# dMHS Block File – September/October 2016

Resolved: In United States Public K-12 Schools, the probable cause standard ought to apply to searches of students



# OVs

## No Decrease OV [AFF]

1. **The neg cannot access any impacts from a decrease in searches because as Alafair Burke[[1]](#footnote-1) wrote in January, 90% of searches in the status quo are consensual. In order for the neg to access any of their impacts from a decrease in searches, they first have to prove that consensual searches will decrease because those constitute the majority of searches in the status quo and there is no logical reason they would decrease with a policy change.**

## Racism OV [AFF]

1. **[Mitigating] racism most important impact in today’s round for three reasons** 
   1. **Scope: structural racism is going to affect everyone who interacts with the rule of law**
   2. **Reversibility: When you entrench racism in the legal system, reversing it is extremely difficult, so these impacts materialize in the long term**
   3. **Marginal Utility: Inequality is going to be the most important because people who are in the worst scenario get the most utility from each additional benefit. By definition racism disadvantages certain demographics**

## Nothing Changes OV [Neg]

**Probable Cause will have no effect on searches in schools for 4 reasons. If we win even one of them don’t let them access any offense.**

**First: Consent**

**Daniel Williams explains that police use pressure, deceit and trickery in order to skirt around the probable cause standard and coerce suspects into consenting to searches.[[2]](#footnote-2) The LAPD found empirically that over 99 percent of suspects consent to being searched.[[3]](#footnote-3) This is important because it means my opponents can access only 1 percent of the impacts they tell you about.**

**But they won’t even access that 1% because-**

**Second: Qualified Immunity**

**Davenport explains that teachers’ qualified immunity applies to unconstitutional searches[[4]](#footnote-4)—meaning that under the probable cause standard, teachers can still conduct searches without probable cause and will have the law on their side. Nothing will change because teachers still have impunity from the law.**

**Third: Vagueness**

**Goldberg[[5]](#footnote-5) explains The Vagueness surrounding probable cause makes it unenforceable, courts are going to just defer to the government. This means that the standard for evidence is so loose that it can be altered to fit both reasonable suspicion and probable cause. Jacobi of Harvard confirms this empirically that 95% of Chicago police officers and 98% of judges change their testimony to avoid evidence exclusion and that many judges fail to suppress evidence when they knew searches were illegal. Furthermore, he found jurors are often biased in favor of police offFourth: Rubberstamped Warrants**

**Warrants are easy to get as Radley Balko[[6]](#footnote-6) writes that warrants are really just a rubber stamp process, almost always accepted without scrutiny. In a study of seven cities, it was found that warrants are only reviewed for two minutes, and that almost no judges ask questions. Nearly all invasive warrants were given based on hearsay alone. THIS IS LITERALLY THE SAME STANDARD AS REASONABLE SUSPICION. This de-links our opponents from their offense of protecting rights but WORSE, because an analysis of the Denver Police concludes that magistrates often grant MORE INVASIVE warrants than were requested.**

**Because these four warrants ACLU of Vermont[[7]](#footnote-7) finds that the probable cause standard would be met in every case in which a search under reasonable suspicion would be deemed necessary. Adopting the probable cause standard changes nothing.**

## Causality OV [NEG]

1. **The Aff must prove that any impacts unique to the addition of a probable cause standard. If we can prove alternate causality stemming from anything other than the implementation of a probable cause standard than their impacts should flow to the neg because we can cause them without increasing the standard of searches and causing the UNIQUE harms of the NC**

## Search Decr. OV [NEG]

1. **A probable cause standard decreases the number of searches in schools. This is because Hugo Mialon[[8]](#footnote-8) writes that “greater police effort directly increases the accuracy of the police’s initial evidence.”**

# A/2 Aff

## A/2 Racism

1. **First [CROSSAPPLY THE “NOTHING CHANGES OV]**
2. **Second: Probable Cause is still subjected to implicit basis. Racism still occurs in the legal system in the status quo. Rachel Wilf finds that under reasonable suspicion, every 1% of the African American juvenile population makes up 3.8% of the juvenile prison population.[[9]](#footnote-9) And John Donahue finds that under probable cause, every 1% of the adult African American population makes up 4.5% of the prison population.[[10]](#footnote-10) Even in a world with probable cause, colossal racial disparities exist.**
3. **Third** **Police Officers Discriminate Against the Disabled. According to the Center for Public Representation, people with psychiatric disabilities are four times as likely to die in encounters with the police asmembers of the general population. This means discrimination does not stop in a world with probable cause, it only branches out to other members of society.[[11]](#footnote-11)**
4. **Fourth We link into racism better because the Harvard Law Review Finds that African American students are UP TO 48 TIMES more likely to prosecuted for anything found in a search[[12]](#footnote-12) this is really problematic because we prove that the number of searches in a world with probable cause would go up because of generalized security. This means that more people are going to be getting searched and being caught. This is going to disproportionately affect minorities as they are more likely prosecuted. But finally realized that we are the only ones in this sense linking into actual prosecution because not all searches lead to that. We need to recognize that at best they show minorities MAY end up in prison while we show the they WILL end up in prison. This has two unique impacts**

**One it feeds more minorities into the school to prison pipeline which perpetuates intergenerational income inequality and decreases life longevity.**

**Two it perpetuates unfairness because minorities recognize the inherent flaws in the justice system. This is really important because Forman[[13]](#footnote-13) explains this decreased trust alienates minorities and pushes them out of the community and into gangs.**

## A/2 Removes Administrative Search Doctrine

1. **DJ Stilton of Dayton University[[14]](#footnote-14): Probable cause still incredibly subjective. That’s why according to Silton minorities are still disproportionately searched everywhere other than schools even though probable cause applies.**

## A/2 Increases General Security

1. **Outweigh: Increasing general security will rarely solve anything. Hill of Cleveland State University[[15]](#footnote-15) states that tragic events such as school shootings that call for more security rarely are spontaneous, which is significant because students believe they can get past general security checkpoints such as metal detectors[[16]](#footnote-16) with enough planning.**

## A/2 Better School Envirionment

1. **According to studies in schools in Virginia, safety is a prerequisite to a positive school environment. [[17]](#footnote-17)**

## A/2 Exigent Circumstances

1. **According to Tiller, it is unclear exactly when exigent circumstances would apply.[[18]](#footnote-18)**

## A/2 SRO’s are good

1. **According to Nance, SROs don’t have training in psychology and don’t really know how to work well with students. This means that a SRO may arrest a student for another reason then ones that is beneficial for students.[[19]](#footnote-19)**
2. **TURN: Kupchik of the University of Delaware finds that the presence of more security personnel on campus is unlikely to prevent a mass shooting. A more realistic threat is discrimination against students.[[20]](#footnote-20)**

## A/2 SRO Increase

1. **An increase in SROs in schools simply won’t happen. According to Hill[[21]](#footnote-21), the cost of implementing SROs in every school would cost as much as ½ of the current educational budget. The government would never implement SROs as the impact of taking away ½ of an already dwindling budget is too large.**
2. **The Harvard Law Review[[22]](#footnote-22) finds that with increasingly close ties between law enforcement and schools, it would not be hard to train teachers to use probable cause. It would also be cheaper to train teachers than to hire a new officer, making it even more likely that schools would rather train teachers to deal with the new rules of probable cause than implement more SROs.**

## A/2 Grants for SRO

1. **Make my opponents quantify how large the grants are because according to Hill[[23]](#footnote-23), the cost of implementing one SRO in every school would be, at a minimum, ¼ of the current educational budget ($9.9 Billon). Many grants that have been enacted have only been for smaller sums of money such as 60 million dollars[[24]](#footnote-24).**
2. **Turn this argument: Grants run out in the long-term. This is important because according to James[[25]](#footnote-25), when grants run out it is the responsibility of the school to maintain the SROs. Thus, schools that couldn’t afford SROs in the first place are stuck in a cycle of attempting to maintain SROs through the reallocation of money. This takes money away from other sectors of the education system, harming the education of students.**

## A/2 Generalized Security Up (General Responses)

1. **Generalized security such as drug dogs or metal detectors cannot be used by teachers. Thus, if general security increases then so do the numbers of SROs in schools. Schools cannot increase the number of SROs in the system because implementing SRO’s is simply too expensive. According to Hill[[26]](#footnote-26), the cost of implementing one SRO in every school would be, at a minimum, ¼ of the current educational budget ($9.9 Billon). The government would never implement SROs as the impact of taking away ¼ of an already dwindling budget is too large.**
   1. ***If opponents read grants, read A/2: Grants Located Above***
   2. ***If opponents read that metal detectors don’t need an SRO, read this:***
      1. **Even if an SRO isn’t needed to operate the metal detector, an SRO is still needed to walk through the legal process as a teacher cannot arrest a student.**
   3. ***If opponents read that dogs can be gotten from police department, read this:***
      1. **First, with the implementation of probable cause, the total number of dog searches will increase as schools attempt to find a way to get evidence for warrants. Because of this, there will be an inherent increase in the amount of dogs because they are now being used more. This means that more drug dogs will have to be trained, which means funds will have to be pulled from elsewhere to fund this program.**
2. **General Security would have**

## A/2 SRO Only Searches, Kids Automatically Put Into System

1. **Turn this argument because according to Lowstein[[27]](#footnote-27), SROs have the option to mediate in conflicts in order to prevent minors from becoming repeat offenders. This means that SROs are actually resolving conflicts and benefiting schools instead of simply sending children to the prison pipeline.**

## A/2 4th Amendment allows PC

1. **According to Hartman, the 4th amendment is not particularly clear cut and has many exceptions put in place by the courts.[[28]](#footnote-28)**

## A/2 Increases Trust

1. **Kupchik of the University of Delaware said that a school with a constant presence of armed guards in uniform creates a prison like environment as students feel a sense of distrust.**
2. **TURN: [CROSS APPLY OVERVIEW] Marcy Strauss of Northwestern law[[29]](#footnote-29) argues that searches via coercion leads to distrust in authority. This means that when you attempt to gain trust in the Aff world, you end up destroying that trust.**
3. **According to Sri most trust is gained by appearing to be competent - it is not related to violence or searches**[[30]](#footnote-30)

## A/2 Increases Procedural Justice

1. **Kupchik of the University of Delaware said that a school with a constant presence of armed guards in uniform creates a prison like environment as students feel a sense of distrust.**
2. **TURN: Schools would rely on coercion tactics to convince students to consent to searches. Daniel Williams of the Northeastern School of Law[[31]](#footnote-31) explains that in the status quo, police already employ such tactics like pressure, deceit and trickery in order to skirt around the probable cause standard and coerce suspects into consenting to searches. They do not need to tell the suspect that they can refuse to be searched. Marcy Strauss of Northwestern law[[32]](#footnote-32) argues that searches via coercion leads to distrust in authority. This means that when you attempt to gain trust in the Aff world, you end up destroying that trust.**
3. **TURN: Procedural justice is harmful because it creates complacency.**

**By masking the problem, the aff is masking legitimate concerns and dissent. This is harmful because it prevents real changes to the system in favor of a broken system. These problems include…**

* 1. **Rubberstamped warrants. Warrants that only are looked at for an average of 2 minutes.**
  2. **The "good-faith" doctrine that permits the introduction of evidence and a defense to liability if the officer's conduct was "objectively reasonable" and undertaken in good-faith reliance on the magistrate's prior approval of the search.**

**Thus, the rights of a student are harmed and the dissent is not heard**.

## A/2 Reducing Drug Testing

1. **TURN: According to Burdumy of the RMC Research Corporation, empirically drug testing reduces drug use.[[33]](#footnote-33)**
2. **TURN:** **According to the Gale Group drug Testing can allow for students to receive treatment rather than punishment by the police.[[34]](#footnote-34) Q2qq**

## A/2 Terry Stops

1. **NONTOPICAL: Terry v. Ohio said Terry stops will exist in the United States in the form of traffic stops. This argument is nontopical because they will exist in a world with or without probable cause and will barely affect students as they are enacted outside of schools.**
2. **TURN: Even if you believe that Terry Stops is a topical argument, probable cause is still racist, African Americans are still searched almost 13 times more than white citizens according to the San Fransisco DA[[35]](#footnote-35).**

