms, locker searches, drug-sniffing dogs, ID badges, and dress codes in public schools across the country (Dinkes, Cataldi, & Lin-Kelly, 2007). These measures are used to deter students from committing crimes at school and to swiftly apprehend those that do (Jackson, 2002). **Surveillance strategies are then supplemented with exclusionary punishments, such as suspension, expulsion, and arrest**, of students who break school rules. Surveillance and punishment comprise the new face of school safety. **When considering why schools have chosen to implement these particular methods for the purposes of promoting safety and reducing crime over alternatives (such as drastically increasing the number of school counselors, for example) it is useful to look at larger social changes in addressing crime and criminals. David Garland (2001) contends that contemporary American society is preoccupied with policing and punishment, citing a dramatic increase in the use of imprisonment over the past 30 years as evidence of this fixation.** He points to the structural and cultural changes of the late modern period, which have led to the politicization of crime issues and subsequent decline of penal welfarism. The result of this shift is a society disinterested in rehabilitating offenders and progressively more interested in removing them from society. Loic Wacquant (2009) argues that the poor have borne the brunt of this shift as the penal state has replaced the welfare regime, and the poor are controlled through incarceration and the surveillance of parole.

The emphasis of searching, policing, and punishing students can be associated with the greater trend of increasing incarceration in the United States.

Probable Cause Protects Basic Rights

Probable Cause Protects an Individual's Autonomy. ABH

Taslitz, Andrew [Professor, Howard University School of Law]. "What is Probable Cause, and Why Should We Care?: The Costs, Benefits, and Meaning of Individualized Suspicion." Law and Contemporary Problems. 2010. Web. Accessed August 22, 2016.

Probable cause, however, potentially gives the citizen some measure of control over whether he must pay the price of actually being stopped. Because the officer needs individualized suspicion, he cannot stop persons randomly. Rather, he must have good reason to believe that this person has committed, or is about to commit, a crime.[239] By refraining from criminal conduct or from actions that can be expected to raise suspicions of such conduct, the citizen gains some control over whether he will pay the added price for social safety and security of in fact being stopped by the police.[240] The Court has, of course, sanctioned stops on less than probable cause on mere reasonable suspicion.[241] But because that lesser standard theoretically retains an individualized suspicion requirement, hopefully a robust one, the citizen still retains significant control over the size of the risk that his liberties will be infringed by the police. Probable cause and reasonable suspicion thus help to protect citizen autonomy.

Probable cause protects individual liberty by requiring that officers have reasonable suspicion to stop an individual, and preventing random unwarranted searches.

New Jersey v. T.L.O. didn't account for increased law enforcement in schools. ABH

Bacy, Nicole [Adjunct Professor of Criminal Justice at San Diego State University]. "Circumventing the Law: Students' Rights in Schools With Police." Journal of Contemporary Criminal Justice. 2010. Web. Accessed August 22, 2016.

The widespread placement of police officers in public schools, however, fuses the justice system and schools in a new way—a way for which the court in T. L. O. was not fully prepared. The court's ruling in T. L. O. stops short of addressing the appropriate standard for police or other officials acting in a law enforcement capacity within schools (Torres & Chen, 2006). In fact, part of the court's rationale for maintaining the lower reasonable suspicion standard for school officials was that they are not experts in the law and so would not know how to distinguish probable cause in a timely manner (Baskin & Thomas, 1986). However, now that police officers are a part of the daily fabric of most public high schools, this reasoning may be less relevant.

The T.L.O. case did not describe the proper conduct for police officers acting as law enforcement in schools, and actually created the lower standard of reasonable suspicion specifically for school officials not acting as law enforcement.

SRO's violate student rights in the status quo. ABH

Bacy, Nicole [Adjunct Professor of Criminal Justice at San Diego State University]. "Circumventing the Law: Students' Rights in Schools With Police." Journal of Contemporary Criminal Justice. 2010. Web. Accessed August 22, 2016.

Although the SRO attempts to differentiate between these two courses of action—one he claims he does not take because it would render the school an agent and necessitate probable cause and one that he suggests is permissible because it allows the school to "develop their own reasonable suspicion"—there is no practical difference between these two scenarios. This further demonstrates the efforts of the school and SRO to work solely under the school's reasonable suspicion standard. **Students' rights are compromised in these situations because law enforcement enters the picture at a point when no crime has taken place and yet, as a result of his observance, students are subject to the same serious consequences as any other police search**. **Consider a hypothetical situation in which a school or SRO obtained information about a student and a crime that reached the threshold of probable cause. Certainly, in such a case, the SRO would conduct the search himself, without hesitation.** Yet with the type of cooperative practice in place described above, **an SRO would never need to find probable cause to search a student because administrators are willing to search students with the SRO present.** This finding is consistent with the carceral regime hypothesis; **warrant-less searches, reminiscent of prisoner shakedowns, are physically conducted by school administrators but done under the watchful eye of the SRO**. The security-obsessed climate of public schools legitimizes student searches (presumably for weapons or drugs) based on unrelated, noncriminal rule violations.

In the status quo, school officials can conduct searches under reasonable suspicion with law enforcement present, that law enforcement wouldn't be able to do one their own unless they could meet the probable cause standard.

SRO's use reasonable suspicion to circumvent the law. ABH

Bacy, Nicole [Adjunct Professor of Criminal Justice at San Diego State University]. "Circumventing the Law: Students' Rights in Schools With Police." Journal of Contemporary Criminal Justice. 2010. Web. Accessed August 22, 2016.

This kind of information sharing may (and in this case did) result in a school and SRO teaming up against a student—even one that had not done anything wrong and may have just been trying to make a fresh start in a new school. Later on at Central High School, I observed Officer Mike putting this practice into action when he used his law enforcement connections to gain information about Travis; he then shared this information with the school, which used it to justify searching Travis on a regular basis. In a conversation with a representative from the district who is in charge of disciplinary matters, **Officer Mike then said that the other officer on the phone just told him that the word on the street is that this student is "sometimes strapped**" [carrying a weapon]. **Officer Mike said that he was going to have to start searching the student when he comes to school**. [**District representative] said she definitely thinks he needs to let the administration know right away so that they can start to search this student. She said, "because the school doesn't need reasonable suspicion, right?" Officer Mike corrected her saying that he needs probable cause but the school only needs reasonable suspicion.**

Because of an SRO's unique position as a member of the school community and a member of the law enforcement community, he is privy to private and confidential information from both sides. When Officer Mike deliberately shares information he learned from a fellow officer with school administrators so that they can search Travis under the lower reasonable suspicion standard, he and the school are effectively circumventing the law. Travis has done nothing wrong at school to justify these searches yet is subject to their intrusiveness and ultimately their consequences. Had there not been an SRO working in the school and had the SRO not been aware that the school was leery of Travis and wanted to kick him out, this type of information sharing would not have happened. Again, as seen in this example, the school and SRO partner in a way that evades students' rights. These actions have the potential to produce negative consequences for students ranging from stigmatization and humiliation to exclusionary punishments (e.g., suspension and expulsion) and arrest. The sharing of information about students between schools and the criminal justice system further supports the notion that a carceral regime thesis characterizes contemporary schools. The boundary between the school and the justice system blurs, and students are constantly surveilled as if they are dangerous criminals with little regard for their privacy rights.

In the status quo, law enforcement is able to use the unique position of SRO's to give school officials information to conduct a search that law enforcement would not be legally allowed to conduct themselves.

Probable Cause Would Prevent Random Searches

Random Searches are commonly used in the status quo. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Random, Suspicionless Searches of Students ' Belongings: A Legal, Empirical, and Normative Analysis." University of Colorado Law Review. 2013. Web. Accessed August 22, 2016.

