



Violence And Weapons

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Background

Two major issues are central to the school safety debate—Fourth Amendment rights in [SEARCH AND SEIZURE](#) and the extent of a school's authority in controlling the school environment and its occupants. Although all states impose minimal guidelines, each school and school district is responsible for its own governing policies. Setting the standard for all states is the 1994 Improving America's Schools Act passed which amended the Elementary and Secondary Education Act of 1965. Title IV of the Improving Schools Act, called Safe and Drug-Free Schools and Communities, outlines legislation and initiatives to make schools safe. For example, one of the goals of national education was to have drug-free and weapons-free school campuses by the year 2000 and, further, to offer students "a disciplined environment that is conducive to learning."

Violence in school has received much public attention during the past several years because incidents of school violence in which students and/or teachers have died of gunshot wounds have occurred across the United States from Springfield, Oregon to Edinboro, Pennsylvania. However, according to various sources, the number of violent crimes committed on school grounds has been declining for several years, following decreases in other violent crime (see Agnew, 2000; Office of Juvenile Justice and Delinquency Prevention (OJJDP), 1999; U. S. Department of Education (USED), 1999). In fact, students are three times more likely to be victims of a non-fatal violent crime outside of school than they are at school (Agnew, 2000). The one type of violent crime committed on school grounds that has increased is the number of multiple victim homicides (OJJDP, 1999; USED, 1999), but the odds of a student being a victim of such a [HOMICIDE](#) are about one in three million (Brezina & Wright, 2000).

The school setting is unique in that it forces large groups of people together for extended periods of time in small areas. Many state legislatures have recognized that certain acts committed under these circumstances have potentially greater harmful effects to the health and safety of people and have implemented legislation accordingly.

Weapons at School

Violence at school often involves the use of weapons. Traditionally, weapons prohibited on school grounds referred to firearms and explosives, but recently, many states have widened these guidelines. For example, in Kansas, weapons include firearms, explosive devices, bludgeons, metal knuckles, throwing stars, electronic

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stun guns, specific types of knives (such as switchblades and butterfly knives), and any weapon that "expels a projectile by the action of an explosive" (e.g., gunpowder). Other states have gone much further than these specifications. Georgia defines weapons in its school laws as items complying with these descriptions:

any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of three or more inches, straight-edge razor, razor blade, spring stick, metal knuckles, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser (Code 1-33).

The only instances in which all states allow weapons and firearms on school property are when individuals are authorized to do so; for example, school police officers may be armed and teachers having instructional purposes. Many people wonder how many youth have access to weapons. Recent data indicate that about 30 percent of young individuals own a firearm (Brezina & Wright, 2000). Further, a national study conducted by the Center for Disease Control revealed that in 1997 about one-fifth of high school students reported carrying a weapon to school.

Ramifications of Possessing Weapons on School Grounds

In nearly all states, possession of a firearm on school property is a class C or class D [FELONY](#). In addition to having the right to file criminal charges, all school districts have an automatic expulsion policy for students caught with any type of weapon on school property which action can be appealed on a case-by-case basis. Such policies are mandated by the Gun-Free Schools Act of 1994. Special Education students are protected from automatic expulsion under the Individuals with Disabilities Education Act (IDEA). A special education student who is found to be possessing a weapon on school grounds is subject to removal from the school to an interim setting for a period of up to 45 days. During this time, the incident is studied, and if the possession of the weapon was not due to the student's [DISABILITY](#), that student can be punished in the same way as a non-special education student.

Some states, for example, Kansas and Florida, have also adopted laws that allow for the revocation of students' driver's licenses if they are found guilty of possessing a firearm or drugs on school property. Kansas goes so far to say that the state can revoke a student's driver's license for any behavior engaged in by a student that was likely to result in serious bodily injury to others at school.

Holding Parents Accountable

In nearly all states, parents can be held accountable for damages resulting from their child's criminal actions on school property, provided that child is living with the parents. This law means that parents of any student who vandalizes school property or attacks other students or teachers can be held liable. In addition, parents who allow minors access to firearms can be prosecuted on criminal charges, such as contributing to the delinquency of a minor.