## A/2 Constitutional Spillover

1. **Minors inherently have fewer rights then adults. For example, students cannot bring a gun to school despite being guaranteed 2nd amendment rights.**
2. **TLO was not a decrease in rights, it was an increase. According to Allyson Tucker, this was the first time the Federal Government ever address how minors are protected in the 4th amendment.[[36]](#footnote-36)[[37]](#footnote-37)**
3. **RS searches have existed for over 30 years, make my opponents show actual impacts of this.**

## A/2 PC Prevents Strip Searches

1. **[nonunique] Uh no, strip searches aren’t allowed under reasonable suspicion either. This is what the Supreme Court held in New Jersey v. TLO--[[38]](#footnote-38) excessively invasive searches are *not* allowed in schools in the status quo. Which means that this isn’t a reason why probable cause is necessary.**
2. **[turn] But actually, turn this argument all the way around. Christopher Lee from the University of Pennsylvania[[39]](#footnote-39) explains that because the probable cause standard requires such a high level of evidence, it might actually motivate courts to allow more invasive searches. If anything, the amount of strip searches increases with probable cause.**

## A/2 Adopting PC Shifts Discourse

1. **[delink] Adopting probable cause won’t actually do this. Stephen Johnson from the New Hampshire Law Review[[40]](#footnote-40) posits that Supreme Court decisions for the last few decades have been too complex and uninteresting for most Americans to care. In fact, Johnson finds that these decisions often undermine the ability of the Court to shape public beliefs and opinions about the law.**
2. **[delink] The Supreme Court doesn’t actually shape policy as much as my opponents would have you believe. Stephen Carter from Yale Law School[[41]](#footnote-41) explains that the ability for the Supreme Court to make any real change is significantly limited by our political system. After the Case of Brown v. Board, most people and political elites didn’t magically shift their beliefs on white supremacy. If the Supreme Court cannot substantively change the mind of the people in the most groundbreaking court case to ever hit the Supreme Court, why would it ever work with a much lower profile case?**

## A/2 Rights Erosion

1. **Benjamin Tiller[[42]](#footnote-42): Students lose some of their fourth amendment rights when they go to school based on multiple Supreme Court decisions.**
2. **Burke[[43]](#footnote-43): 90% of searches in the status quo are consent searches, meaning that students are giving up their rights in the status quo and you can’t take more in the future.**
3. **Changing the standard for searches doesn’t magically fix the fact that students don’t know their rights and won’t be able to stand up for them being taken with simply just a higher standard.**

## A/2 PC Removes Qualified Immunity/Grey Areas

1. **This literally doesn’t matter. Davenport explains that qualified immunity applies to unconstitutional searches[[44]](#footnote-44)—meaning that under the PC standard, teachers can still conduct searches without probable cause and will have the law on their side.**

**AT THIS POINT DELINK THE ENTIRE AFF CASE BECAUSE TEACHERS WILL STILL SEARCH STUDENTS UNCONSTITUTIONALLY WHICH MEANS THAT LITERALLY NOTHING WILL CHANGE**

# A/2 Neg

## A/2 Anon Tips

1. **According to Justia[[45]](#footnote-45),**

**Police may conclude that an informant is credible because he has a history of giving good tips to law enforcement, or because she is an apparently truthful citizen coming forward and identifying herself, claiming to have seen someone commit an offense**. The Supreme Court declared in Illinois v. Gates that probable cause based on an informant’s tip calls for a “totality of circumstances” analysis, one that takes an informant’s credibility and basis of knowledge into account, but that also does not rigidly insist on satisfying both of these prongs. **Reasonable suspicion works similarly. For police to perform a stop—a brief detention that falls short of an arrest requiring probable cause—they must have reasonable suspicion to believe that the person to be stopped has committed, or is about to commit, a criminal act. Reasonable suspicion is a quantity of suspicion that is less than probable cause (which, in turn, is less than a preponderance of the evidence). In Terry v. Ohio, the U.S. Supreme Court indicated that articulable suspicion (which is essentially reasonable suspicion) to believe that criminal activity may be “afoot,” suffices to detain the suspect for a brief period to either confirm or dispel the suspicion.**

**This means that anonymous tips won’t actually be banned, they just will be used in conjunction with other evidence. Justia also states that reasonable suspicion is similar to this.**

1. **Turn this argument because in the world of probable cause, anonymous tips must have a sufficient quantity of corroborative information before a person can be searched. This means that anonymous tips within the probable cause world are actually better because people can no longer be targeted with the tips.**
2. **Turn: James[[46]](#footnote-46) says that anonymous tips don’t usually meet the reasonable suspicion standard, but as they tell you, they’re used in the status quo which means that they can’t gain any offense from a ban**
3. **Because Anonymous Tips CAN be used in the probable cause world, we gain all offense off of their contention.**

## A/2 Higher Evidence Standards

1. **The higher evidence standard doesn’t solve implicit racism. Because searches are decreasing, and because minorities are more likely to be searched than whites, people conducting the searches will just spend the search time on minorities instead of whites.**
2. **Turn this argument because since searches will just be conducted on minorities due to the higher need of evidence, it furthers racist stereotypes as delinquent minority populations will become even more disproportionate compared to whites, leading to more harms to minorities.**

## A/2 Makes Schools Safer

1. **Berger[[47]](#footnote-47): Searches are disruptive and cause negative impacts to the learning environment in schools.**
2. **Berger[[48]](#footnote-48):** **Studies show that insecurity feeds off of feelings of insecurity which are perpetuated by disruptive enforcement**

## A/2 PC Prevents Strip Searches

1. **[nonunique] Uh no, strip searches aren’t allowed under reasonable suspicion either. This is what the Supreme Court held in New Jersey v. TLO--[[49]](#footnote-49) excessively invasive searches are *not* allowed in schools in the status quo. Which means that this isn’t a reason why probable cause is necessary.**
2. **[turn] But actually, turn this argument all the way around. Christopher Lee from the University of Pennsylvania[[50]](#footnote-50) explains that because the probable cause standard requires such a high level of evidence, it might actually motivate courts to allow more invasive searches. If anything, the amount of strip searches increases with probable cause.**

## A/2 Adopting PC Shifts Discourse

1. **[delink] Adopting probable cause won’t actually do this. Stephen Johnson from the New Hampshire Law Review[[51]](#footnote-51) posits that Supreme Court decisions for the last few decades have been too complex and uninteresting for most Americans to care. In fact, Johnson finds that these decisions often undermine the ability of the Court to shape public beliefs and opinions about the law.**
2. **[delink] The Supreme Court doesn’t actually shape policy as much as my opponents would have you believe. Stephen Carter from Yale Law School[[52]](#footnote-52) explains that the ability for the Supreme Court to make any real change is significantly limited by our political system. After the Case of Brown v. Board, most people and political elites didn’t magically shift their beliefs on white supremacy. If the Supreme Court cannot substantively change the mind of the people in the most groundbreaking court case to ever hit the Supreme Court, why would it ever work with a much lower profile case?**

## A/2 Detterence

1. **Medoza[[53]](#footnote-53): Students aren’t deterred by searches, in fact, lots of students are already searched regularly meaning the implementation of a higher standard won’t affect their feelings**

## A/2 Rubberstamping

1. **This doesn’t matter. The issue is that searches aren’t perceived as fair. And requiring a warrant in the first place will increase perceived fairness.**
2. **This is inherently better than a warrant not being reviewed at all**
3. **[delink] Rubber stamping doesn’t really happen. Craig Bradley from the Indiana Law Journal[[54]](#footnote-54) explains that judges will be called into question if they issue defective warrants, and police lose legitimacy when they continue to ask judges to rubberstamp warrants.**
4. **[turn] But at best you believe that rubber stamping happens in the status quo and will happen in a world with probable cause. But Abraham Goldstein from NYU[[55]](#footnote-55) explains that when judges rubberstamp warrants and police take advantage of this system, suspicions are raised. If this abuse of rubberstamping judges continues, the process will become more intensive which ensures greater a greater legal standard in the criminal justice system in the long term. At this point you turn the argument because the aff world solves back for rubberstamping.**

***YOU CAN SET UP A DOUBLEBIND BC EITHER***

* 1. ***Searches stay the same with PC which fixes justice system in the longterm or***
  2. ***Searches actually decrease and opponents lose offense***

## A/2 Zero Tolerance Policies

1. **(IF THEY DON’T SHOW THAT SROs ARE CAUSING THIS CHANGE) The media and schools have both spent years portraying zero tolerance policies as bad. Make my opponents prove as to why one specific policy change would reverse decades of progress to end these policies.**
2. **(IF THEY SAY SROS ARE CAUSING THIS, GENERAL SROs RESPONSES)**

## A/2 Searches Decrease, Decreasing Safety (Less Searches Overall)

1. **There are exceptions to the warrant rules for exigent circumstances. According to National Paralegal College[[56]](#footnote-56), there are six exceptions to the warrant rule. This means that in certain circumstances, warrants do not need to be issued for searches. This allows for searches to be issued in the Aff world without leading to the harms brought up.**
2. **Turn. An increased perception of fairness increases safety. Susan Shah of the Marshall Project explains that empirically, people are more likely to obey the law when they believe in the legitimacy of authority. We’re the only team that links into increased perception of fairness, because Forman of the University of Detroit finds that probable cause requires a particularized articulable basis for suspecting a disciplinary violation of a child that can be explained to the adolescent prior to an intrusive search**

## A/2 General Security

1. **Generalized Security doesn’t increase because educators recognize the inherent harms. The Safe Schools Action Team explains that a positive learning environment is essential for student achievement and well-being. This is really important as Juvonen 01[[57]](#footnote-57) reports that generalized security is decreasing because school officials have observed that they increase student fears and anxiety. This creates a huge problem for their argument because schools would never implement policies that are harm their educational environment and probable cause would not suddenly create a shift to increase security again.**
2. **Delink: Rochman[[58]](#footnote-58) says that Schools can’t afford general security**
3. **Nonunique: security measures are already used in the status quo[[59]](#footnote-59)**

## A/2 Searches Decrease, Increasing Contraband

1. **There are exceptions to the warrant rules for exigent circumstances. According to National Paralegal College[[60]](#footnote-60), there are six exceptions to the warrant rule. This means that in certain circumstances, warrants do not need to be issued for searches. This allows for searches to be issued in the Aff world without leading to the harms brought up.**

## A/2 Child Abuse

1. **Maureen Kenny, FIU[[61]](#footnote-61): Teachers don’t know signs of child abuse or when to report it.**

## A/2 Media Perception

1. **The implementation of these policies isn’t long­term. Yanovitzky[[62]](#footnote-62) of Rutgers**​ **finds that after media coverage wanes, policy makers switch to long­term solutions.**
2. **Delink: Most media coverage at schools is in the form of school shootings, since school shootings are minimal[[63]](#footnote-63), you don’t ever see media coverage increase and impacts extending from Media “hype” don’t materialize**
3. **Media coverage of issues is very limited in timeframe, as readers do not look at the same issue for extended periods of time. This means that media coverage falls off after a few weeks, which is not enough to institute large policy change like SRO’s and general security**
4. **Nonunique: happens in squo, will happen in a world with probable cause**

## A/2 Drug Testing Useful

1. **Drug testing isn’t as successful as they claim. Finley of Florida Atlantic[[64]](#footnote-64) reports that drug use rates are similar whether or not drug testing is prevalent in schools**
2. **Singh[[65]](#footnote-65) wrote this year that the possibility of drug testing did not deter students from using marijuana. On the other hand, if you can increase the positive nature of the environment, students were 20 percent less likely to smoke pot.**
3. **National Institute for Drug Abuse[[66]](#footnote-66): Only student athletes are subject to drug tests, meaning that a large portion of our nation’s students aren’t deterred by drug testing**
4. **Students for Sensible Drug Policy[[67]](#footnote-67): Student drug testing takes money away from other programs that are better at deterring drug usage**

