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# Search and Seizure Law Understanding by High School Principals and the Role of the School Resource Officer: A Qualitative Study of Three North Carolina School Districts

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SEARCH AND SEIZURE LAW UNDERSTANDING BY HIGH SCHOOL  
PRINCIPALS AND THE ROLE OF THE SCHOOL RESOURCE OFFICER: A  
QUALITATIVE STUDY OF THREE NORTH CAROLINA SCHOOL DISTRICTS

By  
Jordan Widelock

A Dissertation Submitted to the  
Gardner-Webb University College of Education  
in Partial Fulfillment of the Requirements  
for the Degree of Doctor of Education

Gardner-Webb University  
2021

## Approval Page

This dissertation was submitted by Jordan Widelock under the direction of the persons listed below. It was submitted to the Gardner-Webb University College of Education and approved in partial fulfillment of the requirements for the degree of Doctor of Education at Gardner-Webb University.

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## **Abstract**

### **SEARCH AND SEIZURE LAW UNDERSTANDING BY HIGH SCHOOL PRINCIPALS AND THE ROLE OF THE SCHOOL RESOURCE OFFICER: A QUALITATIVE STUDY OF THREE NORTH CAROLINA SCHOOL DISTRICTS.**

Widelock, Jordan, 2021: Dissertation, Gardner-Webb University.

This study utilized a multi-case study design in the examination of the understanding principals have about Fourth Amendment issues that arise with the use of a school resource officer (SRO). In addition, the study also looked at how prepared principals are to handle such issues. The interviews were conducted on six principals from three school districts, both large and small and rural and metropolitan within the state of North Carolina. The interview protocol consisted of 19 questions, with eight being scenario-based pulled directly for caselaw. The following were the major findings: (a) universities are preparing their students on Fourth Amendment issues, (b) districts are providing no training or professional development on Fourth Amendment issues, (c) there is a correlation between the lack of professional development and principal understanding of Fourth Amendment issues, (d) principals were only able to identify if a situation was or was not a Fourth Amendment violation 67% of the time, and (e) principals were only able to correctly explain why a situation was or was not a violation of rights 27% of the time.

*Keywords:* school resource officer, SRO, Fourth Amendment, search and seizure

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## **Chapter 1: Introduction**

School leaders are tasked with keeping students, staff, and parents safe when on school grounds; however, according to the 2019 School Survey on Crime and Safety, there were 962,300 criminal incidents reported on school campuses (Diliberti et al., 2019). This number becomes even more alarming when one looks at the fact that only 476,100 incidents were reported away from school. During the 2017-2018 school year, there were an estimated 3,600 incidents involving the possession of a firearm or explosive device on school campuses, with 35% of all disciplinary actions taken by schools being related to possession of a weapon other than a gun or explosive device. (Diliberti et al., 2019, p. 3)

In addition, 2019 had the highest recorded number of school shootings with 25, resulting in 51 people being killed or wounded. With all this violence, school districts are turning to school resource officers (SROs) to help keep everyone safe.

According to the Alliance for Educational Justice (2017), the first permanent police assigned to a school was in 1953, with 1% of schools nationwide reporting a permanent officer by 1975. With the passing of the 1994 Gun-Free School Act, \$750 million were allocated to produce 6,500 resource officers by 2005, with the most substantial push made after the Columbine High School shooting (Na & Gottfredson, 2013). With more schools having a permanent SRO on campus, district and school administration need guidance on how to involve them in a way that safeguards the constitutional rights of students, especially during any search or seizure. Given this, it is imperative that school and district personnel understand how the Fourth Amendment applies in a school setting and what factors the courts look at when deciding if a search



and seizure by an SRO is constitutional. This knowledge will enable school leaders to effectively integrate resource officers in a way that safeguards student rights.