Holding Teachers Accountable

Many states have adopted laws that require teachers to report a crime that they know or have reason to believe was committed on school property or at a school activity. Failure to do so may result in criminal prosecution for a [MISDEMEANOR](#). Lacking uniformity on this issue, school districts vary greatly with regard to making criminal charges.

Limitations on School Authority

Another area that has been debated by the courts is the extent of school authority. Under the Gun Free School Zones Act of 1995, a firearm could not be brought within 1,000 feet of a school. The Supreme Court, in a rare decision that overturned this Congressional Act, decided in *United States v. Lopez* (1995) that it was unconstitutional to declare schools gun-free zones in this manner. Further, the court held that claims of increased school violence could not override Second Amendment constitutional rights.

There have been other challenges to school authority under the Fourteenth Amendment which allows for due process. Students must be given notification of charges against them, in addition to an opportunity to defend themselves, and to be represented when being expelled or suspended. A written school policy on the appeals process is recommended.

Constitutional Rights of Students

With the advent of increased availability of drugs and weapons for juveniles during the last twenty years, search and seizure laws have been challenged by many students who felt their constitutional rights were violated by unreasonable searches at school. Prior to 1968, the constitutional rights of students took a back seat to the doctrine of LOCO PARENTIS, which meant that the school and its officials took the place of the parent. Under this philosophy, students had few constitutional rights. The first serious challenge to this philosophy came in 1969 when the Supreme Court decided in *Tinker v. De Moines Independent School District* that students should be allowed to wear black arms bands as a symbol of protest against the United States involvement in the Vietnam war. The court held that this was an expression of free speech and therefore was a First Amendment right.

Fourth Amendment protection against search and seizure was argued in the courts for years and was finally resolved in *New Jersey v. T.L.O.* (1985). In this case, a teacher had searched a student's possessions after the student was found smoking a cigarette. Subsequently, the teacher found marijuana and drug paraphernalia. There were two major questions raised by this case. First was whether students who are searched on school property have Fourth Amendment privileges and, second, what determines [PROBABLE CAUSE](#) for a search. In other instances, a [WARRANT](#) is required before a search can be conducted.

The courts held that Fourth Amendment Privileges do extent to students, but school authorities can search without a warrant provided the search is reasonable in inception and reasonable in scope. However, in order for law enforcement personnel to conduct a search, a warrant must be procured. This point becomes important in light of the number of schools which have their own police officers. Thus, in order for a search to take place, there must be the following conditions:

reasonable grounds for suspecting that the search will turn up [EVIDENCE](#) that the student has violated or is violating either the law or the rules of the school. Such a search will be permissible in its scope when the measures adopted are reasonable and related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the [INFRACTION](#). (*New Jersey v. T.L.O.* 1985, p. 733)

Whether a search is reasonable in inception has been interpreted as a search based on reasonable suspicion, which is very similar to probable cause. The extent of reasonable suspicion must be much higher for more intrusive searches. For example, a search of a student's locker requires a low level of reasonable suspicion, but in order for a student to be strip searched, there must be a much higher degree of reasonable suspicion. A body cavity search can only be conducted by law enforcement personnel after a warrant has been procured. Further,

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in order for the search to comply with the law, the search must be in proportion to the suspicion. A student should not be strip searched to find ten dollars that has been stolen.

One example of a situation in which a court determined a search to be reasonable is *Martinez v. School District No. 60* (1992) in which a school dance monitor asked two students to blow on her face after observing them acting in a manner consistent with [DRUNKENNESS](#). A second example is the *Matter of Gregory M.* (1992/1993) in which a security guard ran his hand along a student's school bag to feel for a gun after the bag had made an unusual noise on contact with the student's locker.

Locker searches are also affected by individual school policies. Some schools maintain that lockers are school property and, therefore, school administrators can conduct random searches of lockers. The courts have held this is permissible provided that students are notified of this policy in writing.