## A/2 SRO Increase

1. **Delink: schools can’t afford SROs. James from the Congressional Research Service[[68]](#footnote-68) finds that that to hire the additional SROs needed in every school it would cost 2.6 billion dollars.**
2. **Edward Hill, Cleveland State University[[69]](#footnote-69): Putting an SRO in every school would use somewhere between ¼ and 1/3 of the school’s annual Budget**
3. **Schools can train teachers instead. Teachers acted under probable cause until TLO v. New Jersey, then we trained them to act under reasonable suspicion. There’s no logical reason that schools won’t retrain teachers to act under probable cause in the event of a standard change.**

## A/2 SROs Bad

1. **Turn: SROs decrease the rates of violence in schools. Education World[[70]](#footnote-70) Reports that most officers avert between one and 25 violent acts per year**
2. **Josh Sanburn[[71]](#footnote-71): Police Presence in schools decreases juvenile arrests**
3. **Education World[[72]](#footnote-72): 86% of SROs feel like their presence increases crime reporting**
4. **Benjamin Thomas[[73]](#footnote-73): SROs help increase the positive nature of a school environment by helping to promote a more peaceful environment**

## A/2 Probable Cause Requires a Warrant

1. **Forman[[74]](#footnote-74): this claim is false. Probable cause is the standard through which warrants are obtained**

## A/2 Racism

1. **No Causality: The Justice Policy Institute in 2011[[75]](#footnote-75) said that this discrimination comes from other causalities such as high policing in this area. There’s no way to isolate where racism in society comes from.**
2. **Justice Policy Institute[[76]](#footnote-76): because of punitive policies in their schools, they may be more likely to be held subject to these policies not because of their race but because of the greater levels of surveillance in their schools.**

## A/2 Teachers Can’t be Trained

1. **The Harvard Law review[[77]](#footnote-77) contests this claim for two reasons**
   1. **Close ties between law enforcement and school officials would make it easier to train school officials**
   2. **Training would not be difficult, the pool of people to train would be small, and qualified immunity protects school officials who do not know better**

## A/2 Consent Searches

1. **Martin Gardner of the University of Nebraska[[78]](#footnote-78) writes that since students are**​ **legally compelled to attend school, no search can be seen as truly consensual.**
2. **Ehlenberger[[79]](#footnote-79): some students are required to “consent” to searches or they face other consequences. The consent searches they bring up aren’t really consent searches.**
3. **Merkwae[[80]](#footnote-80): “a student’s disability may play a significant role in whether his waiver of legal rights was made knowingly, intelligently, and voluntarily, as required by law.”**

## A/2 Cyberbullying/Cyber Searches

1. **Turn: Augenbraun of CBS News[[81]](#footnote-81) explains that children see their phones as sacred and​ private. Thus, searching students phones is highly intrusive and fuels student mistrust, resulting in a less safe and productive school environment.**

# Indicts

## A/2 Theriot

1. **Theriot[[82]](#footnote-82) actually concludes that SROs don’t increase arrest rates.**

## A/2 Minzer

**There are multiple things wrong with the the 90% and 12% card.**

1. **First, Minzer is comparing two percentages obtained from traffic stops, not schools.**
2. **Second, he is comparing San Diego (Where he gets the 80% card) to the entire US (The 12%)**

1. Burke, Alafair. “Consent Searches and Fourth Amendment Reasonableness”. Florida Law Review. January 2016. DOA 24 June 2016. <http://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1227&context=flr>

   “Despite numeric uncertainties, it is clear that consensual searches permeate real-world policing.2 Multiple scholars have estimated that **consent searches comprise more than 90% of all warrantless searches by police,**3 and that they are “unquestionably” the largest source of searches conducted without suspicion. 4 And though the premise of the consent-search doctrine is that people are free to decline, the reality is that nearly everyone “consents,”5 at least as the Court has defined that term. [↑](#footnote-ref-1)
2. Daniel R. Williams, Northeastern University School of Law, Winter 2007,<http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1318&context=ilj> , Indiana Law Journal

   It is thus pointless to lament that the Court never expends genuine effort to nail down some concrete understanding of voluntariness, beyond the bare necessity that some actual choice be presented to the supposed consenting party. Fourth Amendment analysis as a purely intellectual exercise loses nothing if all references to voluntariness are excised. Perhaps for clarity's sake we would be better off unshackling ourselves from metaphysical terms like "voluntariness." But regardless of that, to say, with Professor Simmons, that voluntariness defined the old paradigm is to pin on the Court a mode of analysis that it never actually embraced. Metaphysical notions like voluntariness have always been mere lexical paraphernalia of the actual inquiry into police methods we accept as legitimate crime-fighting tools. What happened in Bustamonte and all of the other consent-search cases is what happened in Rodriguez: the Court evaluated a civilian-police encounter and inquired into whether the crime- fighting methodology was minimally acceptable. 12 The Court might dress up the analysis with evocative metaphysical notions, but only naivetd or the desire to erect a straw-man critique prevents one from seeing that the Court purports to do nothing more, and nothing less, than assess reasonableness, which is exactly Professor Simmons's purported "new" paradigm. 121 That evaluative judgment must reflect the inelegant fact that law enforcement is at war with criminals. Law enforcement officers look for evidence of crime; criminals try their best to conceal that evidence. In this "competitive enterprise of ferreting out crime,"' 22 criminals have a decided preference not to consent to a search. **Law enforcement officers contrive ways to induce consent. More often than not, the entire evaluative enterprise boils down to a nitty-gritty judgment about what kinds of coercion and what kinds of pressure, trickery, and deceit law enforcement may employ to get the criminal to grant what he does not want to grant-permission to search.** Of course, the same goes for extracting damaging admissions and confessions. Coercive methods to get suspects to do what they do not want to do--incriminate themselvesare evaluated to arrive at a pragmatic judgment that is broadly framed by the language of the Constitution. 23 It simply makes no sense to take "voluntariness" seriously when the purpose of an endeavor is to get offenders to do that which they do not want to do. This exercise in evaluating the tug-of-war of crime prevention and crime solving reveals how the concept of consent can expand or contract. If a police officer has probable cause to search but cannot contact a magistrate, a court could legitimately find consent on sparser evidence than in a situation where a police officer had nothing more than a hunch when eliciting the consent to search. Similarly, a heavier burden to establish consent would be appropriately placed on the prosecution where the police officer could have obtained a warrant but did not, relying on consent instead. [↑](#footnote-ref-2)
3. LAPD

   Arrest, Discipline, Use of Force, Field Data Capture and Audit Statistics Reports and the City Status Report Covering the Period of January 1, 2006–June 30, 2006**, L.A. POLICE DEP’T,** http://www.lapdonline.org/special\_assistant\_for\_constitutional\_policing/content\_basic\_view/90 16 (last visited Jan. 26, 2014) (containing reports of the numbers of drivers and passengers who consented to searches). **In one six-month period from January 1 to June 30, 2006, only three of 16,228 drivers did not grant consent when asked, and 99% of pedestrians consented. Id.** [↑](#footnote-ref-3)
4. [↑](#footnote-ref-4)
5. Erica Goldberg (Penn State), 2013, law professor, Penn State Dickinson School of Law, Lewis & Clark Law Review, Getting Beyond Intuition in the Probable Cause Inquiry,” <http://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1033&context=fac_works>, p. 789

   Courts are proudly resigned to the fact that the probable cause inquiry is "nontechnical." In order to conduct a search or make an arrest, police need to satisfy the probable cause standard, which the Supreme Court has deemed "incapable of precise definition or quantification into percentages." The flexibility of this elusive standard enables courts to defer to police officers' reasonable judgments and expert intuitions in unique situations. However, police officers are increasingly using investigative techniques that replace their own observational skills with test results from some other source, such as drug sniffing dogs, facial recognition technology, and DNA matching. The reliability of such practices can and should be quantified, but the vagueness of the probable cause standard renders it impossible for judges to determine which error rates are inconsistent with probable cause. [↑](#footnote-ref-5)
6. **Balko, Radley**. Rise of the Warrior Cop: The Militarization of America's Police Forces. N.p.: n.p., n.d. Web. <https://www.dmtnexus.me/users/cosmicspore/RiseoftheWarriorCopTheMilitariz ationofAmericasPoliceForces.pdf>.

   “In many jurisdictions, search warrants can be approved by magistrates who needn’t even have any legal training. A 1984 study of the warrant process in seven US cities by the National Center for State Courts found that **magistrates** **spend an average of two minutes and forty-eight seconds reviewing warrant affidavits before (almost always) approving the warrant**. The study also found evidence that **police “magistrate shop”— they seek out magistrates with a reputation for approving warrants quickly** and with no hassles, and avoid those who ask questions. In one city, a single magistrate approved 54 percent of the search warrants over the period the study was conducted. The most popular magistrate in another city had rejected just one search warrant in fifteen years on the bench. Not surprisingly, “most police officers interviewed could not remember having a search warrant turned down.” 14 After the botched raid that ended the life of Ismael Mena in 1999, the Denver Post looked into how judges in the Mile High City handled requests for no-knock warrants. Again, the results were unsettling. Over a twelve-month period, police **in Denver** requested 163 no knock warrants. The city’s judges granted 158 of them. Defense attorneys told the paper they were surprised to learn that the judges had rejected even five. Perhaps Denver police had come to the judges with more than adequate probable cause? Perhaps. But the paper also found that, astonishingly, **many of the city’s judges would sign off on no knock warrants even though the police hadn’t requested one . In fact, about 10 percent of the no-knock warrants were changed from knock-andannounce warrants merely by the judge’s signature** —the police hadn’t presented any additional information establishing exigent circumstances.” [↑](#footnote-ref-6)
7. **ACLU Vermont**

   [1983 U.S. Briefs 712; 1984 U.S. S. Ct. Briefs LEXIS 1502

   SUPPLEMENTAL BRIEF OF THE AMERICAN CIVIL LIBERTIES UNION AND THE AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY, *AMICI CURIAE,* IN SUPPORT OF RESPONDENT

   <http://0-www.lexisnexis.com.sally.sandiego.edu/hottopics/lnacademic/>? ]

   “Given the fact that school officials "are in direct, day-to-day contact with students both in the classrooms and in the other varied activities of a modern school," [Ambach v. Norwick, 441 U.S. 68, 78-79 (1979),](http://0-www.lexisnexis.com.sally.sandiego.edu/lnacui2api/mungo/lexseestat.do?bct=A&risb=21_T24284880046&homeCsi=6318&A=0.32333557374850386&urlEnc=ISO-8859-1&&citeString=441%20U.S.%2068,at%2078&countryCode=USA&_md5=00000000000000000000000000000000) it is apparent that **the traditional probable cause standard can be met in virtually *every instance* in which an other-than-purely-arbitrary search is deemed necessary.”** [↑](#footnote-ref-7)
8. Hugo Mialon, http://economics.emory.edu/home/documents/workingpapers/hsmialon\_08\_10\_paper.pdf

   Thus, increasing the standard might not greatly increase crime because greater police effort tends to reduce crime; but it might significantly reduce wrongful searches because greater police effort directly increases the accuracy of the police’s initial evidence. The results provide efficiency arguments for a right against unreasonable searches. [↑](#footnote-ref-8)
9. PC no change School specific incarceration **Rachel Wilf, 3-13- 2012**, &quot;Disparities in School Discipline Move Students of Color Toward Prison,&quot; name, https://www.**americanprogress.org**/issues/race/news/2012/03/13/11350/disparities-in- school-discipline- move-students- of-color- toward- prison/

   “**Black or Hispanic students made up 70% percent of all the students arrested or referred to law enforcement and 39% of all expulsions while only making up 18% of the enrolled students”** [↑](#footnote-ref-9)
10. THE IMPACT OF RACE ON POLICING AND ARRESTS\* **JOHN J. DONOHUE III Stanford Law School** and STEVEN D. LEVITT University of Chicago and AmericanBar Foundation http://pricetheory.uchicago.edu/levitt/Papers/LevittDonohueTheImpactOfRace2001.pdf