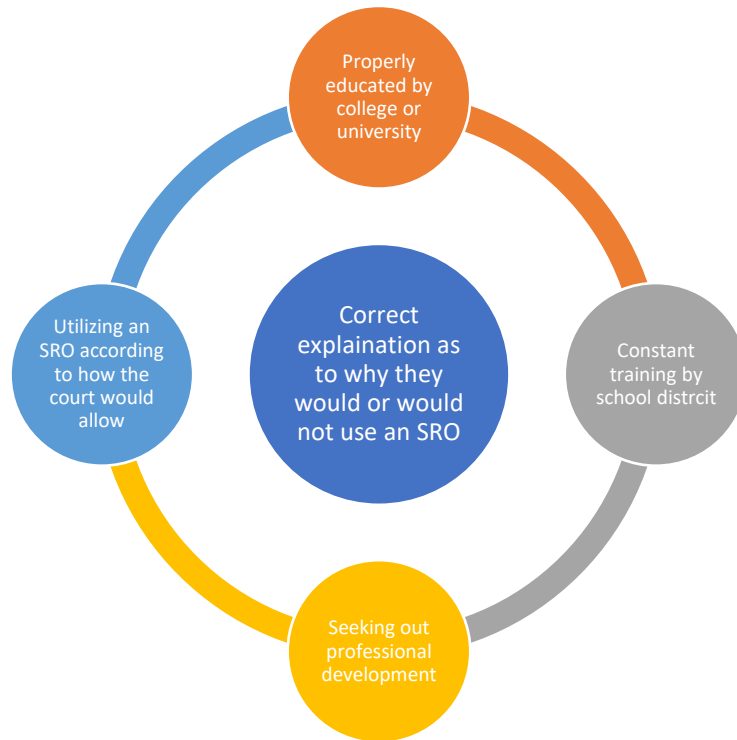
### **Conceptual Framework**

There is an absence of research into (a) if school administrators are trained enough in Fourth Amendment law as it pertains to SROs and (b) if school administrators understand the legal landscape surrounding Fourth Amendment law and the use of SROs; however, numerous federal and state court decisions have shed light on how a school administrator should utilize their SRO. “Society is becoming increasingly litigious, and the number of cases of parents and their children filing claims against school systems is increasing” (Eastern Washington University, 2020, para. 2). While school administrators do not need to be legal experts, a basic understanding of the legal issues most prevalent in schools would be beneficial. According to Russo (2015), one needs to be “up to date on current school law so they can develop sound policies to enhance day to day school operations” (p. 3). This sentiment can be seen in the study conducted by Militello et al. (2009). According to Militello et al., “every principal needs a comprehensive pre-service school law course, regular professional development legal updates, user-friendly resources, and access to the district’s legal counsel” (p. 42). Therefore, the conceptual framework (Figure 1) for this study included five core elements: (a) how well colleges and universities prepare school administrators to deal with Fourth Amendment issues, (b) how well districts teach and keep their administrators up to date on Fourth Amendment law, (c) how well school administrators seek professional development on Fourth Amendment issues, (d) would school administrators utilize an SRO in a manner acceptable to the courts, and (e) can school administrators correctly explain why they

would or would not utilize an SRO.

**Figure 1**

*Conceptual Framework*



### **Statement of Problem**

In response to school shootings and other crimes reported on school campuses, school safety has become a national emergency. To help reduce crimes on campus, school districts have expanded their SRO programs. "School resource officer (SRO) programs, or programs that place sworn law enforcement officers at schools, have emerged as one of the most significant of these strategies for increasing school safety and reducing violence" (Theriot & Cuellar, 2016, p. 363). According to both the U.S. Department of Justice and the U.S. Department of Education, a resource officer is defined as "career sworn law enforcement officers with arrest authority who have specialized training and assigned to work in collaboration with school organizations" (Musu-Gillette

et al., 2018, p. 8). This is echoed by the National Association of School Resource Officers (NASRO) defining a resource officer as “a sworn law enforcement officer, not a security guard” (NASRO, 2020, p. 1). NASRO (2020) took this one step further by defining the role of an SRO as “threefold, including (a) law enforcement, (b) teaching, and (c) mentoring” (p. 1). Ryan et al. (2018) took that to mean that

first and foremost, SROs are police officers responsible for the protection of life and property through the enforcement of laws and ordinances. Beyond that, SROs also serve as teachers in a host of programs such as DARE, GREAT, and alcohol awareness. (p. 189)

In addition, Ryan et al. pointed out that “SROs serve as mentors to students as well as advisors to the educators and administrators who work with them. As such, SROs are available for both formal and informal guidance” (p. 189).

Even though the presence of police in schools started in the 1950s, it was not until the 1990s that SROs became commonplace (Weiler & Cray, 2011). As a result of a shift in both education and criminal justice policies, the roles and duties of SROs started to expand (McKenna & White, 2018). Ryan et al. (2018) pointed out, “the original intent of helping create a safer school climate has been expanded in many districts to encompass discipline and enforcement of school policy” (p. 188). With this expanded role, “the increased use of law enforcement in schools has paralleled the development of a more punitive school discipline environment where the response to student misconduct is likely to be suspension, expulsion, a ticket, and/or an arrest” (McKenna & White, 2018, para. 3).

According to the 2019 Indicators of School Crime and Safety, 25.4% of all public

schools reported a full-time resource officer, 4.9% reported a full-time “other” law enforcement officer, 22.7% reported a part-time resource officer, and 9.1% reported an “other” law enforcement officer (Diliberti et al., 2019). The National Center for Education Statistics equates these figures to mean roughly 46,000 sworn officers are working in public schools. Of those 46,000 officers, 91.2% report routinely carrying restraints, 70.4% regularly carry pepper spray, 91.1% carry a firearm, and 32.6% wear a body camera (Diliberti et al., 2019).

According to the latest Crime, Violence, Discipline, and Safety for Education Statistics reported by McFarland et al. (2018), these officers faced nearly one million violent incidents on public school campuses. This is an increase of 5.8% from the previous year’s report. Of these incidents, two thirds of schools reported at least one physical attack where no weapon was used, while 3% reported an assault using a weapon. Continuing, 3,600 incidents were reported involving possession of a firearm or explosive device, while another 69,100 incidents reported a weapon other than a gun or explosive device. Possession of illegal drugs was reported in 25% of schools, alcohol was reported in 13%, and prescription drugs came in at 9.5%. According to the study, cyberbullying was reported at 33% of middle schools and 30% of high schools (Diliberti et al., 2019).

To help combat these crimes, NASRO (2015) recommended one SRO per 1,000 students on every single school campus. This would mean an increase of at least 74,000 SROs just to put one on every campus, not taking into account the recommendation of one SRO to 1,000 students. Expansion of law enforcement on K-12 campuses is not without concern. While the intent of an SRO is to make schools safer, having police officers in schools raises the risk that the Fourth Amendment rights of students will be

violated. Not surprisingly, there has been an increase in the number of students suing schools, with an uptick in the number of suits regarding discipline (Arum & Preiss, 2009).