Naturally, school officials are concerned about violence and substance abuse in their schools and have implemented various measures to address these problems. For example, some schools support worthwhile efforts such as implementing curricula and instruction programs aimed at preventing violence, providing mentors to students, and creating other programs that promote a sense of community and social integration among students.^ **Other schools, however, perform random, suspicionless searches on students to prevent students from bringing drugs and weapons on campus.^ These searches include random drug testing, dog sniffs, metal detector checks, and searches through students' belongings.^ Recent data from the U.S. Department of Education show that the use of these strict security measures in public schools is not uncommon.^**

In the status quo, random searches aimed at finding drugs or weapons are frequently used in public schools.

Random searches in schools are prohibited by the 4th amendment. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Random, Suspicionless Searches of Students ' Belongings: A Legal, Empirical, and Normative Analysis." University of Colorado Law Review. 2013. Web. Accessed August 22, 2016.

The use of these search tactics raises important questions regarding students' civil rights under the Fourth Amendment. While several articles discuss students' Fourth Amendment rights in school settings,*^ this Article provides a legal, empirical, and normative analysis of a particularly intrusive type of search practice: random, suspicionless searches of students' belongings. **This Article first argues that, consistent with Supreme Court precedent and a recent Eighth Circuit decision, random, suspicionless searches of students' belongings are not permitted under the Fourth Amendment** unless certain conditions are present." **Specifically, in order to justify performing suspicionless, intrusive searches on the general student population,'2 the Fourth Amendment requires that a school official have particularized evidence demonstrating that the school has a substance abuse or weapons problem, unless the school official reasonably believes that students are in immediate danger.'^** Conversely, if **the school official offers nothing more than "generalized concerns about the existence of weapons and drugs in [her] school[]," she is not entitled to conduct such searches. '^**

Based on Court interpretations of the 4th amendment, school officials ought to have evidence relating to a specific student or threat, and cannot conduct random searches.

Random searches are disproportionately used in schools with larger minority populations. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Random, Suspicionless Searches of Students ' Belongings: A Legal, Empirical, and Normative Analysis." University of Colorado Law Review. 2013. Web. Accessed August 22, 2016.

Additionally, and more disturbingly, the analysis suggests that during the 2007-2008 and 2009-2010 school years, schools with higher minority student populations were more likely than schools with lower minority populations to perform these searches without reporting any incidents relating to weapons, alcohol, or drugs. ^' These findings hold true even when taking into account school officials' perceptions of the levels of crime where students live and where the school is located.^^ The fact that minority students are more often subject to intrusive searches without apparent justification raises serious concerns that schools are perpetuating racial inequalities.^^ Such practices also incorrectly teach students that white students are privileged, leading to increased racial tensions and an undesirable society that harms people of all races. ^^ Furthermore, even absent Fourth Amendment violations, the fact that many schools perform suspicionless searches without reporting a single incident relating to weapons, drugs, or alcohol during the school year raises pedagogical concerns, especially because there are more effective ways to prevent school crime that do not harm the learning environment.3'

Not only are schools with larger minority populations likelier to conduct these searches, but many schools are conducting the searches without reporting any incidents to justify the searches.

Stricter Security Measures Are Harmful

Strict security measures create distrust between students and officials. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Random, Suspicionless Searches of Students ' Belongings: A Legal, Empirical, and Normative Analysis." University of Colorado Law Review. 2013. Web. Accessed August 22, 2016.

Educational scholars, sociologists, and psychologists agree that strict security measures have several harmful effects on students. For example, aside from the obvious drawbacks of creating distractions and taking away instructional time, implementing strict security measures deteriorates the learning environment by alienating students and generating mistrust. Establishing trust between educators and students is vital for creating a healthy climate conducive to learning.'^^ Yet, according to Paul Hirschfield, implementing strict security measures sends a negative message to students that educators are suspicious of students, which "sour[s] students' attitudes toward school and school authorities and undermin[es] a positive, respectful academic environment."'^' Indeed, strict security measures produce formidable barriers between students and their schools and are "a frequent cause of disunity or discord within the school community."'^^ Martin Gardner explains, "In a very real sense, each and every student stands accused, has become a *suspect,' in generalized school searches, especially given the special relationship of trust which supposedly exists between student and teacher."'^^ Gardner posits that searches that take place in schools are much different than searches in other environments, such as airports. He reasons: Surely a student even indirectly accused by his teacher as a possible thief or drug user suffers a greater indignity and loss of self-esteem by being subjected to a generalized search than does an airline passenger passing through a metal detector or a driver [through] a checkpoint. Far from 'morally neutral,' school searches are instead particularly rife with moral overtones.

Strict security measures cause students to distrust school officials, which hurts the students' learning environment and greater school community.

Strict security measures are often counterproductive in schools. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Random, Suspicionless Searches of Students ' Belongings: A Legal, Empirical, and Normative Analysis." University of Colorado Law Review. 2013. Web. Accessed August 22, 2016.

Second, this Article argues that the above standard is not only legally sound, but it is also more consistent with good educational policy and practice because it limits the authority of school officials to conduct random, suspicionless, intrusive searches absent extenuating circumstances. ^^ **Research demonstrates that strict security measures deteriorate the learning climate by engendering alienation, mistrust, and resistance among students, instead of building a positive climate based on mutual respect, support, community, and collective responsibility**.'^ In fact, **empirical studies cast doubt on whether strict security measures effectively reduce school crime**, 1^ and **many researchers argue that implementing such measures increases misbehavior and crime.**'^ Rather than relying on coercive measures, **research demonstrates that there are alternative, more effective methods for reducing school crime that maintain students' dignity, do not degrade the learning environment, and teach students to value their constitutional rights. '^**

Empirical studies have shown that increasing security measures in schools does not necessarily reduce crime, and that more effective alternatives (which do not violate constitutional rights) exist.

Strict security measures cause students to feel less safe. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Random, Suspicionless Searches of Students ' Belongings: A Legal, Empirical, and Normative Analysis." University of Colorado Law Review. 2013. Web. Accessed August 22, 2016.

Jen Weiss reports that after interviewing students subject to such security measures, she found that these measures caused students to "feel consistently watched [and] to distrust, hide from, and avoid authority figures." ^^^ She concludes that **instead of feeling a greater sense of safety at school, students felt disillusioned and scared.'**^^ She reports that "[students in these schools experience, firsthand, what it is to be monitored, contained, and harassed, all in the name of safety and protection."'^' She further reports that **such measures "caused students to be less inclined to speak out or organize in response to issues that bother them."'^s She maintains that strict security measures are "counterproductive to safety[,] . . . foment violence" in some cases, "negatively impact a school's culture and reputation, and contribute to the loss of good teachers and good students."'^^ Many leading scholars agree with her conclusions. '^^**

Instead of making students feel safe, strict security measures often make students feel scared and discouraged from speaking out about issues they care about at school.

Security measures hinder students' ability to learn about their rights. ABH

Nance, Jason [Associate Professor of Law, University of Florida]. "Random, Suspicionless Searches of Students ' Belongings: A Legal, Empirical, and Normative Analysis." University of Colorado Law Review. 2013. Web. Accessed August 22, 2016.