    Race is a polarizing feature in American society. Nowhere is this more evident than in the criminal justice system. **African Americans, who comprise 12 percent of the U.S. population, account for 47 percent of felony convictions and 54 percent of prison admissions**. [↑](#footnote-ref-10)
11. "Center for Public Representation." *Use of Police Force against People with Psychiatric Disabilities -*. N.p., n.d. Web. 02 Aug. 2016. <http://www.centerforpublicrep.org/litigation-and-major-cases/damage-cases/41-litigation/damage-cases/68-use-of-police-force-against-people-with-psychiatric-disabilities>

    .In 1999, the National Lawyer's Guild published the second edition of Stolen Lives: killedby law enforcement documenting over 2,000 people who died at the hands of police between1990 and 1998 (this figure included deaths while in custody such as lockup or jail). Although theGuild did not compile the list for this purpose, it appears that a majority of the cases describedinvolve people with psychiatric disabilities. (See footnote 1) According to the Treatment Advocacy Center, **people with psychiatric disabilities are four times as likely to die in encounters with the police asmembers of the general population.** [↑](#footnote-ref-11)
12. http://harvardlawreview.org/2015/04/policing-students/ “African American youth are 4.5 times more likely . . . than white youth to be detained*for identical offenses*,” and “**African American youth with no prior offenses**” **are** seven times more likely than white youth with no criminal histories to be charged for public order offenses, and **forty-eight times more likely to be charged for drug offenses);** [↑](#footnote-ref-12)
13. file:///C:/Users/carte/Downloads/STMU\_TheScholarStMarysLRev\_v14i2p0301\_Forman%20(5).pdf

    Third, **children who are subjected to school searches may feel that the law is unfair** as applied to them because adults in positions of authority have treated them with distrust and disrespect. **In turn**, youth develop negative views of school and **distrust** of law enforcement that **alienates them from mainstream society, increasing the lure** of counter-culture ideas (such as **gangs** and other anti-social groups). [↑](#footnote-ref-13)
14. DJ Silton 2002. <http://academic.udayton.edu/race/03justice/profiling02.htm> University of Dayton. DOA 30 June 2016

    In the cases where consent is not given or an officer does not ask for consent, the officer must prove that she had probable cause to perform the search. To successfully establish probable cause, the police officer need[s] only show "facts and circumstances" adequate to allow a "reasonable" police officer to believe that a suspect has committed or is in the process of committing a crime. By using a "totality-of-the- circumstances" test, police officers may find probable cause from a suspicious combination of innocuous activities. Application of a subjective reasonableness standard[s] and a totality of the circumstances test create unpredictable probable cause adjudications, subject to the whim of the sitting judge. By refusing to consider the subjective intention of the arresting police officer, the Whren Court severely undercut a defendant's ability to challenge a pretextual stop under the Fourth Amendment. [↑](#footnote-ref-14)
15. Hill, Edward. “THE COST OF ARMING SCHOOLS: The Price of Stopping a Bad Guy with a Gun”. Cleveland State University. March 28 2013. DOA August 30 2016 <http://cua6.urban.csuohio.edu/publications/hill/ArmingSchools_Hill_032813>

    School shootings are rarely sudden, impulsive acts. • Most attackers did not threaten their targets directly [↑](#footnote-ref-15)
16. Nance, Jason. “Students, Security, and Race”. University of Florida. 2013 DOA 5 July 2016. (full pdf saved). B.H.

    Further, one must not overlook that strict security measures cannot completely prevent even serious acts of violence from occurring at school. For example, in 2004, a student in a Washington, D.C., high school was shot by another student inside the school.128 The school had metal detectors, perimeter fencing, and guards. The infamous Columbine massacre occurred in a school that used metal detectors and had armed guards.o 30 According to Ronald Stephens, an executive director of the National School Safety Center, "[R]ule followers will follow the rules. Rule-breakers will break the rules.... Sometimes the metal scanning is more of a comfort."'31 Scholar Pedro Noguera maintains that most students he spoke with during his visits to urban schools understood that anyone who wanted to bring a weapon into a school could get it into the building without being discovered by a metal detector.132 Scholar Crystal Garcia reports that only thirty-two percent of the school safety administrators she surveyed believed that metal detectors effectively prevented violent crime in their schools.133 [↑](#footnote-ref-16)
17. [No Author, Does School Safety Influence SOL Achievement?, Practical Findings from the Virginia High School Safety Study Volume 5]

    Most Virginia high schools have a high passing rate on the Standards of Learning (SOL) tests, but those with greater student and teacher safety have an even higher rate. To measure school safety for students and teachers, our survey asked randomly selected samples of 9th grade students: (1) how frequently they are victims of thefts, threats, abusive language, and assaults (victimization); and (2) how much bullying and teasing they observe at school (bullying climate); and asked 9th grade teachers: (3) how often they are victims (teacher victimization); and (4) how much student bullying and teasing they observe at school (teacher perceptions of bullying climate). **Multiple regression analyses found that all four measures of safety were predictive of one or more of the schoolwide (grades 9-12) passing rates for English, Mathematics, History, and Science, even after controlling for the percentage of minority students and percentage of students receiving a free or reduced price meal in the school.** The charts show the passing rates for schools in the top third versus bottom third on each safety measure. For example, schools with student victimization rates in the top third of the state had an average Mathematics SOL passing rate of 86 percent, but schools with the lowest (safest) levels of victimization had an 89 percent average passing rate. Although the percent gains are small, they reflect schoolwide rates (grades 9-12) and they are consistent across all measures and they are statistically significant improvements above and beyond differences due to student demographics. **Certainly the quality of academic instruction is critical to SOL achievement, but school safety conditions can make a clear difference in the school’s overall passing rate.** [↑](#footnote-ref-17)
18. Benjamin Tiller [Associate Attorney at Greensfelder], “THE PROBLEMS OF PROBABLE CAUSE: MENEESE AND THE MYTH OF ERODING FOURTH AMENDMENT RIGHTS FOR STUDENTS,” Saint Louis University Law Journal, 2014, http://www.slu.edu/Documents/law/Law%20Journal/Archives/LawJournal58- 2/Tiller\_Article.pdf

    “Stefkovich and Miller argue that, just as is the case outside the school environment, probable cause should apply unless there are exigent circumstances—like a threat of guns or violence—in which case the standard would revert to reasonable suspicion.233 **The problem with relying on exigent circumstances to justify warrantless searches is that it will often call for an after-the-fact determination of which standard applies, since it is often unclear whether exigent circumstances exist.”** [↑](#footnote-ref-18)
19. Jason P. Nance [Associate Professor of Law at the University of Florida], “STUDENTS, POLICE, AND THE SCHOOL-TO-PRISON PIPELINE,” Washington University Law Review, 2016, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2577333

    “The problems with SROs handling student disciplinary issues are multifaceted. Whereas teachers and school officials have advanced academic credentials, receive training in child psychology, discipline, pedagogy, and educational theory, and are accountable to local school boards,155 **SROs are trained in law enforcement, have little or no training in developmental psychology or pedagogy, and are not accountable to school boards.**156 Thus, **an SRO’s decision to arrest a student may be based on criteria that are wholly distinct from and even anathema to the best interests of the student or the school as a whole.”** [↑](#footnote-ref-19)
20. Aaron Kupchik [Professor at the University of Delaware and author of “Homeroom Security: School Discipline in an Age of Fear”], “Homeroom Security: School Discipline in an Age of Fear,” 2010, <http://tinyurl.com/hv2xrge>

    On the face of it these arguments seem reasonable. It’s a classic trade-off: while increased police presence might lead to more intense monitoring and unecessary involvement with the criminal justice system, the fact that we are less likely to have another Columbine on our hands justifies these measures. I am arguing the opposite.“ **I find that the presence of police in schools is unlikely to prevent another school shooting, and that the potential for oppression of students—especially poor and racial/ethnic minority youth—is a more realistic and far more common threat.** [↑](#footnote-ref-20)
21. Hill, Edward, Cleveland State University, March 28, 2013, D.O.A.: 8/28/16, “THE COST OF ARMING SCHOOLS: The Price of Stopping a Bad Guy with a Gun”, <http://www.urban.csuohio.edu/publications/hill/ArmingSchools_Hill_032813.pdf>

    While spending less than $500 a year per student on school security may look modest, the entire budget authorization for federal spending on elementary, secondary, and vocational education in Fiscal Year 2011 was $39.9 billion. If the federal government diverts its current spending on elementary, secondary, and vocational education to pay for an armed SRO in each school, between one-quarter and one-third of current federal spending would go to just pay for the SROs. If the full security package were given preference in current Federal spending, then it would account for more than half of the current appropriation [↑](#footnote-ref-21)
22. Harvard Law Review. 2015. “Policing Students” http://cdn.harvardlawreview.org/wp-content/uploads/2015/04/Policing-Students.pdf

    Shifting Focus to Mandated Disclosure. — 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.” 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. 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. Furthermore, though the T.L.O. Court’s worry about holding school officials to probable cause standards is implicated here, this hurdle should not be dispositive. **With increasingly close ties between law enforcement and schools, it would not be difficult to offer training to school officials regarding the requirements for meeting the probable cause standard,** and the burden does not seem great enough to justify the continued incursion on students’ Fourth Amendment rights. [↑](#footnote-ref-22)
23. Hill, Edward, Cleveland State University, March 28, 2013, D.O.A.: 8/28/16, “THE COST OF ARMING SCHOOLS: The Price of Stopping a Bad Guy with a Gun”, <http://www.urban.csuohio.edu/publications/hill/ArmingSchools_Hill_032813.pdf>

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24. School Safety Net, 2004, D.O.A.L 8/28/16, <http://cte.jhu.edu/courses/ssn/sro/ses2_act2_pag1.shtml>, “The Role of the School Resource Officer” [↑](#footnote-ref-24)
25. Nathan James, Congressional Research Service. June 26, 2013. “Student Resource Officers: Law Enforcefemt Officers in Schools” https://www.fas.org/sgp/crs/misc/R43126.pdf

    **COPS grants have provided “seed” money for local law enforcement agencies to hire new officers**, but it is the **responsibility of the recipient agency to retain the officer(s) after the grant expires.** Since smaller law enforcement agencies tend to have smaller operating budgets and smaller sworn forces, retaining even one or two additional officers after a grant expired might pose a significant financial burden [↑](#footnote-ref-25)
26. Hill, Edward, Cleveland State University, March 28, 2013, D.O.A.: 8/28/16, “THE COST OF ARMING SCHOOLS: The Price of Stopping a Bad Guy with a Gun”, <http://www.urban.csuohio.edu/publications/hill/ArmingSchools_Hill_032813.pdf>

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27. Allard Lowstein, American Civil Liberties Union. November 2008. "Dignity Denied: The Effect of "Zero Tolerance" Policies on Students' Human Rights A Case Study of New Haven, Connecticut, Public Schools." <https://www.aclu.org/files/pdfs/humanrights/dignitydenied_november2008.pdf>

    1. **The officer also has the option of attempting to mediate the conflict, either independently or with the school administration, in order to avoid imposing criminal sanctions.** **Sometimes an SRO will conduct several sessions of mediation and may involve the students’ families, as well**. **Other times, officers consider an incident “mediated”—that is, brought to a satisfactory conclusion—after a single session.** If mediation is ineffective, the officer may make a custodial or non-custodial arrest; an officer makes a non-custodial arrest by issuing a summons to court (also called a “ticket”) for either breach of peace or assault. If the officer arrests Student A, and Student A is a juvenile, the officer must notify the school administration and the student’s parents. If the student is a legal adult, no parental notification is necessary; however, most SROs contact parents as a courtesy.