As school administrators are pulled in more and more directions, SROs are being asked to be more involved in situations in which they would typically not be involved. Na and Gottfredson (2013) reported that 76% of principals used resource officers for maintaining discipline. Fisher and Hennessy (2016) concluded schools with resource officers had roughly a 21% higher rate of disciplinary incidents than before bringing a resource officer on campus. This study also showed schools with SROs had an increased number of suspensions and crimes reported to law enforcement. “There have been an increasing number of incidents in which school resource officers have been used to manage student disciplinary issues with disastrous results. Court cases brought by parents and advocacy groups claim SROs have traumatized and injured students” (Ryan et al., 2018, p. 189). This use of SROs goes against NASRO’s (2015) position statement on how to use an SRO: “SROs should not be involved in formal discipline situations that fall under the responsibility of school administrators” (para. 4). This expansion and use of SROs in ways they were not originally intended are a direct result of no clear federal, state, or local policy defining their roles.

This lack of clarity has blurred the lines between law enforcement officials and agents of a school district. By existing in both realms, SROs have unfettered access to information a police officer on the streets would not have. “Tragically, little if any Fourth Amendment protection now exists to shield students from the raw exercise of police power in public schools” (Beger, 2002, p. 120). There have been a limited number of

Supreme Court cases dealing with search and seizure issues in schools, but none deals with SROs. The landmark case on search and seizure within a school setting is *New Jersey v. T.L.O.* (1985). The court, in this case, held that the Fourth Amendment prohibition against unreasonable search and seizure is not limited to police officers (*New Jersey v. T.L.O.*, 1985). However, school officials do not need a warrant to search; instead, a two-prong “reasonableness” test was established. According to the majority opinion, the “search must be justified at its inception and reasonably related in scope to the circumstances that justified the interference in the first place” (*New Jersey v. T.L.O.*, 1985, p. 352). This opinion, although giving clarity to generic search and seizures by school officials, makes no reference to if this new reasonableness test applies to law enforcement. “While the Supreme Court has extended limited Fourth Amendment rights to students in public schools, it has yet to acknowledge the rise of heavy-handed policing in schools...and how it might impact the determination of the scope of students’ rights” (Harvard Law Review, 2015, para. 2). While we wait for clarity from the Supreme Court, searches involving SROs continue, increasing the potential to violate student constitutional rights. Until this happens, both SROs and school administrators need to understand what factors influenced the lower courts to rule the way they did.

### **Statement of Purpose**

Until 1985, the Supreme Court was silent on if students possessed any Fourth Amendment rights in schools. After 1985, in part to the ruling in *New Jersey v. T.L.O.* (1985), schools learned that student Fourth Amendment rights were intact, although eroded due to the lower threshold of reasonable suspicion before a search is allowed. In this ruling, the court was purposefully silent on if this new reasonable suspicion threshold

extends to SROs. Regardless, all school district personnel, including SROs, have a legal obligation to safeguard the constitutional right of students. To make sure no constitutional rights are being infringed on, school administrators need to be familiar with and truly understand the legal minefield governing search and seizure of students and the potential legal ramifications that come from an unlawful search.

The primary purpose of this study was to determine the level of understanding school administrators have about search and seizure conducted by SROs in a school environment. The secondary purpose of this study was to determine if school administrators are receiving proper training, either through their administration preparation training program, district trainings, or professional development, on Fourth Amendment issues as it relates to searches conducted by SROs. Both primary and secondary investigations will be done by conducting interviews with high school principals across the state of North Carolina.

### **Research Questions**

1. What is the level of understanding school administrators have about Fourth Amendment issues related to search and seizure by an SRO in a school environment?
2. How prepared are school administrators to understand the rights of students as it relates to search and seizure by an SRO in a school environment?

### **Setting**

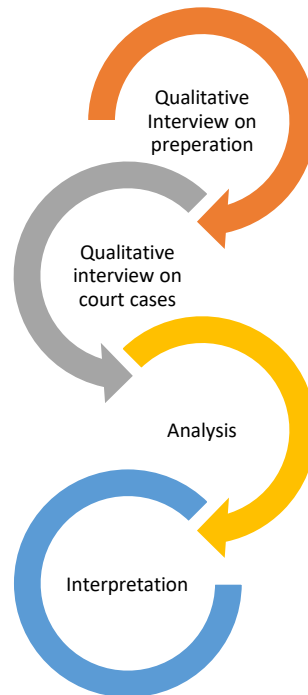
This study looked at high school principals from three different districts across the state of North Carolina to determine their understanding of and preparation for Fourth Amendment incidents that take place on school grounds by SROs. These three districts

allowed me to look at both rural and metropolitan as well as large and small districts. High school principals were chosen since they tend to have more search and seizure incidents compared to elementary and middle schools. In addition, it was also determined to look at a variety of districts to determine if knowledge and preparation are centrally located.