Strict security measures also skew students' mindsets about constitutional values and the role of government in their lives, causing students to discount important constitutional rights. As Betsy Levin explains, schools play a critical role in helping students learn skills and values that enable them to exercise the responsibilities of citizenship and benefit from participation in a free economy.'^^ Those values include the right to privacy.'^^ If schools do not honor students' constitutional rights, schools cannot effectively teach students about those rights.'^^ This principle has been observed by the Supreme Court as early as 1943 when it stated: "That [schools] are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes."'^^ Furthermore, school officials' treatment of students in schools socializes students to tolerate and expect similar treatment by government officials outside of schools.'^'^ If students encounter drug sniffing dogs, metal detector checks, frisks, and authorities rummaging through their personal belongings on a regular basis, these practices will seem normal to them.i^' The citizenry now may have divergent views regarding individual privacy rights and the role the government should play in our personal lives, but as the rising generation becomes more accustomed to more intrusive invasions, it is possible that those healthy debates may shift towards greater acceptance of strict security measures or disappear altogether.'^^

If schools teach students that they have no right to privacy as students, then they are likely to grow up not fully understanding that they have the right to privacy from the government as adults.

Growing Connection Between School Discipline and Law Enforcement

In current environment, there is no distinguishing school discipline with law enforcement. Therefore, probable cause should apply. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

The reasonable suspicion standard is built upon a special needs premise that, when applied to public school searches as they function today, is inconsistent with broader Supreme Court doctrine. First, **when school officials are police officers, or are required to report infractions to law enforcement, their non–law enforcement special need for a search becomes indistinguishable from the law enforcement purposes of the search.** Second, even if there is still a special need present beyond law enforcement, student privacy interests are far more weighty, and government interests are less so, than courts typically acknowledge.

School administrators have become an extension of law enforcement. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

“school administrators have, in effect, become agents of law enforcement authorities.”104 In schools where students are being searched by police officers, or where school officials are required to report what they find to law enforcement, the non–law enforcement in-terest in school safety becomes so entangled with the law enforcement interest that the former cannot be viewed as primary105 or even distinct.106 The non–law enforcement interests should not be viewed as “special,” and the reasonable suspicion test should not apply.

Supreme Court recognizes interest of student privacy. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

Similarly, in the school context the Court in *Earls*, when deciding whether public schools could constitutionally require drug testing of students participating in extracurricular activities, considered the fact that the drug "test results [were] not turned over to any law enforcement authority" and that the only consequences of the policy were to limit students' participation in extracurricular activities, in determining the students' privacy interest.115 **The Court's analysis implies that students have a strong expectation that their persons will be free from intrusion by law enforcement, even if they have a very limited expectation that their persons will be free from intrusion by school officials. Where students are searched by police, or where the results of the search must be turned over to law enforcement, the students' privacy interest should therefore weigh more heavily**

Again, the Supreme Court says that privacy of students should be protected from law enforcement, and because law enforcement is now entangled with school administration, the higher privacy guaranteed by the probable cause standard is favorable.

School safety not enhanced by reasonable suspicion, while community safety endangered by criminalization of school discipline. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

Finally, courts tend to overweigh the government's interest in searching students. First, because the government's interest in law enforcement is subsumed into its interest in maintaining safety, courts implicitly and impermissibly weigh the law enforcement interest as part of the government's interest.122 Second, the government's interest in maintaining safety in schools, while certainly important, is **undermined in this context by evidence that heavily policing schools, and subjecting students to criminal rather than administrative punishments, may have long-term negative effects on the most heavily policed communities, as well as on society as a whole.**123 Thus, the government's interest should be defined more broadly as an interest in creating safer schools and communities in the long term.

Requirement to report to law enforcement means that school officials are effectively law enforcement. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

The current doctrine does not acknowledge that even where school officials search students independently of any police officers, students' privacy interests might be implicated by requirements that school officials report evidence to police. **Thus, probable cause should apply where school officials search students without a law enforcement presence, but are required to report the evidence found to police, potentially "lead[ing] to the student's arrest."**147 This suggestion acknowledges the practical reality that student discipline is not just criminalized because police officers are in schools, but also because schools often report student misbehavior to law enforcement authorities.148 School officials who lack discretion are far from the ideal of educators whose interests align with those of students, an ideal that was part of the rationale for lower search standards in schools.

Consequences of a criminalized discipline system. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

The criminal justice system has proved incapable of rehabilitating juveniles, and may indeed fate children who would otherwise have grown out of an unruly period to be forever connected with the system.

Logical underpinnings of law enforcement/school convergence. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

A finding that school-based referrals represent a large share of the overall number of law enforcement referrals would challenge the doctrinal view that school discipline is categorically discrete from law enforcement. In addition, it would suggest that a relatively large share of juvenile arrests and investigations occurs without the guarantees of Miranda warnings and probable cause, since these protections generally are not constitutionally required for school-based investigations.9

Schools have become increasingly policed. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

The reliance on law enforcement to maintain school order is not limited to jurisdictions with school resource officers. **Jurisdictions lacking the resources to hire full-time police personnel nonetheless may regularly summon the local police department through calls for service. Indeed, rapidly spreading "zero-tolerance" policies mandate that school officials call the police any time certain predetermined infractions are committed.** In Rhode Island, a statewide policy requires school principals to report all school fights to the police for criminal prosecution.80 Alabama requires all principals to notify law enforcement any time a person violates district policies regarding physical harm or threats of harm.81

Similar mandates have been adopted at the local district level as well. The Atlanta Public School System, for example, maintains a zero-tolerance policy requiring school officials to immediately report to the police any student involved in drugrelated offenses or gang activity.82 Chicago Public Schools began requiring school officials to notify police of all burglary, aggravated assault, and gang activity offenses, while providing administrators with discretion to refer students to the police for lesser offenses such as gambling, forgery, or petty theft.83 The Houston Independent School District requires school principals to notify the police any time there are reasonable grounds to believe that a student has engaged in any criminal offense at school.84 The East Carroll Parish School System in Louisiana, a small, rural district, requires that law enforcement remove and file charges against any student age twelve or over who is an aggressor in a fight.85 Guilford County Schools system in North Carolina requires that school officials call the police every time an aggravated assault, sexual offense, weapons offense, or drug possession is suspected.86 Nelson County Public Schools system in Virginia requires schools to refer to the police all instances of drug offenses, violence, interference with school authorities, and driving without a license on campus.87

As the scope of these zero-tolerance policies suggests, the infractions for which students are referred to law enforcement have expanded considerably. Numerous states criminalize the offense of disrupting school activities88 or talking back to teachers.89 In 1994, the South Carolina Attorney General issued an opinion stating that students who fight in school, fail to leave school

grounds upon request, or use foul or offensive language toward a principal or teacher are subject to criminal prosecution.90

As a result of these policy developments, schoolchildren today are more likely to be arrested and prosecuted for schoolbased misconduct than they were a generation ago.91 According to the Federal Advisory Committee on Juvenile Justice, the number of referrals to the juvenile justice system for relatively minor school-based conduct is on the rise.92 **Given this shift toward criminalization, the administration of school discipline appears to be increasingly adversarial.**

These trends show that previous justifications for the special teacher-student relationship are no longer valid. Schools increasingly treat students as criminals in an adversarial way.

