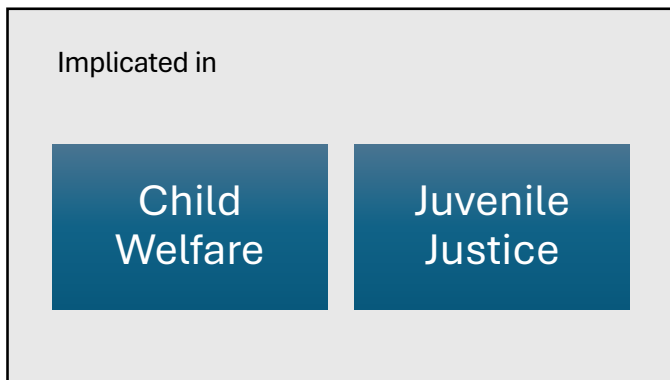
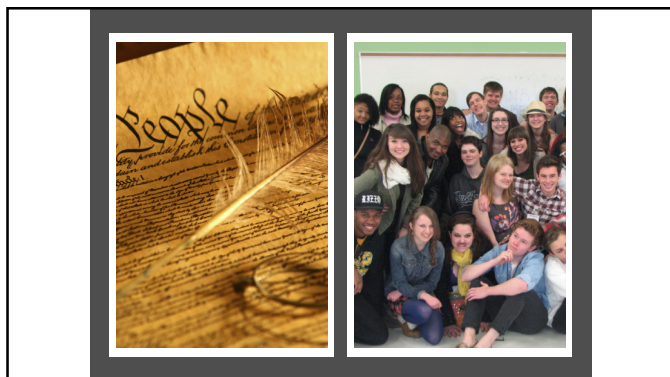




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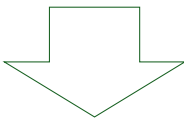
3

School Searches: The Reasonableness Standard



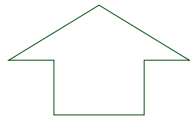
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New Jersey v. T.L.O., 469 U.S. 325 (1985)



Privacy interests of schoolchildren

substantial need of school personnel to maintain order



5

Camreta v. Green, 563 U.S. 692 (2011)

Once upon a time...



6

What we know

DSS workers are government actors

IV Amendment applies (civil and criminal)

Lesser standard than criminal

7

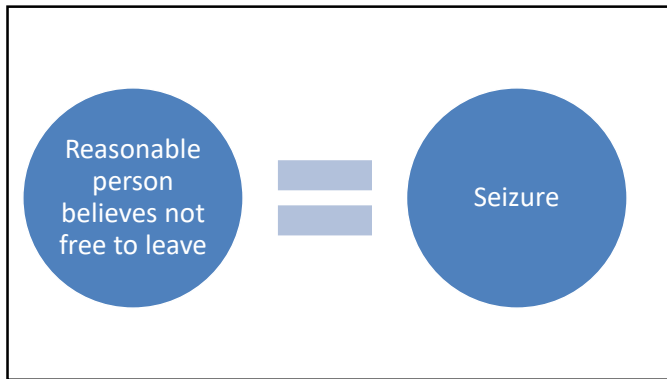
Reasonable grounds to
believe child abuse or neglect
present

8

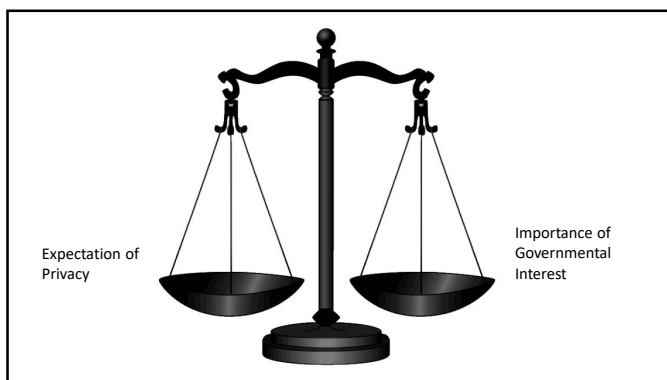
Wildauer v.
Frederick County
(4th Cir, 1993)

Search of foster parent's
home by CPS worker
less scrutiny, and
consent given

9



10



11

Words of Faith
Fellowship v.
Rutherford County
DSS
(2004)