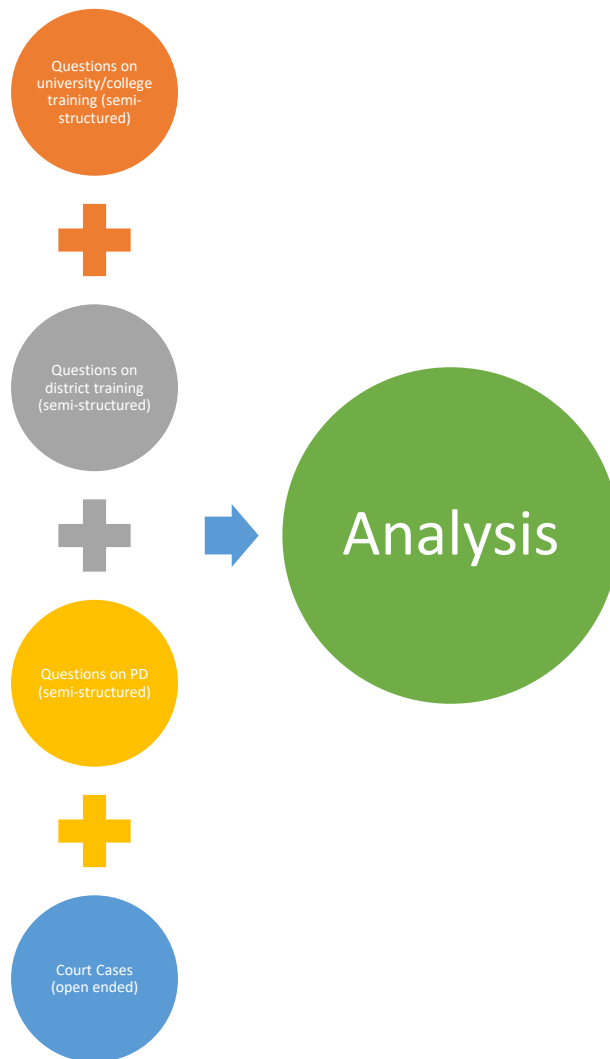
### **Overview of Methodology**

This study used the case study design utilizing data gathered from interviews conducted on high school principals throughout the state of North Carolina. This study focused on the level of understanding current high school principals have on Fourth Amendment issues that arise with the utilization of an SRO. In addition, this study looked at how prepared, either through their administration, education, or district, principals are to handle these types of issues. The case study design approach (Figure 2) allowed for the adaptation of real-life cases that have gone through the court system to be utilized to determine if principal responses follow the rules enumerated by the courts.



**Figure 2***Case Study Design*

The interviews took place by video conference software which allowed for the recording and transcribing of all interviews. The interview questions (Appendix A) were a mix of semi-structured, open-ended, and follow-up question types. As can be seen in Figure 3, questions pertaining to university training, district training, and professional development were conducted in a semi-structured format. Questions centered around if a Fourth Amendment violation occurred and why were asked as open-ended questions.

**Figure 3***Interview Process*

Prior to analysis, each individual transcript was sent to the corresponding participant to check for accuracy. Once all transcriptions were signed off on by the participants, the data collected were analyzed to determine if any patterns or themes were present across all participants in the study. In addition, the specific data collected regarding if an SRO would be utilized and why were compared to the appropriate answer as established by the courts. The emergence of any patterns or themes assisted in answering this study's research questions.

**Rationale**

There is an absence of research on how well principals understand Fourth Amendment issues pertaining to SROs; therefore, the rationale for this study was to fill this void in the research. Through this multi-case study research, I was able to figure out how well-equipped sitting principals are to handle Fourth Amendment issues that come up with the use of SROs.

**Significance of Study**

With almost a million criminal incidents reported on school campuses and a year that ended with the highest reported incidents of school shootings, the need for a safe and secure school environment is greater now than it ever has been. With an increasing demand for safety, school districts are turning to SROs to keep their campuses safe. The integration of law enforcement into schools leaves school administrators little room for error when dealing with Fourth Amendment search and seizure issues. Although *New Jersey v. T.L.O.* (1985) has been the landmark case for school-related searches and seizures since 1985, the lack of Supreme Court guidance on search and seizure related to SROs leaves lower courts as the only source of ever-changing and contradictory common law on the subject. With no guidance, school and district administrators have no set of specific legal principles to guide the creation and implementation of SRO programs in schools. The primary benefit of this study was to understand if universities and school districts are doing an adequate job of preparing school administrators to deal with Fourth Amendment issues. If determined that remedial action is needed, this study will aid in the creation of professional development sessions or workshops on how to perform a legally sound search and seizure by an SRO within a school setting.

## **Assumptions**

The assumptions guiding this research include the understanding of Fourth Amendment issues, especially in today's landscape, is critical knowledge for a sitting principal and that all participants would be truthful in their response.

## **Delimitations (Boundaries)**

The boundaries of this study were (a) a sitting high school principal with at least 3 years of experience and (b) only one principal per district being utilized.

## **Definition of Terms**

The following terms are used in this study.

### ***Appeal***

“A challenge to a previous legal determination. An appeal is directed towards a legal power higher than the power making the challenged determination” (Wex, 2019a).

### ***Assistant Principal (AP)***

“Also known as a vice principal, is an education administrator responsible for facilitating the day-to-day requirements of their school” (Resilient Educator, n.d., para. 1).

### ***Certiorari***

Certiorari is most commonly associated with the writ that the Supreme Court of the United States issues to review a lower court's judgment. A case cannot, as a matter of right, be appealed to the U.S. Supreme Court. As such, a party seeking to appeal to the Supreme Court from a lower court decision must file a writ of certiorari. (Wex, 2019b)

***Common Law***

“Law that is derived from judicial decisions instead of from statutes. Early American common law was taken from English common law” (Wex, 2019c).

***Defendant***

“In a civil matter, the party sued by the plaintiff; in a criminal matter, the party who is prosecuted” (Wex, 2019d).

***Fruit of the Poisonous Tree***

“A doctrine that extends the exclusionary rule to make evidence inadmissible in court if it was derived from evidence that was illegally obtained” (Wex, 2019e).

***Plaintiff***

“In a civil matter, the party who initiates a lawsuit” (Wex, 2019f).