Metal Detectors in Schools

Metal detectors have been installed in schools around the country as a means of decreasing the number of weapons being brought to school. A metal detector is a type of mass search which has been challenged as a violation of Fourth Amendment privileges. The courts in several states, such as Florida, Louisiana and Tennessee, have held that metal detectors are not violating Fourth Amendment rights and are held to the same legal standards as metal detectors in other facilities, such as airports. Metal detectors are, therefore, considered administrative searches and may provide reasonable suspicion for further individualized searches. Some states have also noted that there is a need to violate privacy to some degree in order for the safety of the greater group. California has stipulated that a written policy detailing policies and the use of metal detectors be given to students and should be based on information about the dangers of students' weapons at school.

Use of Canine Units

The Supreme Court has not ruled on the constitutional limits of using drug-sniffing dogs in schools at the time of this publication, and the lower courts have had differing opinions on whether such tactics are in violation of the reasonable suspicion test. Some courts have held that a sniffer dog does not constitute a search at all, with the landmark case being *Doe v. Renfrow* (1980). Students who were singled out by dogs in this case were subjected to a strip search, which the Supreme court held was unreasonable. In *Horton v. Goose Creek Independent School District* (1982) courts held that sniffing a person was a search and that such a search was a violation of Fourth Amendment rights unless there was reasonable suspicion as dictated by *T.L.O.*

Drug Testing

The debate over whether schools can implement mandatory, random drug tests to students using either urine analysis or blood testing has also been widely debated in the courts. In *Jones v. McKenzie* (1986) the courts held that drug tests violate a student's reasonable expectation of privacy. Since this case, the courts have been careful to distinguish between mandatory and voluntary drug testing, since the latter requires consent of the student.

Student athletes have long been subjected to different rules. Many athletic programs are required by their governing bodies to perform random, mandatory drug testing on athletes using urine analysis. In 1998, the U. S. Supreme Court declined to hear a constitutional challenge to a random drug testing policy of students involved in extracurricular activities that was implemented in an Indiana school district (*Todd v. Rush County*). This decision not to hear the case meant that the Supreme Court endorses random drug testing of student athletes and students involved in other extracurricular activities. This decision was in keeping with the courts ruling in *Vernonia School District 47J v. Action* (1995). In this case, the Supreme Court held that urine testing of student athletes was reasonable on the grounds that school order and discipline outweigh individual

students' privacy. Further, student athletes should have a reduced expectation of privacy given that their grades and medical history are subject to scrutiny, and they are often placed in a communal setting for dressing and showering.

Vehicle Searches

Searches of students' vehicles that are parked on school grounds are subject to the *T.L.O.* guidelines. However, like locker searches, it is prudent for school districts to have a written policy regarding vehicle searches and even some type of parking permit system that clearly outlines the school's policy on vehicle searches.

The following is an extract from a Virginia School district statement on policies on search and seizure.

FAIRFAX COUNTY (VIRGINIA): Desks, lockers, and storage spaces are the property of the school and the principal may conduct general inspections of those areas periodically in the presence of a witness. These areas, in addition to vehicles parked on school property may be searched on an individual basis if there is reasonable grounds to believe there may be illegal drugs, weapons, stolen property or other [CONTRABAND](#). The search must be conducted for maintaining order and discipline at the school rather than for criminal prosecution. Reasonable effort will be made to locate the student prior to the search. Further, students believed to have any contraband on their person may be searched and metal detectors may be used. Personal searches may extend to pockets and the removal of outer garments and also to pocketbooks and backpacks. (Regulation 2601.14P, G)

Gang Related Violence and Drug Availability at School

The Department of Justice implemented the School Crime Supplements (SCS) to the National Crime Victimization Survey in 1995. Part of the SCS addressed the extent to which gangs and gang violence were present at schools. A little over half of the students interviewed in 1995 who attended school in areas with populations between 50,000 and one million, reported gang activity at their schools (Howell & Lynch, 2000). In terms of victimization at schools where gang activity is prevalent, 54 percent of students reported they had been victimized. The study also demonstrated an association between gangs at school and drug availability, as 69 percent of students said drugs such as marijuana, PCP, LSD, crack cocaine, and Ecstasy were easy to get hold of if there were gang activity present at school. In all states, students caught with drugs on school grounds are subject to criminal prosecution under the laws of the state.