    [↑](#footnote-ref-27)
28. [Jared M.; NOTE: Pee-To-Park: Should Public High School Students Applying for On-Campus Parking Privileges Be Required to Pass a Drug Test?; Journal of Law and Health; 2003/2004; 18 J.L. & Health 229]

    Despite the apparent clarity of this language, its application in particular instances has been quite controversial. For example, **it is not always clear what types of expectations of privacy are protected, or what types of searches must satisfy a Fourth Amendment scrutiny. Additionally, case law has created some exceptions to the requirement of a warrant based on probable cause, thereby allowing a search to be supported by either reasonable suspicion or less in certain circumstances.** [↑](#footnote-ref-28)
29. Marcy Struss, "Reconstructing consent.." The Free Library. 2001 Northwestern University, School of Law 04 Aug. 2016 <http://www.thefreelibrary.com/Reconstructing+consent.-a087150980>Third, and finally, the current doctrine of consent inherently fosters distrust of police officers as well as the judicial system. Establishing viable consent relies on a process that at its worst encourages police perjury, and at its best, distortion. Judges are forced in many ways to either acknowledge the perjury or look the other way. [↑](#footnote-ref-29)
30. [Sri Kurnianingsih, Kwartarini Wahyu Yuniarti, Uichol Kim, Factors influencing trust of teachers among students, International Journal of Research Studies in Education, Vol 1 No 2. 2012]

    **Based on the findings above, it seems that trust of senior high school students is established because of views that teachers are parents that have competence in delivering knowledge and are formally established as teachers. Therefore a teacher’s behavior that similarly represents parents’ behavior at home will produce a child’s trust and this will become the foundation for the students to learn better**. Teachers are to be the child’s role model in the child’s ability to socialize in a broader environment from the family. The teacher’s competence in teaching also becomes an important aspect for teachers to develop the students’ trust towards them. These competences include mastery of class dynamics, mastery in teaching techniques, mastery of lesson material, as well as the ability to know the children well. This study implies that the significance expectation of the students towards their teachers needs to be conveyed to teachers strongly, so that the trust and the impact of education as results from a solid quality of interaction between teachers and students, having a strong foundation of trust, can be maintained and even improved. [↑](#footnote-ref-30)
31. Daniel R. Williams, Northeastern University School of Law, Winter 2007, <http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1318&context=ilj> , Indiana Law Journal

    I say that it is not only naive but also unfair to expect that such a doctrinal path had been or would be pursued, because what drives this doctrinal and theoretical point, it is plain to see, is the inescapable realities of law enforcement. Understanding consent as a subjective condition inexorably leads into fair-bargaining conceptions-"voluntariness with a vengeance," as Justice Harlan put it in his Miranda dissent -where rights are relinquished for benefits received in return. That is how criminal-defense lawyers in their advisory capacity would like to treat waivers, which is why they tell clients not to say a word when they are threatened with being taken into, or are already in, custody. Rights are valuable and thus worth concessions in a bargaining process with the prosecutorial authorities. But fair bargaining is exactly what an on-the-field police civilian encounter is not about. If it were, then we would gravitate towards rules approaching something like an informed-consent doctrine. We would take Johnson v. Zerbst 0 6 out of the courtroom and have it set the ground rules whenever the police seek out evidence of criminality. Trickery, pressure, coaxing-a whole host of tactics that exploit a palpable psychological power imbalance that favors law enforcement would be an anathema in this fair-bargaining world, because the benchmark of legitimacy would be rational calculation. Consent and waiver would be entwined insofar as consent would be legally valid so long as the concomitant waiver reflects a rational calculation that the waiving party's interests are actually being advanced by the waiver. In the Fourth Amendment arena, this rational calculation would minimally entail the civilian's awareness that the police encounter could be ended merely by her saying so. Bustamonte makes explicit what the entirety of Fourth Amendment jurisprudence always has shown: the fair-bargaining model, the idea of rational calculation in the algebra of consent, has no traction when it comes to search-and seizure law [↑](#footnote-ref-31)
32. Marcy Struss, "Reconstructing consent.." The Free Library. 2001 Northwestern University, School of Law 04 Aug. 2016 <http://www.thefreelibrary.com/Reconstructing+consent.-a087150980>Third, and finally, the current doctrine of consent inherently fosters distrust of police officers as well as the judicial system. Establishing viable consent relies on a process that at its worst encourages police perjury, and at its best, distortion. Judges are forced in many ways to either acknowledge the perjury or look the other way. [↑](#footnote-ref-32)
33. [Susanne James-Burdumy, Brian Goesling andJohn Deke of Mathematica Policy Research with Eric Einspruch of the RMC Research Corporation and Marsha Silverberg , the Project Officer of the Institute of Education Sciences, “The Effectiveness of Mandatory- Random Student Drug Testing”, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, July 2010]

    **Sixteen percent of students subject to MRSDT [mandatory random student drug testing] reported using substances covered by their district’s MRSDT policy in the past 30 days, compared with 22 percent of comparable students in schools without MR SDT** (see Figure 1). Similar patterns were observed on other student-reported substance use measures (see Figure 1), but those differences were not statistically significant. [↑](#footnote-ref-33)
34. [Gale Group, Student Drug Testing Helps Prevent Drug Abuse, 2006. Available at <http://ic.galegroup.com/ic/ovic/ViewpointsDetailsPage/DocumentToolsPortletWindow?displayGroupName=Viewp>]

    Again, the aim of drug testing is not to trap and punish students who use drugs. It is, in fact, counterproductive simply to punish them without trying to alter their behavior. If drug-using students are suspended or expelled without any attempt to change their ways, the community will be faced with drug-using dropouts, an even bigger problem in the long run**. The purpose of testing, then, is to prevent drug dependence and to help drug-dependent students become drug free.** Before implementing a drugtesting program, parents and communities must make sure appropriate resources are in place to deal with students who test positive. For example, substance-abuse specialists should be available to determine the nature and extent of the drug use, and there should be comprehensive treatment services for students with potentially serious drug problems. Schools need to educate parents about exactly what the drug tests are measuring and what to do if their child tests positive. It is vital for parents to know that resources are available to help them gauge the extent of their child’s drug use and, if necessary, find drug treatment. **For those who worry about the “Big Brother” dimension of drug testing, it is worth pointing out that test results are generally required by law to remain confidential, and in no case are they turned over to the police.** [↑](#footnote-ref-34)
35. "Report of The Blue Ribbon Panel on Transparency, Accountability, and Fair ness in Law Enforcement." (n.d.): n. pag. San Francisco District Attorney, July 2016. Web. <http://sfdistrictattorney.org/sites/default/files/Document/BRP\_report.pdf>.

    **“ Further analysis of the data shows that Black and Hispanic people were more likely to be searched than any other group following a traffic stop. Of those stopped in 2015, searches were conducted on 1.1 percent of Asian people, 13.3 percent of Black people, 5.3 percent of Hispanic people, 1.7 percent of White people, and 1.3 percent of “Othe r” races/ethnicities. Black and Hispanic people also had the highest rates of searches without consent.80 As a result, although Black people accounted for less than 15 percent of all stops in 2015, they accounted for over 42 percent of all non - consent sear ches following stops. Of all people searched without consent, Black and Hispanic people had the lowest** “hit rates” (i.e., the lowest **rate of contraband recovered** ). The disparities in search hit rates, shown in the chart below, **suggest[ing] the SFPD performs non - consensual searches of Black and Hispanic people with lower levels of evidence than for other racial or ethnic groups.** According to Dr. Fridell, “[a] lower hit rate for ethnic minorities is a red flag for bias. [↑](#footnote-ref-35)
36. Tucker, Allyson M. "Applying the Fourth Amendment to Schools, New Jersey v. T.L.O.,

    105 S. Ct. 733 (1985)." Urban Law Annual ; Journal of Urban and Contemporary Law, n.d. Web.

    <<http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1363&context=law_urbanlaw>>.

    “**New Jersey v. T.L.O. represents the first time that the United States Supreme Court has ruled directly on the fourth amendment rights of students.15 The Court has recognized16 that the Constitution protects students,1 7 and modem decisions have extended these constitutional protections."** The Court has further held that a juvenile offender is entitled to the fifth and sixth amendment protections afforded to adult offenders 9 and has recognized the first amendment rights of students.2 ° **In Goss v. Lopez21 the Supreme Court held that students have the right to procedural due process when facing suspensions or other disciplinary measures."** [↑](#footnote-ref-36)
37. [↑](#footnote-ref-37)
38. “**New Jersey v. T.L.O**.” Legal Information Institute. Cornell University, N.d. Web. 11 Aug. 2016. <https://www.law.cornell.edu/supremecourt/text/469/325>.

    “Under ordinary circumstances, the search of a student by a school official will be justified at its inception where there are 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. And such **a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search, and not excessively intrusive in light of the student's age and sex and the nature of the infraction**. Pp. 337-343. 3. Under the above standard, the search in this case was not unreasonable for Fourth Amendment purposes.” [↑](#footnote-ref-38)
39. **Lee, Christopher**. “The Viability of Area Warrants in a Suspicionless Search Regime.” **University of Pennsylvania Law School**. N.p., **2009**. Web. 11 Aug 2016. <http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1165&context=jcl>.

    “Regardless of seeking consistency in the Fourth Amendment, the ex ante application of the Warrant Clause to suspicionless searches offers substantial advantages. **The addition of the warrant requirement could** optimize suspicionless searches in at least three ways. First, it could better restrict the use of suspicionless searches to those truly serving important government needs. Second, it could promote concurrent oversight of these searches by the judiciary, and in the process it could potentially provide greater legitimacy to the searches. Third, by encouraging more selective use of the suspicionless search doctrine pursuant to additional oversight, the proposal seeks to provide counterbalances which should decrease ex post concerns. This, in turn, may **actually encourage courts to allow more invasive search procedures when necessary.** In sum, a drastic departure from conventional Fourth Amendment protections merits experimentation with innovative counterbalances to compensate.” [↑](#footnote-ref-39)
40. **Johnson, Stephen**. "The Changing Discourse of the Supreme Court." **University of New Hampshire Law Review, 2014.** Web. 13 Aug. 2016. <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1206&context=unh\_lr>

    “Academics, judges, and other commentators complain that, **for the past few decades, the Justices on the Supreme Court have been increasingly writing opinions that are unreadable for most American citizen**s.1 Those critics complain that **the opinions are too long and too complex**, riddled with incomprehensible multi-part tests.2 They also attack the style of the opinions and assert that recent opinions are more likely to be written in a technocratic, rather than persuasive, style.3 There seems to be little consensus among the critics regarding why the Justices are writing opinions that are increasingly unreadable. Some attribute it to the increasing complexity of issues that the Court is considering.4 Others suggest that the shift could be attributable to the lack of trial court experience among Justices.5 Some also speculate that a greater reliance on law clerks might be fueling a shift

    “Regardless of the reason for the shift, if such a shift is truly occurring, it could have important repercussions, depending on how one views the purposes of the Supreme Court’s opinions and the audiences to whom they are directed. **If, as some academics assert, Supreme Court opinions are directed, at least in part, toward the public7 and are designed, at least in part, to advise the public about legal rights and responsibilities and to build public confidence in the rule of law by demonstrating a rational and transparent decision-making process,8 then unreadable Supreme Court opinions undermine those goals.** If, however, Supreme Court opinions are simply directed to the parties before the court, other courts and agencies, lawyers, and law students,9 the shift is less problematic.” [↑](#footnote-ref-40)
41. **Carter, Stephen**. "Do Courts Matter?" **Yale Law School** Legal Scholarship Repository, 1992. Web. 13 Aug. 2016. <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3236&context=f ss\_papers>.