***Probable Cause***

“Probable cause is a requirement found in the Fourth Amendment that must usually be met before police make an arrest, conduct a search, or receive a warrant” (Wex, 2019g).

***Reasonable Suspicion***

“Reasonable suspicion is a standard used in criminal procedure. Reasonable suspicion is used in determining the legality of a police officer's decision to perform a search” (Wex, 2019h).

***Remand***

“To remand something is to send it back. Remand implies a return. The usual contexts in which this word are encountered are reversal of an appellate decision” (Wex, 2019i).

### ***Search and Seizure***

In criminal law, the phrase that describes law enforcement's gathering of evidence of a crime. Under the Fourth and Fourteenth Amendments to the U.S.

Constitution, any search of a person or his premises (including a vehicle), and any seizure of tangible evidence, must be reasonable. (Wex, 2019j)

### ***U.S. Court of Appeals (Circuit Courts)***

“The intermediate courts in most jurisdictions—that is the courts positioned between trial courts and the courts of last appeal (usually the supreme court)” (Wex, 2019k).

### ***U.S. District Court***

“In the federal court system, a trial court for federal cases in a court district, which is all or a portion of a state” (Wex, 2019l).

### **Summary**

The lack of understanding of how to deal with a proper search and seizure in a school environment by law enforcement and school district personnel can result in unnecessary and unwanted legal liabilities. Kim and Geronimo (2009) pointed out that the role of the SRO must be defined, making clear the “primary role of the SRO is to improve school safety and the educational climate of schools, and not to discipline or punish students” (p. 33). To help with this, Maranzano (2001) believed there needs to be clear legislation in all 50 states to specify the true role of an SRO. In addition to legislation, the Supreme Court could take a case and decide once and for all the role of SROs in search and seizure cases. While this study will give SROs and school districts some clarity on what current case law says about search and seizure in a school setting,

with conflicting jurisdictional opinions, it will not be until either the legislation or Supreme Court acts that true guidance and rules will be put into place.

## **Chapter 2: Literature Review**

All parties referenced below are being referenced as they appear in court documents.

### **Power and Duties of the School Principal**

The power and duties of a school principal are not uniform throughout the country. According to the National Association of Secondary School Principals (2021), “principals prepare each student for success in college, citizenship, career, and life while ensuring that each adult in the learning community continues to grow, both personally and professionally, in the service of those students and the community they represent” (para. 3). Dowd (2018) believed that “principals develop standardized curricula, assess teaching methods, monitor student achievement, encourage parent involvement, revise policies and procedures, administer the budget, hire and evaluate staff and oversee facilities” (para. 2). While the power and duties of a school principal can change from location to location, the North Carolina General Assembly (n.d.) has codified in GS 115C-288(a-m) 13 powers and duties bestowed to all North Carolina principals. North Carolina General Assembly GS 115C-288(a) gives principals the authority to grade and classify students: “The principal shall have authority to grade and classify pupils, except as provided in G.S. 115C-83.7(a).” North Carolina General Assembly GS 115C-288(b) requires principals to make accurate reports to their superintendents:

Every principal of a public school shall make such reports as are required by the boards of education, and the superintendent shall not approve the vouchers for the pay of principals until the required monthly and annual reports are made.

North Carolina General Assembly GS 115C-288(c) centers around instruction: “The



principal shall give suggestions to teachers for the improvement of instruction.” The fourth power and duty is to conduct fire drills:

It shall be the duty of the principal to conduct a fire drill during the first week after the opening of school and thereafter at least one fire drill each school month, in each building in his charge, where children are assembled. (North Carolina General Assembly GS 115C-288[d])

North Carolina General Assembly GS 115C-288(e) gives the principal the authority to discipline a student:

The principal shall have authority to exercise discipline over the pupils of the school under policies adopted by the local board of education in accordance with G.S. 115C-390.1 through G.S. 115C-390.12. The principal may use reasonable force pursuant to G.S. 115C-390.3 and may suspend students pursuant to G.S. 115C-390.5. The principal shall assign duties to teachers with regard to the general well-being and the medical care of students under G.S. 115C-307 and Article 26A of this Chapter.

North Carolina General Assembly GS 115C-288(f) authorizes the principal to “protect school property as provided in G.S. 115C-523.” The seventh duty and power requires principals to report certain crimes that take place on school grounds to law enforcement.

When the principal has personal knowledge or actual notice from school personnel that an act has occurred on school property involving assault resulting in serious personal injury, sexual assault, sexual offense, rape, kidnapping, indecent liberties with a minor, assault involving the use of a weapon, possession of a firearm in violation of the law, possession of a weapon in violation of the

law, or possession of a controlled substance in violation of the law, the principal shall immediately report the act to the appropriate local law enforcement agency.

(North Carolina General Assembly GS 115C-288 [g])

Part H requires principals to have copies of and make available the school improvement plan as well as the budget. North Carolina General Assembly GS 115C-288 (i-k) require principals to evaluate employees, develop improvement plans, transfer student records, and sign driver eligibility forms. The last two powers and duties passed to principals by the state are to create school improvement teams and address the needs of military students (North Carolina General Assembly GS 115C-288 [l-m]).

#### **Fourth Amendment**

The Fourth Amendment of the United States provides the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized. (U.S. Constitution, Article IV)

This means without probable cause and a warrant, law enforcement would be unable to conduct a search (Judicial Learning Center, n.d.). According to Cornell Law School Legal Information Institute (n.d.), the goal of the Fourth Amendment is twofold: first to protect the right to privacy and second to allow for freedom from unreasonable search and seizure; however, “the Fourth Amendment does not guarantee protection from all searches and seizures, but only those done by the government and deemed unreasonable under the law” (Cornell Law School Legal Information Institute, n.d., para.