Many juvenile justice system cases originate from school. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

State level data show that the share of juvenile court cases that originate from school-based misconduct ranges from a low of 4 percent to a high of 43 percent.95 These data, limited to formal referrals to juvenile court, do not provide a precise measure of the share of youth law enforcement referrals that are school based. They omit incidents in which a youth is referred to law enforcement through an arrest at school, but charges are dropped before a case is filed in juvenile court. They also omit school-based law enforcement referrals that result in charges being filed in adult criminal court rather than in juvenile court.96

The Annual Report for the North Carolina Department of Juvenile Justice indicates that 43 percent (16,140 out of 37,584) of offenses that result in referral to the juvenile justice system are school based.9

School-student relationship is adversarial. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

Nonetheless, the data demonstrate that in at least some jurisdictions it has become difficult to defend the claim that school discipline differs categorically from law enforcement, or that school discipline serves educational rather than police purposes. **The heavy reliance on law enforcement to maintain school order suggests that one can no longer assume a nonadversarial, benevolent relationship between school disciplinarian and student.**

Criminalization of school discipline is against students' best interests. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

On the contrary, social science consistently shows that a law enforcement referral has significant negative consequences on youth educational outcomes. Among the more recent research, a 2006 study by criminologist Gary Sweeten assessed the relationship between law enforcement referral and educational attainment. Using data from the National Longitudinal Survey of Youth, a nationally representative sample, the study found that **a first-time arrest during high school years nearly doubles the likelihood of dropping out of high school; an arrest coupled with a court appearance quadruples the likelihood.**132 The magnitude of this effect holds, even after controlling for other factors thought to influence dropout rates including being held back a grade, living in a single-parent household, poor prior academic performance, and rates of delinquent conduct.133 Similarly, a 2009 study by sociologist Paul Hirschfield assessed the impact of a first-time arrest on high school dropout rates in Chicago.134 Drawing a sample of students in Chicago Public Schools with high concentrations of low-income and minority students, **it found that those who were arrested in ninth or tenth grade were six to eight times more likely to drop out of high school as classmates who were not arrested, even after controlling for variables including prior delinquency, peer delinquency, truancy, academic achievement, and anger control**.135 A number of other studies have drawn similar conclusions regarding the negative impact of arrest on high school graduation rates.

This evidence undermines the idea that punishment ultimately makes the student a better person. Instead, it significantly harms the chances of educational obtainment. Thus, increasing the standards of searches would likely decrease the amount of punishment given to students, probably increasing educational obtainment.

Current modes of discipline undermine educational environment. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr

Moreover, there is **little empirical support for the claim that the use of law enforcement to maintain school order accrues educational benefits to the larger student population**. It may well be true that if one student persistently disrupts the classroom, removal of that student enhances the remaining students' ability to learn.137 However, there is no evidence suggesting that referring the student to law enforcement specifically–in lieu of or in addition to some other mechanism such as traditional suspension–improves the educational climate for the remaining students. Indeed, a recent metaanalysis of 178 individual studies assessing the effectiveness of different school-based disciplinary interventions found no evidence that the use of arrest and juvenile courts to handle school disorder reduces the occurrence of problem behavior in schools.138 Some scholars have reasoned that, **by creating adversarial and distrustful relationships between law enforcement and school authorities on the one hand, and the student body on the other, coercive police-like interventions may actually increase school disorder**. Education scholars Matthew Mayer and Peter Leone analyzed data from the National Crime Victimization Survey to assess the relationship between coercive school security measures and educational climate and found that **restrictive measures such as the use of security personnel, metal detectors, and locker searches were not only associated with higher levels of school disorder, but also possibly caused that disorder.** Based on these findings they concluded, "creating an unwelcoming, almost jail-like, heavily scrutinized environment, may foster the violence and disorder school administrators hope to avoid."139 Similarly, one criminologist recently expressed concern that **"aggressive security measures produce alienation and mistrust among students" and such measures "can disrupt the learning environment and create an adversarial relationship between school officials and students,"**140 while another criminologist suggested that the use of aggressive law enforcement tactics in schools "may cause students to distrust educational and law enforcement authorities which could motivate students to engage in greater delinquency."141 Far from suggesting that law enforcement referrals improve the educational climate for remaining students, the limited evidence to date has led experts to conclude that **such referrals likely compromise educational goals**.

For the Pro, these points basically undermine the rationale for why there are lower standards for privacy protection in the first place. The punishment does not have positive educational benefits. However, it could be possible to use this evidence for the Con. This evidence shows that the problem is not the standards themselves, but rather the implementation of justice in schools. The underlying logic to why students shouldn't have the probably cause standard could still be sound. Indeed, because this is an 'ought' resolution, you might be able to rely on more philosophical reasoning and place the blame of problems in the misapplication of that philosophy.

Summary of rejection of previous rationale for decreased search standard. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

The developing body of empirical evidence in the preceding part challenges the doctrinal justification for denying procedural protections to youth who are accused of misconduct in schools. To the extent school discipline increasingly takes the form of law enforcement referrals, it can no longer be justified by the educational benefits it confers on the child or its purportedly nonadversarial nature. Those rationales for insulating traditional forms of school discipline from constitutional protections simply no longer apply in jurisdictions that rely on law enforcement to maintain order in schools.

Con Evidence

Underlying Rationale for Reasonable Suspicion

School officials and students' interests are assumed to be aligned. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

Central to this defense of restrictions on students' rights is the assumed alignment of interests between students and school officials.24 Procedural protections guaranteed in the criminal context have been deemed unnecessary in the school context to the extent that the investigation and punishment of student misconduct—in stark contrast to the investigation and punishment of ordinary crime—is **for the youth's own educational benefit, teaching the importance of respect for others and acceptance of responsibility**. Therefore, the standard calculus applicable outside the school discipline context— balancing the tradeoff between the individual interest and the competing collective or state interest—has been deemed inapplicable in schools. Analyzing restrictions on students' privacy rights during school searches, Stephen Schulhofer has reasoned that "[b]oth the investigating authority and the person searched are participants in a shared mission," rendering inapposite ordinary constitutional protections that "reflect[] a balance appropriate mainly to cases in which the private activity and public controls are poised in conflict."25 Under this view, **the convergence of interests between school official and student, unlike the adversarial interests of the adult criminal suspect and law enforcement, obviates the need for the robust protections guaranteed in the law enforcement context.**

Special student-teacher relationship requires decreased 4th Amendment protections. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

Holding that school officials may search a student's person or belongings absent the warrant or probable cause that would be required outside of the school context, **the Court reasoned that to hold otherwise would compromise "the value of preserving the informality of the student-teacher relationship."**53 Justice Powell's concurrence repeated his insistence from Goss that the alignment of interests presented in school discipline cases "make[s] it unnecessary to afford students the same constitutional protections granted adults and youths in a nonschool setting."54 This alignment, he reasoned, sharply distinguished the teacher-student relationship from that of citizens and law enforcement officers: Law enforcement officers function as adversaries of criminal suspects. These officers have the responsibility to investigate criminal activity, to locate and arrest those who violate our laws, and to facilitate the charging and bringing of such persons to trial. **Rarely does this type of adversarial relationship exist between school authorities and pupils**.55 Similarly, Justice Blackmun's concurrence reasoned that the educational role of teachers excused them from ordinary Fourth Amendment standards: "A teacher's focus is, and should be, on teaching and helping students, rather than on developing evidence against a particular troublemaker."

Safety and orderliness of school environment necessary. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

It is true, however, that these cases did not rely exclusively on these premises to justify limits on students' procedural rights. Rather, the Court has suggested an additional justification for such restrictions—the weighty interests of other students in maintaining an environment conducive to learning.59 Goss emphasized that the maintenance of order and discipline is "essential if the educational function is to be performed,"60 and T.L.O. underscored the heavy weight of the "[s]chool's interest in maintaining an environment where learning can take place."