- Seizure when taken from school and placed in car for interview
- Private school: expectation of privacy

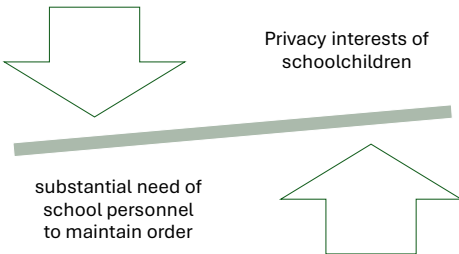
12

1 Search and seizure

2 Custodial interrogation

13

New Jersey v. T.L.O., 469 U.S. 325 (1985)



14

2-part reasonableness test for search in school:

1. Justified at inception, and

2. Reasonably related in its scope to the circumstances that initially justified the interference

New Jersey v. T.L.O., 469 U.S. 325 (1985)

15

Justified at
Inception?

Reasonable grounds for
suspecting that the search
will turn up evidence that
the student has violated
(1) rules of the school or
(2) the law

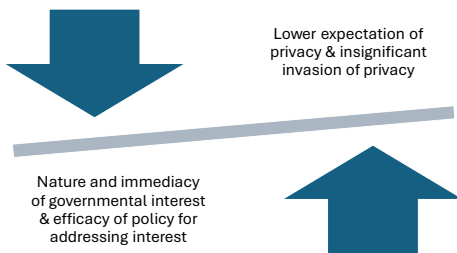
16

Permissible in
Scope?

The measures adopted are
(1) reasonably related to
the objectives of the search
and
(2) not excessively intrusive
in light of the age and sex
of the student and the
nature of the infraction.

17

Is Individualized Suspicion Required?



Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646 (1995)

18

Student Privacy Interests at School

Lesser expectation of privacy than general population

Public school's power is "custodial and tutelary, permitting a degree of supervision and control that could not be exercised over free adults"

Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646 (1995)

19

Governmental Interests

Deterring drug use: important, perhaps compelling

Magnified in school due to state's special responsibility for care and direction of public schoolchildren

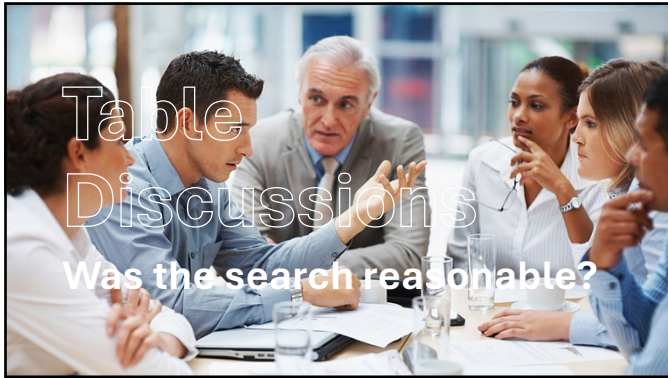
Narrow policy directed at student athletes

Least intrusive search practicable is not required


20

Reasonableness standard applies to SRO school searches when conducted in furtherance of well-established educational and safety goals

21



22



Seizure of Students at School

Reasonableness standard applies to seizure by school officials and law enforcement

Wofford v. Evans, 390 F.3d 318 (4th Cir. 2004) ; *In re J.F.M. and T.J.B.*, 168 N.C. App. 143 (2005)

23

Factors to Consider

- age of the student
- the student's level of resistance
- the student's threat to safety
- the extent of SRO involvement
- the school's interest in protecting students and deterring potentially violent behavior

24

Reasonable Seizure?

A teacher asked a law enforcement officer to come to her classroom when the behavior of K.W.P., a seven-year-old second-grade student, escalated after a classmate picked on him. The officer had K.W.P. come with him into the hallway and attempted to walk him to the front office. K.W.P. did not want to go with the officer and tried to walk away. The officer grabbed the child's wrist and the child got upset, crying loudly and trying more forcefully to get away. The officer placed the child in handcuffs and, when they arrived at the office, sat the child in a chair with the handcuffs on. K.W.P. stayed on the chair in handcuffs for about fifteen minutes until his father arrived. The handcuffs made his wrists tender and red and he alleged that he suffered mental and emotional distress as a result of the seizure.

25

Reasonable Seizure?