2). Furthermore, the Judicial Learning Center (n.d.) pointed out the United States Constitution does not specifically mention the right to privacy. In fact, the right to privacy was only given based on the Supreme Court's interpretation of the Constitution in cases like *Meyer v. Nebraska* (1923), *Griswold v. Connecticut* (1965), *Katz v. United States* (1967), *Terry v. Ohio* (1968), and *Stanley v. Georgia* (1969), just to name a few. The question becomes, does the full protection of the Fourth Amendment extend to students? Students do not get rid of their Fourth Amendment rights simply by stepping foot on school grounds; however, they are not necessarily given the full protection of the Fourth Amendment (Gardner, 2010). Courts, when looking at this issue, have balanced the school's need to keep a safe learning environment against a student's expectation of privacy (Seligman, 2018, p. 6). "The State, in its role as schoolmaster of children, may exercise a greater degree of supervision and control than it could exercise over free adults for the purpose of determining reasonableness of search" (Gardner, 2010, para. 5). The leading Supreme Court decisions on the Fourth Amendment in schools are *New Jersey v. T.L.O.* (1985), *Vernonia School Dist. 47J v. Acton* (1995), *Board of Education v. Earls* (2002), and *Stafford Unified School District v. Redding* (2009).

### **Supreme Court**

#### ***New Jersey v. T.L.O. (1985)***

**Facts.** T.L.O. was a high school student who was suspected of having cigarettes on campus. As a result, her purse was searched with cigarettes, some marijuana, and a list of students who owed her money being found. As a result, T.L.O. was charged with possession of marijuana. Before the start of the trial, T.L.O. moved to have the evidence suppressed on the grounds of improper search. The court denied the motion, and T.L.O.

was ultimately found guilty and sentenced to 1 year of probation. T.L.O. appealed the ruling. The New Jersey Appeals Court confirmed the lower court's ruling, and T.L.O. appealed again, this time to the New Jersey Supreme Court. The New Jersey Supreme Court reversed the lower court's decisions stating the exclusionary rule of the Fourth Amendment applies to search and seizure performed by school officials. The state appealed to the U.S. Supreme Court.

**Issue.** Does the exclusionary rule apply to search and seizure conducted by school officials on school grounds?

**Ruling.** No Fourth Amendment violation.

**Rationale.** Justice White, writing for the majority, held the Fourth Amendment's prohibition on unreasonable search and seizure applies to school officials with students having a legitimate expectation of privacy; however, there must be a balance between an expectation of privacy and a school's need to maintain a proper learning environment. As such, school officials do not need a search warrant to legally conduct a proper search of a student under their authority. The court continued by pointing out school officials are not law enforcement and therefore should not be held to the same probable cause standards before conducting a search. Instead, the court carved out a two-pronged reasonableness test. First, "the search must be justified in its inception, and second, was the search reasonably related in scope to the circumstances that justified the search in the first place" (US Courts, n.d., para. 11). When the court utilized this new test, they determined no Fourth Amendment right was violated.

***Vernonia School Dist. 47J v. Acton (1995)***

**Facts.** An investigation into the athletic programs within the Vernonia School

District concluded high school athletes were using illicit drugs. As a result, the school district instituted a drug policy where student athletes were required to participate in random urinalysis drug tests. James Acton (Acton) refused to participate in the urinalysis program and was therefore not allowed to play in any high school sport. The district court ruled in favor of the school district, and the Ninth Circuit reversed the lower court's decision. The school district now appeals to the U.S. Supreme Court.

**Issue.** Do random urinalysis tests of student athletes violate the Fourth Amendment?

**Ruling.** In a 6-3 decision, the court reversed and remanded the Ninth Circuit's decision.

**Rationale.** The court, relying on *New Jersey v. T.L.O.* (1985), held students have a lesser expectation of privacy while at school and therefore warrants are not needed to conduct a search. In addition, the court argued student athletes voluntarily play sports that are more heavily regulated by the state. In turn, these students are under greater control by the state than a normal adult. The court further argued the privacy interest of these students is minimal since the urine sample is collected similarly to using a public restroom. Finally, the court argued the safety of minors under the supervision of the school overrides any invasion of privacy that may occur.

### **Federal Circuit Appellate Courts**

#### ***Cason v. Cook (1987)***

**Facts.** Ms. Cook, an assistant principal (AP), received reports indicating items were being stolen from students on her campus. In starting an investigation, Ms. Cook asked Ms. Jones, a police officer assigned to the school, to go with her to the locker

room. A student gave Ms. Cook the names of four students who were seen in the locker room during the time the items went missing. Ms. Cook asked Ms. Jones to accompany her to interview these four students. Ms. Cook interviewed Cason in a locked bathroom. Ms. Jones was present but did not participate in any questioning. During questioning, Cason denied having any involvement with the thefts; however, Ms. Cook informed her she would be searching her purse. During the search of the purse, a coin purse that had been reported stolen was found. Once discovered, Ms. Jones performed a pat-down search of Cason. Ms. Jones took Cason and one additional student to the office, stopping to conduct a locker search on the way. Once in the office, the two students were placed in different rooms with only Ms. Cook performing the interviews. When the two students could not agree on a story, Ms. Jones issued juvenile appearance cards, in lieu of making an arrest. Parents were not notified, and the students were not advised of their Fifth Amendment rights. The district court entered a directed verdict in favor of the defendants on the basis there was no constitutional violation.