Legislation

Each state receiving Federal funds under the Elementary and Secondary Education Act of 1965 (ESEA) must comply with the Gun-Free Schools Act of 1994 which prohibits firearms to be brought within 1,000 feet of school property. Although part of this legislation was not upheld by the U. S. Supreme Court in *United States v. Lopez*, the legislation still stands, as various other [GUN CONTROL](#) bills have been debated but not passed as of 2002. The following is an extract from the Gun-Free Schools Act of 1994.

SECTION 14601. Gun Free Requirements . . . each State receiving Federal funds under this Act shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school.

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State laws repeat stipulations required by this Act almost verbatim, for example, the following Florida provision:

FLORIDA: a person who exhibits a sword, sword cane, firearm, electric weapon or device, destructive device, or other weapon, including a razor blade, box cutter, or knife... at any school-sponsored event or on the grounds of facilities of any school, school bus, or school bus stop, or within 1,000 feet of the real property that comprises a public or private elementary school, middle school, or secondary school, during school hours or during the time of a sanctioned school activity, commits a felony of the third degree. (790.115)

Laws regarding weapons at school may change in the near future as school safety bills being debated by different states are acted upon. For more information, contact the appropriate state's Department of Education.

Additional Resources

1999 Annual Report on school safety. U. S. Department of Education and U.S. Department of Justice, Government Printing Office, Washington, D.C., 1999.

Going armed in the school zone. Brezina, Timothy, & Wright, James D. Forum for Applied Research and Public Policy, 15, (4), 82-87, 2000.

Juvenile offenders and victims: 1999 National Report. Office of Juvenile Justice and Delinquency Prevention. Government Printing Office, Washington D.C., 1999.

School crime: A national crime victimization survey report. Bureau of Justice Statistics, Washington D.C.: Government Printing Office, 1991.

Strain theory and school crime. Robert Agnew. In *Of crime and criminality*, Sally Simpson (Ed). Pine Forge Press, Thousand Oaks, CA, 2000.

Youth Gangs in Schools. James C. Howell and James P. Lynch. *Juvenile Justice Bulletin*, August 2000.

Organizations

Florida Department of Education

Turlington Building, 325 West Gaines Street
Tallahassee, FL 32399-0400 USA
URL: <http://www.firn.edu/doe/>

The National Center for Juvenile Justice

710 Fifth Avenue, Suite 3000
Pittsburgh, PA 15219 USA
Phone: (412) 227-6950
Fax: (412) 227-6955
URL: <http://brendan.ncjfcj.unr.edu/homepage/ncjj/ncjj2/index.html>

The National Drug Strategy Network, Criminal Justice Policy Foundation

1225 I Street NW, Suite 500
Washington, D.C. 20005-3914 USA

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Phone: (202) 312-2015
Fax: (202) 842-2620
URL: <http://www.ndsn.org>

The National Resource Center for Safe Schools

101 SW Main Street, Suite 500
Portland, OR 97204 USA
Phone: (503) 275-0131
Fax: (503) 275-0444

The Office of Juvenile Justice and Delinquency Prevention, U. S. Department of Justice

Washington, DC USA
URL: <http://www.ojjdp.ncjrs.org>

Safe Learning

160 E. Virginia Street #290
San Jose, CA 95112 USA
Phone: (408) 286-8505
Fax: (408) 287-8748
URL: <http://www.safe-learning.com>

U. S. Department of Education

400 Maryland Ave., SW
Washington, DC 20202-0498 USA
Toll-Free: 800-872-5327
URL: <http://www.ed.gov>

Violence Policy Center

1140 19th Street, NW, Suite 600
Washington, DC 20036
URL: <http://www.vpc.org>

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