    “The trouble, according to Rosenberg, is that the Dynamic Court model simply didn't work for school desegregation. **The courts, he says, were constrained by a variety of rather Bickelian factors, notably the lack during the first decade after Brown of "the active support of political elites"** (p. 74). The equivocation at the national level, he argues, encouraged private citizens and local government actors (and sometimes lower courts) to continue their resistance at the state level. **"The only way to overcome such opposition," he writes, "is from a change of heart by electors and by national political leaders" (p. 81) - a change reflected in subsequent legislation. In** the desegregation realm, he concludes, "it is clear that **paradigms based on court efficacy are simply wrong**" (p. 105)” [↑](#footnote-ref-41)
42. Benjamin **Tiller** [Associate Attorney at Greensfelder], “THE PROBLEMS OF PROBABLE CAUSE: MENEESE AND THE MYTH OF ERODING FOURTH AMENDMENT RIGHTS FOR STUDENTS,” Saint Louis University Law Journal, 2014, http://www.slu.edu/Documents/law/Law%20Journal/Archives/LawJournal58- 2/Tiller\_Article.pdf

    “Ms. Bough’s most significant and seriously flawed argument is her assertion that reasonable suspicion will inevitably lead to the erosion of students’ constitutional rights.196 This contention, originally argued in the Dilworth dissent,197 requires careful consideration, and makes it necessary to examine the constitutional rights of students. It has long been established that “students do not shed their constitutional rights . . . at the schoolhouse gate.”198 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.”** [↑](#footnote-ref-42)
43. Burke, Alafair. “Consent Searches and Fourth Amendment Reasonableness”. Florida Law Review. January 2016. DOA 24 June 2016. <http://scholarship.law.ufl.edu/cgi/viewcontent.cgi?article=1227&context=flr>

    “Despite numeric uncertainties, it is clear that consensual searches permeate real-world policing.2 Multiple scholars have estimated that **consent searches comprise more than 90% of all warrantless searches by police,**3 and that they are “unquestionably” the largest source of searches conducted without suspicion. 4 And though the premise of the consent-search doctrine is that people are free to decline, the reality is that nearly everyone “consents,”5 at least as the Court has defined that term. [↑](#footnote-ref-43)
44. [↑](#footnote-ref-44)
45. Colb, Sherry F; Verdict; October 16, 2013; D.O.A.: 8/2/16; https://verdict.justia.com/2013/10/16/u-s-supreme-court-considers-anonymous-tips; Cops in schools: The U.S. Supreme Court Considers Anonymous Tips: Part One of a Two-Part Series of Columns;

    Police may conclude that an informant is credible because he has a history of giving good tips to law enforcement, or because she is an apparently truthful citizen coming forward and identifying herself, claiming to have seen someone commit an offense. The Supreme Court declared in Illinois v. Gates that probable cause based on an informant’s tip calls for a “totality of circumstances” analysis, one that takes an informant’s credibility and basis of knowledge into account, but that also does not rigidly insist on satisfying both of these prongs. Reasonable suspicion works similarly. For police to perform a stop—a brief detention that falls short of an arrest requiring probable cause—they must have reasonable suspicion to believe that the person to be stopped has committed, or is about to commit, a criminal act. Reasonable suspicion is a quantity of suspicion that is less than probable cause (which, in turn, is less than a preponderance of the evidence). In Terry v. Ohio, the U.S. Supreme Court indicated that articulable suspicion (which is essentially reasonable suspicion) to believe that criminal activity may be “afoot,” suffices to detain the suspect for a brief period to either confirm or dispel the suspicion. [↑](#footnote-ref-45)
46. James, Bernard. "Informants, Tips & Reasonable Suspicion." *Pepperdine University* (2010): n. pag. NASRO Journal of School Safety, 2010. Web. 30 Aug. 2016. <<https://nasro.org/cms/wp-content/uploads/2015/09/Informants-Tips-Reasonable-Suspicion.pdf>>.

    A tip may immediately trigger a special need to search, standing alone, when it pertains to a dangerous condition, or crisis, which requires an immediate response to insure that all is well on campus. (See In Re D.E.M., 1999 PA Super 59, 727 A.2d 570 (Pa. Super. 1999)). When an uncorroborated tip pertains to the presence of weapons or explosives on campus, the safe schools team is in crisis mode and this tips the balance far enough for a search to be conducted immediately. **Outside of the "emergency exception" that allows the use of tips, an anonymous tip, standing alone, will rarely provide the reasonable suspicion necessary to justify a search by a school official. This is especially the case when both the identity of the tipster or his motive is also unknown.** [↑](#footnote-ref-46)
47. Randall Berger, “THE”WORST OF BOTH WORLDS“: SCHOOL SECURITY AND THE DISAPPEARING FOURTH AMENDMENT RIGHTS OF STUDENTS,” Criminal Justice Review, Volume 28, Number 2, Autumn 2003. Available at: [http://youthjusticenc.org/download/educationjustice/due-process/The “Worst of Both Worlds”: School Security and the Disappearing Fourth Amendment Rights of Students.pdf](http://youthjusticenc.org/download/educationjustice/due-process/The%20%E2%80%9CWorst%20of%20Both%20Worlds%E2%80%9D:%20School%20Security%20and%20the%20Disappearing%20Fourth%20Amendment%20Rights%20of%20Students.pdf)

    **Strict security measures can disrupt the learning environment and create an adversarial relationship between school officials and students.** Indeed, the nation’s newspapers have published stories about students organizing petition drives and boycotting classes to protest unannounced locker inspections, police searches, and other forms of intrusive security (Chiang, 1997; Gendar, 1999; Smith, 1999). **Some civil libertarians and academics worry that metal detector screening in public schools may deprive students of valuable learning time** (Imbriani, 1995; Watkins & Hooks, 2000). One example of this, published in the CQ Researcher, can be found in a high school in **Brooklyn, New York, where it takes almost three hours to “funnel all 3,000 students into the gym, where they are frisked with hand-held metal detectors and their book bags are probed”** (Glazer, 1992, p. 790). Zirkel (2000) points out that installing metal detectors in schools that are relatively free of trouble could increase fear and insecurity rather than help students feel safe. [↑](#footnote-ref-47)
48. Randall Berger, “THE”WORST OF BOTH WORLDS“: SCHOOL SECURITY AND THE DISAPPEARING FOURTH AMENDMENT RIGHTS OF STUDENTS,” Criminal Justice Review, Volume 28, Number 2, Autumn 2003. Available at: [http://youthjusticenc.org/download/educationjustice/due-process/The “Worst of Both Worlds”: School Security and the Disappearing Fourth Amendment Rights of Students.pdf](http://youthjusticenc.org/download/educationjustice/due-process/The%20%E2%80%9CWorst%20of%20Both%20Worlds%E2%80%9D:%20School%20Security%20and%20the%20Disappearing%20Fourth%20Amendment%20Rights%20of%20Students.pdf)

    Little hard evidence evaluating school security measures exists. **What data are available suggest that heavily layered security in public schools (e.g., unannounced locker inspections, police searches, surveillance cameras) may not be effective in reducing the risk of student disorder.** For example, using a structural equation methodology, Mayer and Leone (1999) analyzed the relationship between school safety operations and rates of victimization and disorder reported by 9,000 students. **They found that student disorder and victimization were higher in schools with restrictive physical security (metal detectors, locked doors) than in schools where physical security was not so pervasive.** The authors of this study assert that a “cycle of disorder” may be operating in heavily secured schools: “Viewed in the context of a reciprocal relationship, the data suggest that disorder and restrictive management of the school premises go hand in hand and may feed off of each other” (p. 12). Mayer and Leone recommend that “less attention be paid to running schools in an overly restrictive manner and rather, schools should concentrate more on communicating individual responsibility to students” (p. 14). [↑](#footnote-ref-48)
49. “**New Jersey v. T.L.O**.” Legal Information Institute. Cornell University, N.d. Web. 11 Aug. 2016. <https://www.law.cornell.edu/supremecourt/text/469/325>.

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50. **Lee, Christopher**. “The Viability of Area Warrants in a Suspicionless Search Regime.” **University of Pennsylvania Law School**. N.p., **2009**. Web. 11 Aug 2016. <http://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1165&context=jcl>.

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51. **Johnson, Stephen**. "The Changing Discourse of the Supreme Court." **University of New Hampshire Law Review, 2014.** Web. 13 Aug. 2016. <http://scholars.unh.edu/cgi/viewcontent.cgi?article=1206&context=unh\_lr>

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52. **Carter, Stephen**. "Do Courts Matter?" **Yale Law School** Legal Scholarship Repository, 1992. Web. 13 Aug. 2016. <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3236&context=f ss\_papers>.

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53. Jessica Mendoza [Staff writer, Christian Science Monitor], “A backlash against Los Angeles schools as high-security fortresses,” Christian Science Monitor, June 3, 2016. Available at: <http://www.csmonitor.com/USA/Education/2016/0603/A-backlash-against-Los-Angelesschools-as-high-security-fortresses>

    What students say: Vitaly agrees – as do his students. Lounging on padded chairs and a couch arranged in a circle in their classroom – where portraits of Gandhi and Martin Luther King Jr. gaze down from high on the walls – they share their experiences with random searches at their previous schools. **“I used to get searched all the time,”** says ZahnkiWoods, a 10th-grader. Granted, he wasn’t always innocent; he often brought liquor, candy, and other contraband to sell at school, he says, mostly because he was bored and needed the money. But the searches were intrusive, even when they didn’t use the metal detector wand, he says: “They take all the stuff out of your bag and dump it out. Like your personal stuff doesn’t matter, your privacy doesn’t matter.” **Nor did the threat of getting searched prevent him from sneaking in banned items, anyway.** **“I just found a new place to put them,” Zahnki says. Gissell Gomez, a ninth-grader, adds that she lost a lot of class time because of those searches. “They’d keep me in the office for the rest of the day,”** she says. None of the students could recall a gun ever being recovered as a result of a random search, although Zahnki says someone brought a pocket knife once. When asked if he would ever bring contraband to class today, Zanhki shakes his head. “It’s different. You don’t make it seem like we have a reason to be searched,” he adds, speaking to Vitaly. “It’s basically a home,” Gissell says. [↑](#footnote-ref-53)
54. Bradley, Craig. "The ‘Good Faith Exception’ Cases: Reasonable Exercises in Futlity.” Indiana Law Journal, Indiana University, Vol. 60:2 (1985): 295. Web. 9 Aug. 2016. <http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2174&conte xt=ilj>.

    **“Also open to challenge are the neutrality and detachment of the magistrate, including his or her tendency to act as a "rubber stamp**," but again, only in a case "in which exclusion will further the purposes of the exclusionary rule" (i.e., deter police misconduct).6 ' The Court makes it clear that previous rejection of a warrant application by a different magistrate casts doubt on the good faith of the police.62 **Repeated application to a magistrate who is known to "rubber-stamp" warrants should also cast doubt on police good faith. Thus, the competence and past record of the magistrate may fairly be questioned by defense attorneys challenging good faith. Police who repeatedly return to a magistrate who has a record of issuing defective warrants should expect their good faith to be in serious question** when they seek to defend yet another defective warrant issued by that magistrate.” [↑](#footnote-ref-54)
55. **Goldstein, Abraham**. "The Search Warrant, the Magistrate, and Judicial Review.” **New York University Law Review**, New York University, Vol. 62:6 (1987): 1199. Web. 9 Aug. 2016.