**Issue.** Does the reasonableness standard apply to a school acting with a police liaison officer?

**Ruling.** The circuit court affirmed the decision of the lower court and dismissed all other claims made by Cason.

**Rationale.** The court stated the search was not initiated by law enforcement; in fact, the contrary was established by the facts of the case. “At most, this case represents a police officer working in conjunction with school officials” (*Cason v. Cook*, 1987, p. 192). Furthermore, the court determined that imposing a “probable cause warrant requirement based on the limited involvement of Ms. Jones would not serve the interest

of preserving swift and informal disciplinary procedures” (Casetext, n.d., para. 19). Ms. Jones did not discover the names, did not interview suspects, or conduct any search except for a pat-down search. As such, the court determined the appropriate test would be the two-pronged test laid out in *New Jersey v. T.L.O.* (1985). When applying the facts to *New Jersey v. T.L.O.*, the court determined no constitutional violation existed.

***Shade v. City of Farmington, Minnesota (2002)***

**Facts.** Shade was on a school bus on the way to an automotive shop for class that stopped at a fast-food restaurant for breakfast. After getting food and coming back onto the bus, Shade asked if anyone had anything to open his juice. A student passed him a knife which he used. While using the knife, the teacher driving the bus noticed Shade in possession of the knife. The teacher did not see where the knife came from or to whom Shade passed the knife. The teacher contacted the school coordinator, who told the school principal. The principal determined all students on the trip need to be searched and contacted their police liaison officer. The police liaison officer contacted a fellow liaison officer to assist in the search of all students. When approached by the officers, the student who had the knife stepped forward and admitted to having the knife. With the confirmation that a knife was on the bus, the officers did a pat-down search of each student. The pat-down search of Shade resulted in the finding of a tactical baton, similar to that used by law enforcement. As a result, Shade was charged with possession of the knife on school property.

**Issue.** Did the search and seizure by a liaison officer violate Fourth Amendment rights?

**Ruling.** The court affirmed the lower court’s ruling in favor of the defendants.

**Rationale.** When school officials initiate a search, *New Jersey v. T.L.O.* (1985) created a two-pronged reasonableness test; however, in this case, the search was initiated by two liaison officers. The court determined since a teacher had seen Shade in possession of a knife, it was foreseeable police would play a bigger role in a search. The court, agreeing with the Wisconsin Supreme Court in *In Interest of Angelia D.B.* (1997), stated maintaining a higher standard of probable cause only because a liaison officer was involved

might serve to encourage teachers and school officials, who generally are untrained in proper pat-down procedures or in neutralizing dangerous weapons, to conduct a search of a student suspected of carrying a dangerous weapon on school grounds without the assistance of a school liaison officer or other law enforcement official[s] (*In Interest of Angelia D.B.*, 1997, p. 159).

In addition, the court looked at the fact the search took place off school grounds. In evaluating this, the court said,

The fact that the search occurred away from what one would consider traditional school grounds similarly does not elevate the Fourth Amendment standard to one of probable cause. The nature of administrators' and teachers' responsibilities for the students entrusted to their care, not school boundary lines, renders the Fourth Amendment standard in the public-school context less onerous” (*Shade v. City of Farmington, Minnesota*, 2002, p. 1061).

Even though students were not on school grounds, they were still under the control and authority of the school. As such, the court applied the *New Jersey v. T.L.O.* standard determining the search was reasonable from its inception and affirmed the low court's



ruling.

***Gray ex rel. Alexander v. Bostic (2006)***

**Facts.** Gray's gym teacher noticed that Gray was not participating in the exercise routine. Gray's teacher informed Gray she needed to do her exercises; however, Gray refused. As a result, the teacher pulled Gray aside and asked her to come over to the wall. When at the wall, Gray threatened the teacher. This threat was heard by a second teacher and Deputy Bostic. Deputy Bostic was employed as a sheriff deputy serving as the SRO for Gray's school. After hearing the threat, Deputy Bostic intervened, telling the teachers he would handle this. Even though the teachers told the deputy they would handle it, the deputy insisted that he would take care of the situation and escorted Gray out of the gym. Once outside of the gym, Gray was told to turn around, and the deputy placed her in handcuffs. Deputy Bostic made Gray stand with handcuffs on for at least 5 minutes before removing the handcuffs and having Gray go back to class. Neither gym teacher ever felt afraid of Gray or believed she was physically capable of doing them harm.

**Issue.** Did Deputy Bostic violate Gray's Fourth Amendment rights when he placed her in handcuffs?

**Ruling.** The handcuffing constituted an excessive intrusion violating Gray's Fourth Amendment rights.

**Rationale.** The court applied the two-prong test laid out in *New Jersey v. T.L.O.* (1985). When evaluating the first prong, the court relied on the fact that Deputy Bostic had witnessed the threat. According to the court, since the deputy witnessed the threat, which according to Alabama law was a Class C misdemeanor, it was reasonable that the deputy would stop Gray for questioning about her conduct. Deciding that the first prong

had been satisfied, the court turned to the second prong. To satisfy the second prong, the handcuffing must be reasonably related to the interference in the first place.

[A seizure] will be permissible in its scope when the measures adopted are reasonably related to the objectives of the [seizure] and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. (*New Jersey v. T.L.O.*, 1985, p. 337)

Here, the Deputy admitted he did not handcuff Gray for the purpose of executing an arrest or for public safety. Rather, the deputy fully admitted he placed Gray in handcuffs to show her the seriousness of her actions. The court determined this was a punishment. As such, the handcuffing was not reasonably related to the scope and constituted an excessive intrusion on Gray's Fourth Amendment rights.