Probable Cause Makes Schools Less Safe

Violence in schools is widespread. ABH

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

A 2012 Center for Disease Control survey revealed that twelve percent of students engaged in a physical fight on school property within the previous year, while nearly six percent did not go to school one or more days within the previous month because they felt unsafe at school.216 Even more troublesome, nearly five and one-half percent of students carried a gun, knife, or club to school within the month prior to the survey, and nearly seven and one-half percent were threatened or physically injured with such a weapon on school property within the prior year.217 The Center for Disease Control also calculated that between 1999 and 2006, 116 students were killed in 109 separate incidents, with sixty-five percent of those homicides resulting from a gunshot wound.2 During the 1990s, there were numerous school shootings in the United States. A small sample of these incidents include Luke Woodham, who murdered his mother before killing two students at school in Pearl, Mississippi in 1997; Andrew Golden and Mitchell Johnson, who killed one teacher and four students in Jonesboro, Arkansas in 1998; and Eric Harris and Dylan Klebold, who killed a teacher and twelve students, while injuring numerous others, at Columbine High School in Littleton, Colorado in 1999.219 This trend has also continued into the twenty-first century. For example, Jeffery Weise killed nine people, including his grandfather, in school in Red Lake, Minnesota in 2005; Charles Carl Roberts IV killed five girls execution style in a schoolhouse before taking his own life in Nickel Mines, Pennsylvania in 2006;220 Seung-Hui Cho killed thirty-three people on the campus of Virginia Tech in 2007;221 and Adam Lanza killed twenty-seven people, including twenty students, in Newtown, Connecticut in 2012.2

Clearly, violence in public schools is rampant, which CON can use to justify requiring a lower standard to search students for weapons.

Drug use at schools has been increasing. ABH

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

Nor has student drug use subsided since 1985. The Boston Globe recently quoted one superintendent who said "[d]rugs are everywhere—in the smaller schools, rich towns, poor towns, urban, and suburban. If you want it, it's there."223 Another superintendent indicated that drugs are the "biggest obstacle that . . . schools face."224 In fact, twenty five percent of students in one high school admitted to using marijuana.225 The U.S. News recently reported that seventeen percent of students abuse drugs during the school day, forty-four percent of high school students know a fellow student who sells drugs at school, and sixty-one percent of students report that their schools are "drug infected."226 Additionally, one Missouri school district suspended sixty-eight high school students between 2011 and 2012 for violating the district's drug and alcohol policy.

Another justification for less strict search standards can be that there is a major drug problem in many public schools.

Less strict search standards deter crime. ABH

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

Others, like Dodd, argue that because statistics indicate that violence in schools is declining, then a probable cause standard is sufficient to curb violence.236 However, the fact that violence and guns in schools are decreasing does not make them absent.237 Rather, "violent crime in the schools . . . [is a] major social problem[]."238 **Even if there is decreased school violence, it is necessary to apply the reasonable suspicion standard to deter students. If students know that they can be searched with only reasonable suspicion, they will be less likely to carry contraband onto school property. Conversely, if students know that a warrant must be obtained before they can be searched, they will be more tempted to bring contraband to school because they would have a reduced chance of being caught.**

If probable cause is used, students will be more likely to bring in weapons or illegal items into school, because they know it will be more difficult for school officials to search them.

Schools Are a Unique Environment

Attendance is compulsory so expectations of safety are higher. RMF

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

In holding that reasonable suspicion applied when resource officers act in conjunction with school authorities, the court noted that students have a reduced expectation of privacy at school.119 Additionally, because school attendance is compulsory, schools have a heightened duty to protect students from danger.120 Accordingly, probable cause, if the standard, would promote the unreasonable risk of encouraging untrained teachers to search students suspected of possessing dangerous weapons.121

Discipline and order require swiftness, which would be threatened by probable cause. RMF

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

In other words, regardless of how easily a resource officer can develop probable cause, he or she will still have to wait an unreasonable amount of time—at least in the educational environment where "swift and informal disciplinary procedures [are] needed"182—for a warrant to issue.183 This greater need for swiftness in the educational environment, as opposed to other environments, comes from the "responsibility [of schools] to protect student safety and preserve an orderly educational environment."

Interaction of law enforcement and school staff is necessary to ensure safety of all

Wisconsin vs. Angela D.B. SUPREME COURT OF WISCONSIN. 20 June 1997. Web. <https://www.wicourts.gov/sc/opinion/DisplayDocument.html?content=html&seqNo=17070>.

Teachers and school officials are trained to educate children and to provide a proper learning environment. Law enforcement officials, on the other hand, receive specialized training on how best to disarm individuals without subjecting themselves or others to danger. When faced with a potentially dangerous situation beyond their expertise and training, school officials must be allowed "a certain degree of flexibility" to seek the assistance of trained law enforcement officials without losing the protections afforded by the reasonable grounds standard. See T.L.O., 469 U.S. at 340. We therefore find it permissible for school officials who have a reasonable suspicion that a student may be in possession of a dangerous weapon on school grounds to request the assistance of a school liaison officer or other law enforcement officials in conducting a further investigation.

¶33 Although T.L.O. did not address this question, we conclude that an application of the T.L.O. reasonable grounds standard, and not probable cause, to a search conducted by a school liaison officer at the request of and in conjunction with school officials of a student reasonably suspected of carrying a dangerous weapon on school grounds is consistent with both the special needs of public schools recognized inT.L.O. and with decisions by courts in other jurisdictions.

Students Have Limited Rights

Students, because of their age and the environment of the school, do not have full constitutional rights. RMF

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

At the same time, "students in school do not possess the same breadth of constitutional rights as parties in other settings."199 Although students retain constitutional rights in school, those rights are "limited by the circumstances of [the school's] special environment."200 For example, students have reduced freedom of speech rights while in school.201 Similarly, students have reduced freedom of the press rights.202 While no student has brought suit asserting the right to assemble, it is unlikely that any court would give students the freedom to assemble in the hallway (or anywhere other than his or her assigned classroom) during the school day while classes are in session. Additionally, students have limited freedom of religion rights.203 In fact, the only First Amendment204 right that students seem to universally possess is the freedom to petition. As for the Second Amendment,205 it is without question that students enjoy no right to possess firearms while at school.206 Additionally, students have reduced Fourth Amendment207 rights in school,208 and have no Twenty-first Amendment209 right to possess alcohol in school.210 Finally, students, until they reach the required statutory age, are required to attend school, and thus lack the freedom to do as they please while school is in session.211

Reasonable suspicion—as opposed to probable cause—is entirely consistent with the other limitations on rights we extend to students. RMF

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

In short, it is accepted that students, as minors in a compulsory educational system, do not and cannot enjoy the same constitutional rights as their older counterparts. Applying the reasonable suspicion standard to school resource officers—the same standard that courts readily apply to school employees— does not erode the rights of students. Rather, the reasonable suspicion standard is entirely consistent with the other constitutional rights that students enjoy.212 It will not produce a slippery-slope or erode student rights, just as limiting the right of students to use abusive language in school has not produced a slipperyslope of silencing student speech or of eroding student rights.213 Instead, just as limiting abusive language in schools protects minor students from such language, applying a reasonable suspicion standard in schools protects children from violence and drug use that, unfortunately, so often accompanies public school systems.

Educational environment necessarily limits students' rights. RMF

Wisconsin vs. Angela D.B. SUPREME COURT OF WISCONSIN. 20 June 1997. Web. <https://www.wicourts.gov/sc/opinion/DisplayDocument.html?content=html&seqNo=17070>.

In addition, the Court emphasized that the state has a substantial interest in maintaining a safe and proper educational environment in its schools and, therefore, is permitted to exercise a degree of supervision and control that could not be exercised over free adults. "[A] proper educational environment requires close supervision of schoolchildren, as well as the enforcement of rules against conduct that would be perfectly permissible if undertaken by an adult."

Compulsory nature of school requires a safer environment. RMF

Wisconsin vs. Angela D.B. SUPREME COURT OF WISCONSIN. 20 June 1997. Web. <https://www.wicourts.gov/sc/opinion/DisplayDocument.html?content=html&seqNo=17070>.