    “Moreover, **when the affidavit contains ambiguities or depends on conclusory inferences, probabilities, or assertions of police expertise, the magistrate must provide more "process." His inquiry must then be sufficient to make the officer's belief that the warrant is a valid one** objectively reasonable. **The Court's inquiry into these matters on post-warrant review is meant to probe more deeply into the officer's experience and state of mind than the use of an entirely objective standard connotes**. If a "reasonably well trained officer"' 133 would have known that his information was stale, or that he has not provided adequate grounds for treating his informer as reliable, he could have no confidence in the warrant; his use of it would not be based on an objectively reasonable belief in the legality of the warrant and the search. The same is true if a reasonably well trained officer would have known that the material supplementing a defective affidavit must be recorded, or that signing without reading is impermissible, or that failing to disclose to magistrate B who issued a warrant that magistrate A had previously denied the same request would have affected Bs decision. As Professor Wayne LaFave has pointed out, "[I]f the ultimate issue is what a reasonable officer with this particular officer's experiences would conclude," then Leon invites the widest possible evidence on the issue of the particular officer's experience, "especially that which may have conveyed to him that his intended course of action would be illegal.... [T]he Leon majority expressly states that **in determining when an officer's reliance upon the warrant is 'objectively reasonable,' 'all of the circumstances .. may be considered.' "** [↑](#footnote-ref-55)
56. “Exceptions to the Warrant Requirement”, <http://nationalparalegal.edu/conLawCrimProc_Public/ProtectionFromSearches&Seizures/ExToWarrantReq.asp>, National Paralegal College

    The rationale here is similar to the automobile exception. **Evidence that can be easily moved, destroyed or otherwise made to disappear before a warrant can be issued may be seized without a warrant.** Furthermore, if a suspect enters private property while being pursued by officers, no warrant is required to enter that property in order to continue pursuit, even if the suspect is in no way connected with the property owner. [↑](#footnote-ref-56)
57. Jaana Juvonen, RAND, 2001 “School Violence Prevalence, Fears, and Prevention” http://www.rand.org/pubs/issue\_papers/IP219/index2.html Weapons deterrence. Although bullying is far more prevalent than violence that involves weapons, one primary goal of improved physical surveillance measures is to prevent youth from bringing weapons to school. Metal detectors and searches of student lockers and book bags are not uncommon, especially in large urban middle and high schools. Indeed, fewer weapons are confiscated with these measures in place than are confiscated without them, implying that students are bringing weapons to school less frequently. Whether metal detectors and searches can prevent a well-planned incident from taking place is less clear. **Recent reports from administrators suggest that some schools are decreasing their use of metal detectors and searches because they appear to increase students’ fears and anxieties.** [↑](#footnote-ref-57)
58. Rochman, Bonnie. "School Security: Why It’s So Hard to Keep Kids Safe | TIME.com." *Time*. Time, 12 Dec. 2012. Web. 02 Sept. 2016. [<http://healthland.time.com/2012/12/18/school-security-why-its-so-hard-to-keep-kids-safe/>.](file:///C:\Users\Ben\Downloads\%3chttp:\healthland.time.com\2012\12\18\school-security-why-its-so-hard-to-keep-kids-safe\%3e)

    Now, Friday’s unthinkable tragedy may have shifted priorities back to finding strategies for keeping kids safe**. “It’s unthinkable that we have rules and regulations in all sorts of places but we can’t seem to find the money to protect our kids in their schools,”** says Dr. Bob Block, immediate past president of the AAP. “What we want is for students in their schools to know they’re secure so they can focus their attention on lessons rather than looking over their shoulder to check out everyone who comes into their school.” [↑](#footnote-ref-58)
59. "Indicator 21: Students' Reports of Safety and Security Measures Observed at School." *Indicator 21: Students' Reports of Safety and Security Measures Observed at School*. **National Center for Educational Statistics**, 2015. Web. 1 Sept. 2016. [<http://nces.ed.gov/programs/crimeindicators/ind\_21.asp>.](file:///C:\Users\Ben\Downloads\%3chttp:\nces.ed.gov\programs\crimeindicators\ind_21.asp%3e)

    In 2013, most students ages 12–18 reported that their schools had a written code of student conduct and a requirement that visitors sign in (96 percent each). Approximately 90 percent of students reported the presence of school staff (other than security guards or assigned police officers) or other adults supervising the hallway, **77 percent reported the use of one or more security cameras at their schools**, and 76 percent reported locked entrance or exit doors during the day. **About 70 percent of students reported the presence of security guards and/or assigned police officers**, 52 percent reported locker checks, and 26 percent reported that students were required to wear badges or picture identification at their schools. **Eleven percent of students reported the use of metal detectors at their schools, representing the least observed of the selected safety and security measures.** [↑](#footnote-ref-59)
60. “Exceptions to the Warrant Requirement”, <http://nationalparalegal.edu/conLawCrimProc_Public/ProtectionFromSearches&Seizures/ExToWarrantReq.asp>, National Paralegal College

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61. Maureen Kenny, Florida International University, 2001 “Compliance with Mandated Child Abuse Reporting” <http://www.tandfonline.com/doi/pdf/10.1300/J076v34n01_02>

    These findings have important implications. **Results demonstrate that** both physicians and **teachers are relatively**¶ **unknowledgeable about signs and symptoms of child abuse and the specific legal requirements of reporting.**¶ Professionals need to understand that mandatory reporting laws are one way states have made efforts to identify and¶ protect abused children (Steinberg, Levine, &amp; Doueck, 1997), and that they have an ethical obligation to protect children¶ (Lentsch &amp; Johnson, 2000). It seems the participants in this study were not aware that they do not make the final¶ determination of abuse. Rather, they are mandated to report suspicion, and child protective workers are responsible for¶ making the claim of child abuse. Professionals need to guard against rationalizations about why their non-reporting is¶ acceptable, or why a certain behavior may not be considered child abuse. Efforts should be made to increase child abuse¶ reporting among these professionals so that abused children and their families can be given assistance. [↑](#footnote-ref-61)
62. **Yanovitzky**, Itzhak. "Effects of News Coverage on Policy Attention and Actions." ​ ​*Http://crx.sagepub.com/*. Rutgers University, Aug. 2002. Web. 17 Aug. 2016.\*

    Overall, the results of the current study support the proposition that intensive periods of media attention to issues are instrumental in attracting policy attention to public problems that are low on policy­makers’ agendas while creating a sense of urgency among policy makers to generate immediate, short­term solutions to public problems. The findings also suggest that this impact is likely to be contingent on several key factors. For one, the degree of the media­policy association seems to vary over the life course of the issue on the media

    agenda. **The impact of media attention on policy making is strongest at the beginning of the media**​  **issue attention cycle.Once media attention decreases in intensity, related policy outputs decrease as well and gradually shift from ad hoc solutions to long­term solutions for the problem.**  [↑](#footnote-ref-62)
63. Amy Vorenberg, Berkeley Law Journal, 2012

    Ac cording to the Center for Disease Control (CDC): “While shocking and senseless shootings give the impression of dramatic increases in school-related violence, national surveys consistently find that school-associated homicides have stayed essentially stable or even decreased slightly over time. According to the CDC’s School Associated Violent Death Study, less than 1 percent of all homicides among school-age children happen on school grounds or on the way to and from school. So the vast majority of students will never experience lethal violence at school. [↑](#footnote-ref-63)
64. LAURA L. FINLEY Florida Atlantic University [http://download.springer.com/static/pdf/101/art%253A10.1007%252Fs10612-006-9002-4.pdf?originUrl=http%3A%2F%2Flink.springer.com%2Farticle%2F10.1007%2Fs10612-006-9002-4&token2=exp=1467125164~acl=%2Fstatic%2Fpdf%2F101%2Fart%25253A10.1007%25252Fs10612-006-9002-4.pdf%3ForiginUrl%3Dhttp%253A%252F%252Flink.springer.com%252Farticle%252F10.1007%252Fs10612-006-9002-4\*~hmac=46cfb4d1c7bbb05345f881c5e326a258e243bbc7ef1c16c0dd0a0c78a1bdc670](http://download.springer.com/static/pdf/101/art%253A10.1007%252Fs10612-006-9002-4.pdf?originUrl=http%3A%2F%2Flink.springer.com%2Farticle%2F10.1007%2Fs10612-006-9002-4&token2=exp=1467125164~acl=%2Fstatic%2Fpdf%2F101%2Fart%25253A10.1007%25252Fs10612-006-9002-4.pdf%3ForiginUrl%3Dhttp%253A%252F%252Flink.springer.com%252Farticle%252F10.1007%252Fs10612-006-9002-4*~hmac=46cfb4d1c7bbb05345f881c5e326a258e243bbc7ef1c16c0dd0a0c78a1bdc670)  DOA 29 June 2016.

    “found drug use to be [is] just as prevalent in schools with testing as in those without. The study spanned several years and involved a national sample of 76,000 students (Meyer 2003). Another study found that students in schools with drug testing held more positive attitudes about drugs and overestimated the amount of drug use by their peers.” [↑](#footnote-ref-64)
65. Singh, M. (2016). *Drug Tests Don't Deter Drug Use, But School Environment Might.* **NPR.** Retrieved from <http://www.npr.org/sections/health-shots/2014/01/14/262466903/drug-tests-dont-deter-drug-use-but-school-environment-might> DOA 29 June 2016

    “A survey of high school students found that the possibility that they might face drug testing didn't really discourage students from alcohol, cigarettes or marijuana. But students who thought their school had a positive environment were less apt to try cigarettes and pot. Those students were about 20 percent less likely to try smoke pot and 15 percent less likely to light up a cigarette than students who didn't feel that their school was a positive place, the survey found.” [↑](#footnote-ref-65)
66. National Institute for Drug Abuse, September 2014. “Frequently Asked Questions About Drug Testing in Schools.” https://www.drugabuse.gov/related-topics/drug-testing/faq- drug-testing- in-schools

    In random testing, schools select one or more students to undergo drug testing using a random process (like flipping a coin). Legally, only students who participate in competitive extracurricular activities (including athletics and school clubs) can be subject to random drug testing. In reasonable suspicion/cause testing, a student can be asked to provide a urine sample, if the school suspects or has evidence they are using drugs. Such evidence might include direct observations made by school officials, physical symptoms of being under the influence, and/or has patterns of abnormal or erratic behavior. [↑](#footnote-ref-66)
67. “Student Drug Testing Talking Points,” Students for Sensible Drug Policy. No date, available at: <http://ssdp.org/campaigns/student-drug-testing/talking-points/>

    **Drug testing is not effective in deterring drug use by young people. The largest study ever conducted on the topic looked at 94,000 students at 900 schools and found no difference between levels of drug use at schools that drug test their students and those that don’t.** Drug testing students who wish to participate in extracurriculars deters at-risk students from joining the activities in the first place. School officials should welcome these students into the positive supervised learning environments provided by after-school programs, which are a proven means of helping students stay out of trouble with drugs. **Drug testing is very expensive, taking away scarce dollars from more effective programs that actually keep young people away from drugs and out of trouble. Drug testing can undermine relationships of trust between students and teachers and between parents and their children. Drug testing is invasive.** During urine testing, school officials generally stand outside bathroom stalls listening for the sounds of urination to ensure validity of the tests. In the event of positive or inconclusive results, students are asked to reveal any prescription medications they are taking. Due to unreliable accuracy rates, **drug testing can result in false positives, leading to the punishment of innocent students. Drug testing can lead to unintended consequences, such as students using drugs that are more dangerous but less detectable by tests, such as meth, cocaine, inhalants, or ecstasy.** [↑](#footnote-ref-67)
68. Nathan James, Congressional Research Service. June 26, 2013. “Student Resource Officers: Law Enforcefemt Officers in Schools” https://www.fas.org/sgp/crs/misc/R43126.pdf

    Even a conservative estimate of the cost of placing an SRO in each school in the country shows that it could cost billions of dollars to accomplish that goal. This estimate is partly founded on assumptions based on 2007 data (the most recent available). Data from the NCES show that in the 2009-2010 school year there were 98,817 public schools in the United States.83 Data from the BJS show that there were a total of 19,088 SROs in 2007 (see Table A-1and Table A-2). If it is assumed that the number of SROs did not decrease in subsequent years and it is further assumed that each SRO is assigned to work in only one school, it would mean that there would need to be an additional 79,729 SROs hired to place an SRO in each school in the United States. Data from the BJS show that in 2007 the average minimum salary for an entry-level police officer was $32,90084 and for an entry-level sheriff’s deputy it was $31,100,85 and the weighted average minimum salary for an entry-level law enforcement officer in 2007 was $32,412.86 Assuming that the average minimum salary for entry- level police officers and sheriff’s deputies has not changed, it would cost about $2.6 billion to hire the additional 79,729 SROs needed to place an SRO in each school. However, this cost could be higher because, as previously discussed, the number of SROs declined between 2003 and 2007. In recent years, many law enforcement agencies faced significant budget constraints due to the recent recession, so it is possible that the number of SROs continued to decline as they were reassigned or laid-off. Also, it is possible that the salaries for entry-level police officers and sheriff’s deputies have increased since 2007. On the other hand, the estimated cost could be lower if SROs were assigned to patrol more than one school in some school districts. [↑](#footnote-ref-68)
69. Hill, Edward. “THE COST OF ARMING SCHOOLS: The Price of Stopping a Bad Guy with a Gun”. Cleveland State University. March 28 2013. DOA August 30 2016 <http://cua6.urban.csuohio.edu/publications/hill/ArmingSchools_Hill_032813>

    While spending less than $500 a year per student on school security may look modest, the entire budget authorization for federal spending on elementary, secondary, and vocational education in Fiscal Year 2011 was $39.9 billion. 10 If the federal government diverts its current spending on elementary, secondary, and vocational education to pay for an armed SRO in each school, between one-quarter and one-third of current federal spending would go to just pay for the SROs. If the full security package were given preference in current Federal spending, then it would account for more than half of the current appropriation. [↑](#footnote-ref-69)
70. No Author. “School Resource Officers Seeing Results”. Education World. nd. DOA 4 July 2016. <http://www.educationworld.com/a_issues/issues/issues214.shtml> B.H.