A coach at a middle school called the police regarding an 11-year-old sixth-grade student who was diagnosed with ADHD and was known to experience unresponsiveness during the day. The child, C.B., had "shut down" on the playground and was not responding to the coach's direction to go to her office. C.B. was sitting calmly when the first police officer arrived. The coach told the officer that the child was a "runner" and was not on his medication. When the second officer arrived, he tried to engage C.B., but the child was unresponsive. C.B. immediately complied when that officer told him to stand up and put his hands behind his back. The officer handcuffed the child and put him in the back of a police car, where he remained while the officer drove him thirty minutes to his uncle's place of business. No one ever told the child that he was not under arrest or where he was being taken. It was the police department's policy that officers could handcuff any person they were transporting in the back of their vehicles, and officers routinely handcuffed any student they transported from a school campus, regardless of the reason for transport.

26

1

Search and
seizure

2

Custodial
interrogation

27

Slide 28 features a blue horizontal line at the top left. The right side of the slide contains a gray square with a white circle and a large black number '1' in the center.

In Custody?

28

Slide 29 has a dark gray vertical rectangle on the left. A horizontal bar at the top consists of a blue segment followed by a gray segment.


Objective
assessment, given
totality of
circumstances

29

Slide 30 has a dark gray vertical rectangle on the left. A horizontal bar at the top consists of a blue segment followed by a gray segment.

Was there a formal arrest or
a restraint on the juvenile's
freedom of movement to
the degree associated with a
formal arrest?

30



Child's age (if known or objectively apparent to reasonable officer) must be included in objective analysis. How would a reasonable child have felt in that situation?

J.D.B. v. North Carolina, 564 U.S. 261 (2011)

31


FACTORS TO CONSIDER

whether the juvenile is told they are under arrest or free to leave	the location of the questioning	the voluntary nature of the juvenile's participation in questioning
the length of questioning	whether the juvenile is offered breaks	the presence of uniformed officers and their weapons

32

IN RE D.A.H., 277 N.C. APP. 16, 28 (2021)

- Principal and SRO (in uniform) are seated together on one side of the table
- Principal questions Deacon
- Deacon says he sold the marijuana
- Principal calls Deacon's guardian
- Guardian arrives
- Principal tells Deacon to tell guardian and Deacon repeats confession
- Motion to suppress confession filed

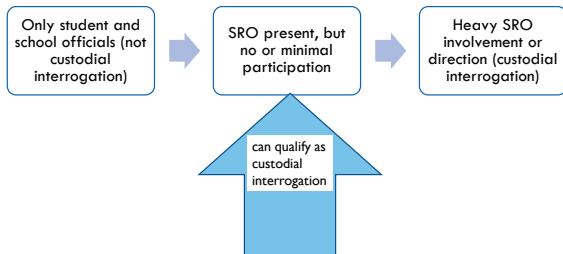


33

“...the Fifth Amendment requires that minors under criminal investigation be protected against making coerced, inculpatory statements, even when—and perhaps, in some cases, particularly because—they are on school property... Increased cooperation between educators and law enforcement cannot allow the creation of situations where no *Miranda* warnings are required just because a student is on school property.” (§ 35)

34

SRO INVOLVEMENT



35



SRO INVOLVEMENT
NOT BY ITSELF
DISPOSITIVE

36

**FACTORS MOST RELEVANT IN DETERMINING CUSTODY IN
CONTEXT OF SCHOOLHOUSE INTERVIEW**

- (1) traditional indicia of arrest;
- (2) the location of the interview;
- (3) the length of the interview;
- (4) the student's age;
- (5) what the student is told about the interview;
- (6) the people present during the interview; and,
- (7) the purposes of the questioning.

37

Interrogation?

2

38

Express
questioning

Functional
equivalent of
express
questioning

39

FUNCTIONAL EQUIVALENT OF EXPRESS QUESTIONING

Words or actions by law enforcement that they should have known were reasonably likely to elicit an incriminating response



40

FACTORS MOST RELEVANT IN DETERMINING INTERROGATION IN CONTEXT OF SCHOOLHOUSE INTERVIEW

- (1) the nature of the questions asked (interrogative or mandatory);
- (2) the willingness of the juvenile's responses;
- (3) the extent of the SRO's involvement;

41



42

Remember



The school setting is unique



Students retain constitutional rights



Standards regarding those rights are sometimes different because of the special role that schools play