In Wisconsin, school attendance is compulsory, with certain exceptions, until age 18. See Wis. Stat. §§ 118.15, 115.82 (1995-96). School officials not only educate students who are compelled to attend school, but they have a responsibility to protect those students and their teachers from behavior that threatens their safety and the integrity of the learning process.[3] With the growing incidence of violence and dangerous weapons in schools, this task has become increasingly difficult. See, e.g., Isiah B., 176 Wis. 2d at 650 (Bablitch, J., concurring)(providing statistics on the percentage of high school students carrying weapons); 18 U.S.C.A. § 922 (q)(1)(F)(In 1994, Congress recognized that "the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country."). See also, U.S. DEPT. OF JUST., OFF. OF JUV. JUST. DELINQ. PREVENTION, Juvenile Offenders and Victims: 1996 Update On Violence, 7 (Feb. 1996)("Almost half of high school students reported weapons in their schools in 1993.")

Status Quo is Sufficiently Protective of Rights

Reasonable suspicion standard is a tailored and restricted policy. RMF

Student Searches and the Law. Rep. National School Safety Center, Pepperdine University, 1995. Web.

Court cases since T.L.O. have generally upheld the legality of searches, provided the searches were conducted in accordance with T.L.O. 's "two-prong" test: The search must be reasonable in inception and reasonable in scope. A look at the basic guidelines for student searches set down by the T.L.O. decision and the cases that followed is helpful. These guidelines comply with and clarify the "reasonable suspicion" standard:

- Searches must be based on reasonable suspicion that the student has violated school rules or the law.
- Those responsible for conducting the search must be able to clearly articulate which school rule or law has allegedly been violated and es- tablish that the search is reasonable in its inception. To be reasonable in inception, the search must be based on information, facts or circumstances that would lead a reasonable person to conclude that a search will turn up evidence of the violation of a school rule or the law. A hunch ("I'll bet that Johnny is carrying drugs today.") is insufficient. Unreasonable surmises ("We think there is a gun on campus, and Johnny is carrying a calculator case, so the gun might be inside it.") are unacceptable. "Reasonable in inception" is a flexible standard, but the search still must be based on some type of evidence. The information that forms the basis of the search must be recent and credible and must connect the student to the violation. Recent courts have presumed that tips from students are reliable. In the absence of facts that indicate a student informant is lying, courts look favorably on students as sources of information to meet the reasonable in inception standard.
- Searches must be reasonable in scope in light of the age and sex of the student and the nature of the infraction. Reasonable in scope has several applications. First, consider the size of the item for which you are searching. If you receive credible information that Jane has brought an AK-47 to school, a search that is reasonable in scope might include her locker; it would not include her purse. Although some might say that they were searching for bullets, no reasonable person would search for an AK-47 in her purse. Secondly, scope is also concerned with the intrusiveness of the search. No reasonable person would strip search a student to find a missing three dollars. A strip search, however, may be appropriate under circumstances which include drugs or weapons. Remember: More intrusive searches require more serious reasons for the search.

Invasive searches, like strip searches, are already highly regulated and restricted. RMF

Student Searches and the Law. Rep. National School Safety Center, Pepperdine University, 1995. Web.

Strip searches run the risk of failing prong two of the T.L.O. analysis. A search that is reasonable in scope must be one that is not excessively intrusive in light of the age or sex of the student or the nature of the infraction. A search of a nude student by an administrator or teacher of the opposite sex would violate this standard, as would a highly intrusive search in response to a minor infraction.

Strip searches are unreasonable under the status quo for most circumstances. RMF

Student Searches and the Law. Rep. National School Safety Center, Pepperdine University, 1995. Web.

in the absence of exigent circumstances that necessitate an immediate search in order to ensure the safety of other students (e.g., when the presence of weapons or drugs are suspected), the warrantless strip search of a student by a school official is presumed to be "excessively intrusive" and thus unreasonable in scope.

Criminalization and Policing of Students is Real Problem

Both sides can use the evidence in this section. We wanted to include it on Con to provide a more nuanced approach to the topic. As the evidence below argues, schools have become increasingly criminalized by law enforcement. That is, police are more involved in treating students as criminal offenders rather than as misbehaving students. For the Pro, this could be reason to say why we need the probable cause standard—to protect students from a policed environment. On the Con, you need to argue that it is not that reasonable suspicion is problematic, it is the increased police presence. You advocate that school administrators should still be able to use reasonable suspicion to promote a healthy, safe environment. The problem is the use of police in schools, not the standards for searches. You will need to be careful not to sound like you are proposing a counter plan, you are just highlighting the underlying problem.

School discipline has become more criminalized. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

Public School Discipline Has Become Increasingly Criminalized. — Many scholars have reported on the rise of zero-tolerance policies and police presence in schools in reaction to "[c]oncern about school safety, fueled by high-profile shootings" like the tragedy at Columbine57 and, more recently, Sandy Hook,58 and as part of the "get tough" reaction to rising crime and drug rates in the 1980s.59 There has since "been a massive increase in the police and security presence in schools,"60 with 42.8% of public schools reporting a weekly security presence, including SRO and non-SRO law enforcement officers, in the 2009–2010 school year,61 compared to 10% of schools in the 1996–1997 school year.62 From 1997 to 2007, the number of police officers in schools rose by 55%.

More misbehavior is likely to involve the formal legal system and police. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

State laws also increasingly require schools to report various infractions to law enforcement agencies, with forty-three states so requiring in 2000. 65 While the majority of referrals are for criminal conduct, school districts interpret these laws broadly, often reporting students to law enforcement agencies for noncriminal infractions.66 Further, even where limited to criminal conduct, some jurisdictions have specifically criminalized behavior in school that is far less threatening than drug use or weapon possession — for example, in Toledo, Ohio, it is illegal to disrupt a class,67 and in Texas it is a crime for a child age twelve or older to miss three days of school within a four week period

More misbehavior is likely to involve the formal legal system and police. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

Together, these changes show that much behavior in schools that would have previously been handled internally "through school disciplinary processes" is now handled by law enforcement authorities.72 Police are both more involved in the searching of students, and more likely to be involved in the resulting discipline via the criminalization of student behavior. This increased policing of students has serious consequences for students and their communities.

It is important to understand that while outside police officers are currently held to the probable cause standard when acting alone, many police officers on school premises are at least loosely tied to the school in some way and therefore are NOT held to the probable cause standard. Essentially, there are blurred lines as to the duties and standards applied to school police officers or outside police officers who are called to the school. Ultimately, I think what you want to argue is that the criminalization of students is the real harm here. When more and more minor offenses are becoming real, consequential crimes, then police involvement can truly damage a student's future. As the Con, you are really trying to put the blame on the growing criminalization of schools rather than on the standards for searching a student. Again, Pro can use this evidence too and emphasize that, realistically, the environment will not change and so raising the standard to probably cause is the best avenue to protect students.

Harmful impacts of the criminalization of school discipline. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

The most fundamental consequence of the increased policing of schools is that a disturbing number of children73 are being pushed out of school and into the criminal justice system.74 This is troubling in light of the Supreme Court's recent jurisprudence on the reduced culpability of youthful offenders75 and the significant amount of science supporting such reduced culpability,76 as these students are now being punished in courtrooms and juvenile prisons instead of principals' offices, and the punishments for delinquent behavior are often quite severe. The severity takes several forms. First and most basically, many students are tried and sentenced as adults.77

Second, when students are charged as juveniles, they are afforded fewer procedural rights.78 This can have an escalating impact, as the majority of jurisdictions a low juvenile offenses to count toward three strikes–type laws,79 even though critics of such policies have noted, inter alia, the "prevalence of pleas," "lack of a jury trial," and "lack of zealous advocacy in juvenile proceedings."80

Third, the experience of juvenile prison in most states81 is at least as unpleasant as that of adult prison82: There is rampant violence83 and sexual abuse between wards and at the hands of guards.84 Solitary confinement is frequently imposed.85

Fourth, time in juvenile prison can have a devastating impact on the course of a child's life. Juvenile incarceration makes a person significantly more likely to end up in the adult criminal justice system later.86 For example, one study of 35,000 juvenile offenders "found that those who were incarcerated as juveniles were twice as likely to go on to be locked up as adults as those who committed similar offenses and came from similar backgrounds but were given an alternative sanction or simply not arrested."87 In addition, students who spend time in juvenile prison are significantly less likely to graduate from high school.88 Even for students who are not charged, simply being arrested reduces the odds that they will graduate.