    The first nationwide survey of school resource officers (SROs) published in 2001 indicated that many spend about half their time preventing crime and violence. More than 90 percent of the officers avert between one and 25 violent acts in an average school year. Related -- and striking -- statistics indicate that 24 percent of officers reported taking a loaded firearm from a student or another person on campus, and 87 percent confiscated knives or other weapons with blades. Sixty-seven percent reported preventing a school faculty or staff member from being assaulted, either by a student or someone else on campus. [↑](#footnote-ref-70)
71. Sanburn, Josh. “Do Cops in Schools Do More Harm Than Good?”. TIME. 29 October 2015. DOA: 4 July 2016. [http://time.com/4093517/south-carolina-school-police-ben-fields/#](http://time.com/4093517/south-carolina-school-police-ben-fields/) B.H.

    “Once a student is arrested, they’re less likely to graduate and more likely to be involved in the justice system later on,” Nance says. “It’s traumatic for these kids, and some of them don’t recover.” The National Association of School Resource Officers, however, disputes the notion that the presence of police officers in schools leads to more students being arrested. NASRO Executive Director Mo Canady points to numbers from the U.S. Department of Justice showing that the number of juvenile arrests between 1994 and 2009 dropped almost 50% while SROs in schools increased. “There’s no way law enforcement referrals can be up if SROs are doing the job the right and way and building relationships,” Canady says, adding that the officers’ overall mission is to “bridge the gap between law enforcement and youth.” “Numbers [for juvenile arrests] are down overall, so how are we getting so much criticism for putting kids in jail if numbers are so dramatically down like that?” Canady says. “I have never said that we deserve all the credit for that, but we deserve some of it.” [↑](#footnote-ref-71)
72. No Author. “School Resource Officers Seeing Results”. Education World. nd. DOA 4 July 2016. <http://www.educationworld.com/a_issues/issues/issues214.shtml> B.H.

    "The survey provides substantial data to dispel the misconception that police officers assigned to schools are reactive and primarily focus on making arrests," says Kenneth S. Trump. He is president of [National School Safety and Security Services](http://www.schoolsecurity.org/), the school security consulting firm that conducted the [2001 NASRO School Resource Officer Survey](http://www.schoolsecurity.org/resources/nasro_sro_survey.html). "The description of preventive tasks performed and the number of violent incidents prevented by officers says to me that SRO programs must be viewed as prevention programs, not as punitive or reactionary strategies. The data also clearly indicates that students are comfortable in reporting threats and concerns to SROs." At the same time, about 84 percent of SROs think that crimes on school grounds are underreported to police, but 86 percent think the presence of an officer on campus results in more crimes being reported. The survey includes responses from 689 officers, or about 10 percent of the 7,000 members of the [National Association of School Resource Officers (NASRO)](http://www.nasro.org/). Some of the questions asked for the officers' opinions or perceptions; others requested data. [↑](#footnote-ref-72)
73. Thomas, Benjamin. “School Resource Officers: Steps to effective school-based law enforcement” September 2013. DOA August 30, 2016. Full pdf saved

    SROs can be valued members of the cross-agency school safety team, helping to promote a safe, supportive, and peaceful school environment. Creating an effective SRO program begins with a strong relationship between the school and law enforcement agency that clearly defines the multifaceted role of the SRO as an educator, informal counselor, and law enforcement problem-solver. A clearly articulated description of SRO responsibilities recognizes that school discipline resides with school administrators, not the SRO. Through positive relationships with students and collaboration with educators and mental health professionals, SROs can proactively address school safety issues and divert at-risk students from the juvenile justice system. Properly selected, trained, and governed SROs can achieve positive outcomes for students and the community by providing youth with the supports they need to succeed in school and in life. [↑](#footnote-ref-73)
74. Sarah J Foreman [Assistant Professor of Law at the University of Detroit Mercy School of Law], “Countering Criminalization: Toward a Youth Development Approach to School Searches,” 14 Scholar 301 (2011). Available at: <http://tinyurl.com/jukdytr>

    Probable cause is presumed to be reasonable because it is the procedural safeguard upon which warrants rest, and a search pursuant to a warrant based on probable cause is the only kind of search explicitly authorized by the Fourth Amendment.53 **Probable cause is found to exist where “ ‘the facts and circumstances within their [the officers’] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that’ an offense has been or is being committed.”54** [↑](#footnote-ref-74)
75. Justice Policy Institute. “Education Under Arrest”. Justice Policy Institute. November 2011. DOA 24 June 2016. http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\_fullreport.pdf

    “Students of color may be more affected by punitive policies because they attend schools with greater levels of surveillance, police presence, and zero tolerance policies. Citing a collaborative report from the Bureau of Justice Statistics and the National Center on Education Statistics, the Advancement Project reports that in the 1996-97 school year, schools predominantly attended by black and Latino students were more likely to have policies addressing violence (85 percent), firearms (97 percent), other weapons (94 percent), and drugs (92 percent) than white school districts (71 percent, 92 percent, 88 percent, and 83 percent, respectively).

    The 2010 Indicators of School Crime and Safety shows that surveillance, often associated with law enforcement is concentrated in large, urban districts,82 which also tend to have high populations of youth of color.83 In addition, schools with higher percentages of students of color have random metal detector checks, random sweeps for contraband, controlled access to school grounds, and students must wear badges and picture IDs to enter the school.84 [↑](#footnote-ref-75)
76. <http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf>; JUSTICE POLICY INSTITUTE | NOVEMBER 2011

    The 2010 Indicators of School Crime and Safety shows that surveillance, often associated with law enforcement is concentrated in large, urban districts, which also tend to have high populations of youth of color. In addition, schools with higher percentages of students of color have random metal detector checks, random sweeps for contraband, controlled access to school grounds, and students must wear badges and picture IDs to enter the school. [↑](#footnote-ref-76)
77. “Policing Students,” Harvard Law Review, April 10 2015. Available at: <http://harvardlawreview.org/2015/04/policingstudents/>

    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. Furthermore, though the T.L.O. Court’s worry about holding school officials to probable cause standards149 is implicated here, this hurdle should not be dispositive. **With increasingly close ties between law enforcement and schools, it would not be difficult to offer training to school officials regarding the requirements for meeting the probable cause standard, and the burden does not seem great enough to justify the continued incursion on students’ Fourth Amendment rights.**

    More troubling than the potential exclusion of evidence from criminal proceedings, however, would be school officials’ expanded liability under 42 U.S.C. § 1983. 155 The problem is nevertheless not sufficiently serious to weigh against expanding students’ Fourth Amendment rights. First, as noted above, **school officials could be trained in the requirements of probable cause; since the majority of cases involve searches by either police officers working in schools,156 who would already be trained in assessing probable cause, or by assistant principals or other school officials with a key role in the school disciplinary system,157 the pool of officials needing to be carefully trained would in fact be quite small.** Second, the doctrine of qualified immunity was developed for just such a purpose — “to protect [public officials] ‘from undue interference with their duties and from potentially disabling threats of liability.’ ”158 The Court made clear in Redding that the qualified immunity defense has significant teeth. There, the Court found that a strip search of a thirteen-year-old honors student in an effort to find “the equivalent of two Advils”159 was unreasonable, but that the searching officials had qualified immunity,160 even though Justice Stevens described it as “a case in which clearly established law meets clearly outrageous conduct.”161 **For a school official to be held liable, the case law would have to define “[t]he contours of the right . . . sufficiently clear[ly] that a reasonable official would understand that what he is doing violates that right.”162** [↑](#footnote-ref-77)
78. **Gardner**, Martin R. "Student Privacy in the Wake of TLO: An Appeal for an Individualized Suspicion Requirement for Valid​

    Searches and Seizures in the Schools." Georgia Law Review 22 (1988): 897­947. HeinOnline. Web. 22 Aug. 2016.\*

    Finally, because students are compelled to attend school, unparticularized school searches are inherently more coercive, and therefore more intrusive, than those experienced at checkpoints and airports by persons free to avoid those intrusions by simply going elsewhere. **Indeed, these latter intrusions are sometimes characterized as "consensual, "1**​  **98 a totally inaccurate description of most school search situations.**  [↑](#footnote-ref-78)
79. Kate R. Ehlenberger [Staff Attorney Virginia School Boards Association], “The Right to Search Students” in Understanding the Law, vol. 59, no. 4 (Association for Supervision and Curriculum Development: December 2001/January 2002). Available at: [http://www.ascd.org/publications/educationalleadership/dec01/vol59/num04/abstract.aspx - The\_Right\_to\_Search\_Students](http://www.ascd.org/publications/educationalleadership/dec01/vol59/num04/abstract.aspx#The_Right_to_Search_Students)

    **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. [↑](#footnote-ref-79)
80. Amanda Merkwae [JD Candidate, University of Michigan School of Law], “Schooling the Police: Race, Disability, and the Conduct of School Resource Officers,” 21 Mich. J. Race & L. 147 (2015). Available at: <http://repository.law.umich.edu/mjrl/vol21/iss1/6>

    Disability status can also create a level of vulnerability for a student interacting with an SRO. Depending on the nature of a student’s disability, police questioning or orders may be misunderstood,174 physical searches or seizures may provoke a violent response, and confrontations with students may become dangerous without the use of proper de-escalation techniques by SROs or school staff members.175 In the interrogation context, for example, a study on the ability of fourteen- to eighteen-year-old male students to understand Miranda warnings found that **the “presence of a learning disability severely hampered comprehension of the . . . warnings regardless of other factors.”176 Thus, a student’s disability may play a significant role in whether his waiver of legal rights was made knowingly, intelligently, and voluntarily, as required by law.177** [↑](#footnote-ref-80)
81. **Augenbraun, Eliene.** "Should Parents Snoop on Their Kids Online?" ​ ​*CBS News*. N.p., 16 Sept. 2014. Web. 10 July 2016.

    <http://www.cbsnews.com/news/ should­parents­snoop­on­their­kids­online/>. \*

    **“Furthermore, Knorr says parents need to recognize that kids "believe that their phones are sacred and private." To her, parents who try to intrude on that are setting up a "parent versus kid situation, even for good kids who are not doing anything wrong."** Instead of using technology to snoop on​

    kids' digital activities, she urges parents to discuss boundaries and appropriate online behavior with their children and to "parent around the device" by "doling out features sparingly" when the phone is new. She suggests opening up more features as the child demonstrates the ability to "follow the rules and meet expectations and understand consequences." [↑](#footnote-ref-81)
82. Matthew T. Theriot, University of Tennessee, 2009, <http://youthjusticenc.org/download/education-justice/school-policing-security/School%20Resource%20Of%EF%AC%81cers%20and%20the%20Criminalization%20of%20Student%20Behavior.pdf>,

    “School resource officers and the criminalization of student behavior”

    Concerning the role of SROs in criminalizing student behavior, this study yielded mixed results. The findings showing that **SROs were not associated with an increase in total arrests when controlling for school poverty and that schools with an SRO had fewer arrests for weapons and assault charges** are encouraging. **Such results are contrary to the criminalization hypothesis and may even signify that SROs have a positive impact at schools**. [↑](#footnote-ref-82)