Criminalization of discipline does not take into account the larger social impacts. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

The balance of interests should incorporate society's interest "in the development of future citizens"139 by having it diminish the government's interest in searching students. There is reason to believe that heavily policed and searched students, from communities with significant distrust of law enforcement,140 are socialized negatively to distrust governmental authority.

Criminalization of discipline is the real problem. RMF

"Policing Students." Harvard Law Review 128.6 (2015): 1747-770. Web. <http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf>.

There is little evidence to suggest that heavy policing, more frequent searching, and zero-tolerance rules actually increase school safety.174 If anything, it is likely these policies exacerbate students' disdain for the police, and presumably, for the government.

Probable Cause Would Exacerbate Adversarial School Power Relationship

Background underpinnings of school power theory. RMF

Dupre, Anne. "Should Students Have Constitutional Rights? Keeping Order in the Public Schools." The George Washington Law Review 65.49 (1996): Web. <http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1541&context=fac_artchop>.

As it attempted to mesh student constitutional rights with the weighty responsibilities that educators have for the children entrusted to their care, the Court never came to terms with the real issue behind the school cases. Instead, to avoid dealing explicitly with the thorny problems surrounding the nature of school power, the Court implicitly constructed a continuum of school power.70 On one end of the continuum is the power of the parent, who is not constrained by the Constitution. On the other end is the power of the State which, of course, is constrained by the Constitution. Although the Court was uncomfortable with the notion that school officials possessed the delegated power of the parent, the Court has not limited teachers only to the power the State is allowed to assert against individuals. The Court has acknowledged that schools are "special" and thus need more power over schoolchildren than the State generally has over adult citizens in other contexts. But no guiding principle has emerged with regard to where school power should rank on the parent-state continuum.

Schools must shift away from adversarial environments. RMF

Dupre, Anne. "Should Students Have Constitutional Rights? Keeping Order in the Public Schools." The George Washington Law Review 65.49 (1996): Web. <http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1541&context=fac_artchop>.

By inserting the reconstruction model into the Supreme Court's opinions, Tinker did more than merely allow a protest over Vietnam. It paved the way for the decline in school order and educational quality. It even helped to change student perceptions. The underlying message-a message that has infected to some degree nearly every opinion since Tinker was written-is that, according to the highest court in the land, teachers should be treated like adversaries that should be confronted and challenged, because they are untrustworthy in dealing with students. In undermining the trust between teacher and student, the Court tore at the very fiber of the education enterprise. Even if not singularly responsible for school decline, the Court's opinions have sent public messages that undermine the school's efforts to provide students with a serious education. There is no "pedagogical device" to guarantee that a student will achieve.341 The success of the education enterprise "depends upon the formation of relationships between students and teachers premised on trust. '342 The trust between student and teacher is "vital, because it evokes student 'motivation to learn ... independently of teacher demands for compliance.' 343 But trust is a "personal bond" that is easily damaged and "may well be impossible to attain if students begin to perceive pedagogical objectives as alien to their own needs."

This is a nuanced and difficult argument to make, but it may prove to be the most fruitful for the Con. Once again, you are attempting to paint the real problem of today's school discipline system as an overly criminalized system. The problem is paradoxically that teachers are giving out both too little and too much discipline because everything now takes on a legal slant. Teachers are unwilling to enforce minor discipline because of legal burdens and legal escalation, while when they do finally enforce discipline it is likely to result in very serious criminal punishment. Taken together, the best solution is to disentangle school discipline from the legal system. The Con must argue that elevating the search standard to probable cause would end up taking the issue in the wrong direction. It would further cement the legal system as the avenue of discipline in schools. The Con argues that, philosophically and fundamentally, reasonable suspicion is better than probable cause so long as school discipline is not criminalized. Again, the problem isn't with the search standard status quo, but rather the criminal discipline that often results.

Private school advantage. RMF

Dupre, Anne. "Should Students Have Constitutional Rights? Keeping Order in the Public Schools." The George Washington Law Review 65.49 (1996): Web. <http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1541&context=fac_artchop>.

Public schools-if they are to continue as an institution-simply must be allowed to keep order. Studies have reinforced what many already believed that students simply learn better in private and parochial schools than in public schools. 367 Most important, even after controlling for student backgrounds, **the study determined that the most significant difference between public and private schools was the presence of a safer, more disciplined, and more orderly learning environment**.368 Recent reports also reveal that a majority of parents would send their children to a private school if they could afford it.369 Indeed, **parents and children have not flocked to public schools because students have greater constitutional rights there than in private schools. Many parents know that school children need an ordered environment to obtain a serious education**. They will stay with public schools if an ordered environment exists, but will leave-if they can afford to-when it does not.

Private schools demonstrate this paradoxical need for more order and yet less legal influence. As shown by other evidence in this brief, private schools are much less likely to have formal law enforcement presence at the school or to involve police in discipline. If students were routinely arrested at a private school, parents would cease to send their children there. Yet, private schools also exercise greater control with fewer 4th Amendment protections for students. Combined, educational outcomes are better. This helps to highlight that the reasonable suspicion standard is not the culprit in current school discipline problems. It is the criminalization of school discipline that is the problem.

Teachers require more authority but in a non adversarial manner

Teachers require some power. RMF

Dupre, Anne. "Should Students Have Constitutional Rights? Keeping Order in the Public Schools." The George Washington Law Review 65.49 (1996): Web. <http://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1541&context=fac_artchop>.

Teachers must necessarily have the ability and the confidence to be judgmental-to demand that students adhere to higher standards of behavior. As Robert Maynard Hutchins observed, the "'ideal education' "-or what I call a "serious education"-is "'not an ad hoc education .... It is an education calculated to develop the mind.' "320 On the surface, preserving the educational environment necessary for children to develop the mind requires a degree of authority that at first appears antithetical to First Amendment values.

Pro Counters

Probable Cause Doesn't Decrease Safety

Need for safe school environment does not outweigh privacy rights. RMF

Kim, Catherine. "Policing School Discipline." Brooklyn Law Review 77.3 (2012): Web. <http://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1148&context=blr>.

While few would contest that the state interest in providing a functional educational environment is significant, the Court has not attempted to explain why this interest would outweigh the individual student's interest if those interests are in fact in conflict. Outside the school context, the state interest in preventing violent street crimes is of course significant, yet it does not outweigh the individual interest in receiving full procedural protections. It is not at all clear why this calculus balancing competing interests between state and individual should not apply in the school context as well.

Law enforcement would still be able to do their jobs. ABH

Pinard, Michael [Assistant Professor, University of Maryland School of Law] "From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public Schools Searches Involving Law Enforcement Authorities." Arizona Law Review. 2003. Web. Accessed August 19, 2016.

Opponents would also argue that these proposed standards would sacrifice the safety of students and school personnel by constraining the circumstances in which school officials or law enforcement authorities could search students. As a result, students would have greater ability to engage in dangerous and criminal behaviors, and would be better able to possess the dangerous weapons that have raised enormous concern amongst parents, administrators, law enforcement personnel and larger communities. This concern should be ameliorated by the fact that these proposed standards would not thwart the capabilities of law enforcement personnel to engage in other variations of Fourth Amendment intrusions based on lower levels of suspicion. In fact, officers would be allowed to take the very same actions in schools that they implement during street encounters with the general public. For instance, as part of their investigative function, officers would not be prevented from lawfully detaining students suspected of criminal activity. As they are able to outside the school context, officers would be permitted to stop students when they possess a reasonable belief, based on specific articulable facts, of ongoing criminal activity.262 If during that stop and subsequent seizure, the officers acquire information that elevates their suspicion level to probable cause, they would be permitted to arrest the students.263 At that point, the officers would be allowed to search the students incident to the arrest and any evidence derived therefrom could be legally used to prosecute the students.264

Holding school searches to the probable cause standard would not prevent officers from stopping and searching students that they believe may be committing a crime.

Crime in Schools Is Not Increasing

School violence has been decreasing. ABH

Bacy, Nicole [Adjunct Professor of Criminal Justice at San Diego State University]. "Circumventing the Law: Students' Rights in Schools With Police." Journal of Contemporary Criminal Justice. 2010. Web. Accessed August 22, 2016.

Despite the attention they have garnered in the past decade, school crime and school crime prevention are not entirely new concerns in the United States. Controlling crime and maintaining order in schools have been objectives since the beginning of the public school system (Crews & Counts, 1997). **Over the past several decades, however, the problem of school crime has been mischaracterized. Educators, legislators, parents, and community members have all expressed concerns about rising rates of violence in schools, despite data showing that school violence has been declining** (Hyman et al., 1996; Morrison & Furlong, 1994). These concerns about school crime, despite their disconnection from actual crime rates, have created a powerful demand for tougher policies to make schools safer and have contributed to the physical and ideological transformation of public schools into regimented, high-security environments (Simon, 2007).

The heightened concern over school safety doesn't actually reflect an increase of crime in school, in fact violence has been decreasing in schools over the past several decades.

Con Counters

Reasonable Suspicion Won't Lead to a Slippery Slope

Reasonable suspicion will not erode student rights. ABH

Tiller, Benjamin [J.D. Candidate, Saint Louis University School of Law]. "The Problems of Probable Cause; *Meneese* and the Myth of Eroding Fourth Amendment Rights for Students." Saint Louis University School of Law. 2014. Web. Accessed August 18, 2016.

In short, it is accepted that students, as minors in a compulsory educational system, do not and cannot enjoy the same constitutional rights as their older counterparts. **Applying the reasonable suspicion standard to school resource officers—the same standard that courts readily apply to school employees— does not erode the rights of students.** Rather, **the reasonable suspicion standard is entirely consistent with the other constitutional rights that students enjoy**.212 It **will not produce a slippery-slope or erode student rights, just as limiting the right of students to use abusive language in school has not produced a slipperyslope of silencing student speech or of eroding student rights**.213 **Instead, just as limiting abusive language in schools protects minor students from such language, applying a reasonable suspicion standard in schools protects children from violence and drug use** that, unfortunately, so often accompanies public school systems.

Schools already limit certain student rights, such as free speech, but that hasn't lead to schools silencing students. Similarly, schools can rely on reasonable suspicion, without taking away all rights to privacy from students.

Cases

Pro Case

Contention One: The case law establishing current standards is based on faulty reasoning.

The current standard of reasonable suspicion is an outdated idea stemming from views of authority and respect for authority. The Supreme Court believed that teachers should have significant leeway to exercise their authority, and importantly, that discipline was key to a student's long-term success. Essentially, the standards for searching a student are low because the Court believed the teachers and students interests were aligned. A school might find something that it believed merited punishment, but that punishment ultimately served to help the student grow as a person.

Yet, these beliefs were not at all based in factual evidence, merely prevailing norms of the time. In fact, in one dissent, Supreme Court Justice Brennan writes, '"the Court in fact engages in an unanalyzed exercise of judicial will" designed to "reach[] a predetermined conclusion acceptable to this Court's impressions of what authority teachers need."' And a report published in the Brooklyn Law Review shows why the school and the student aren't necessarily on the same side: "Indeed, the contention regarding an alignment of interests between student and school official, purported to distinguish the relationship from that between police officer and suspect, was undercut by the facts of T.L.O. [the case] itself: the school official ultimately referred the student to law enforcement and the juvenile court."

Constitutional rights should not be withheld because of outdated norms on authority and misguided beliefs that lack evidence.

Contention Two: Current searches lead to negative educational outcomes.

When the standard to search a student's property is reasonable suspicion rather than probable cause, students are more likely to be punished for minor offenses. This is especially important because the current state of schools is highly policed. Schools are required in many states to report any discipline to law enforcement. Additionally, the school usually employs law enforcement in the form of a school resource officer.

These factors combine to harm students' educations. "The Annual Report for the North Carolina Department of Juvenile Justice indicates that 43 percent (16,140 out of 37,584) of offenses that result in referral to the juvenile justice system are school based" Moreover, "Using data from the National Longitudinal Survey of Youth, a nationally representative sample, the study found that a first-time arrest during high school years nearly doubles the likelihood of dropping out of high school; an arrest coupled with a court appearance quadruples the likelihood."

When taken together, we see that the heavy policing of schools, combined with a lower standard for searching students, has led to greater arrests of students for more and more trivial crimes, all of which truly harm society as more students are shifted from educational obtainment to the prison pipeline.

Contention Three: Probable cause is necessary to protect students from the criminalization of schools.

Probable cause would set a clear standard for schools to follow that would ultimately protect the privacy, integrity, and long-term interests of students. When school officials can use their unique position to conduct searches on students at a low constitutional standard, and when those searches can ultimately mean the involvement of law enforcement, students suffer. They are more likely to be arrested and more likely to have their futures ruined.

Establishing the probable cause standard for searches of students would stem the erosion of student rights.

Con Case

Contention One: The criminalization of school is causing problems, not the current standard for searches of students by school officials.

In the last thirty years, schools have become increasingly policed. Thought to be a source of safety, the enormous and over bearing presence of law enforcement has instead turned the school into a place of adversarial fear. The imposition of state force has been held up above the original purpose of school: to educate youth. As an article in the *Harvard Law Review* explains, "much behavior in schools that would have previously been handled internally "through school disciplinary processes" is now handled by law enforcement authorities. Police are both more involved in the searching of students, and more likely to be involved in the resulting discipline via the criminalization of student behavior. This increased policing of students has serious consequences for students and their communities." It goes on to write that "heavily policing schools, and subjecting students to criminal rather than administrative punishments, may have long-term negative effects on the most heavily policed communities, as well as on society as a whole."

Indeed, many of the problems that the Pro side brings up in today's debate can really be traced back to this increased policing of students, rather than the particular standards for searching students by school officials. The criminalization of schools has led to widespread distrust between students and teachers. As Catherine Kim writes in an article published in the George Washington Law Review, the intervention of Courts in the school discipline process has only served to make things worse. Teachers and school officials are effectively removed from being able to deal with issues interpersonally—instead they must go through the infrastructure of the justice system, which often hands out extremely harsh punishments.

Contention Two: Implementing the probable cause standard would only further cement the adversarial relationship between school and student.

If the problem is that students are being treated like criminals, then how would increasing the adversarial nature of searches serve to solve the heart of the issue? We contend it will not. Using the probable cause standard will only serve to reinforce the notion that schools are an extension of the juvenile justice system meant to dole out punishment rather than develop future citizens.

If anything, as Catherine Kim writes, again in the George Washington Law Review, teachers need to be closer to their students as far as their monitoring and discipline is concerned. By having a close, informal relationship, they can help to guide students without getting the justice system involved.

The real problem is that schools are over policed. The intrusion of law enforcement into schools is what threatens students well-being the most. Probable cause plays into the notion that schools should be criminalized, whereas looser standards would bring students' and teachers' interests into alignment.