***Ziegler v. Martin County School District (2016)***

**Facts.** Jensen Beach High School was selling tickets to its junior/senior prom. Prom tickets specifically say, “[n]o student will be admitted after 10 PM” and “failure to comply will result in expulsion from the dance and possible disciplinary actions that may include, but are not limited to, revoking of privileges, suspension, expulsion, etc.” (*Ziegler v. Martin County School District*, 2016, p. 1311). In addition, Jensen Beach High School has a zero-tolerance drug and alcohol policy, which every attendee of the prom was required to sign. In addition, the language of the policy required the use of a breathalyzer before entering if there was reason to believe alcohol was consumed. At prom, a party bus arrived at the venue. Once the bus arrived, Officer Brush, the school's resource officer, asked the driver if the bus could be searched for drugs and alcohol. With permission from the bus driver, the officer searched the bus and found an empty bottle of

champagne and 12 plastic cups. When questioned by the SRO, all students on the bus claimed the champagne was not theirs. The students were told by the dean of students they would need to pass a breathalyzer since the champagne bottle was discovered. The breathalyzer was administered by an AP while Officer Brush stood with the group of students. The entire process took more than 1 hour and 30 minutes.

**Issue.** Was there an unreasonable search and seizure?

**Ruling.** Affirm in part, remand in part.

**Rationale.** The court first looked at the Fourth Amendment claim on the party bus. The court determined that to assert a Fourth Amendment claim, there needs to be a legitimate expectation of privacy. Here, all the students had exited the bus; the students left no belongings on the bus to show they planned to get back on the bus; and the students admitted they rented the bus as a one-way trip, not intending to take it home once they got to prom. Furthermore, no student objected to the search when told the bus was going to be searched. As such, the court ruled the students had no expectation of privacy on the party bus.

The court then turned to the search of the bus by Officer Brush. The students contend they did not authorize the search and therefore their Fourth Amendment rights were violated. “Valid consent may be granted by a person with actual or apparent authority to give permission to search” (*United States v. Watkins*, 2014, p. 1279). “A third party who has ‘common authority over or other sufficient relationship to the premises or effects sought to be inspected’ may give valid consent to search an area” (*United States v. Matlock*, 1974, p. 171). As such, the court determined the driver of the bus, since employed by the rental company, did have the authority to authorize a search,

thereby not violating the students' Fourth Amendment rights.

The court analyzed the detention before and during the breathalyzer. The court determined the initial detention of the students to obtain additional mouthpieces met the reasonableness standards set up in *New Jersey v. T.L.O.* (1985). The SRO had found an empty champagne bottle belonging to the students on the party bus. This gave reasonable suspicion the students had been drinking alcohol on the bus. Since prom was a public school setting, the school had an appropriate government interest in performing the blood alcohol level tests. As such, the court determined the school had a reasonable belief alcohol had been consumed and the detention was related to that scope. Therefore, detaining the students while they waited to take the test did not violate their Fourth Amendment rights; however, the confinement of all the students until every student had been breathalyzed is an entirely different story. The court held,

When a student is tested as alcohol or drug free, there is no justification for continuing to detain the student with such definitive exculpatory evidence.

Detaining a student after he or she was found to be alcohol free was not reasonably related to the reason for the detention in the first place. (*Ziegler v. Martin County School District*, 2016, p. 1333)

***Scott v. County of San Bernardino (2018)***

**Facts.** Several students were being bullied both on and off campus. During a weekend, the aggressor started a fight with one of the plaintiffs. When school started again on Monday, the students being bullied attempted to go talk to administration, but no one was available. Later, the bullies and victims were all called to a room to discuss the conflict. The school's AP requested Deputy Ortiz attend the meeting to speak with the

girls. While speaking to the students, Deputy Ortiz quickly determined the students were disrespectful and unresponsive to his efforts; however, video of the incident does not support these findings. Deputy Ortiz told the students he would take them all to jail just to prove a point, which he did. Deputy Ortiz called for backup, and once backup arrived, all seven girls were handcuffed. No disciplinary action was taken by the school.

**Issue.** Did making an arrest just to teach students a lesson, violate their Fourth Amendment rights?

**Ruling.** Fourth Amendment violation occurred.

**Rationale.** The court applied the *New Jersey v. T.L.O.* (1985) two-prong reasonableness test to the fact pattern. In doing so, it was determined the arrests were not valid at their inception. “While the traditional Fourth Amendment analysis is predominantly an objective inquiry, the actual motivations of officers may be considered when applying the special needs doctrine” (*Ashcroft v. Al-Kidd*, 2011, p. 736). Here, the court points out the motivation of Deputy Ortiz was to prove a point and teach the students a lesson. “Where it is clear from the testimony of the arresting officer the seizure occurred for an impermissible motive, [t]his alone is sufficient to conclude that [a] warrantless [arrest] [is] unreasonable” (*United States v. Hellman*, 1977, p. 444). In addition, the court pointed out that even if the first prong of the *New Jersey v. T.L.O.* test had been met, the second prong, reasonably related to the scope, would cause the facts in this case to fail. *New Jersey v. T.L.O.* held 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 age and sex of the student and the nature of the infraction” (p. 342). Applying this to the current case, the court held, “The summary

arrest, handcuffing, and police transport to the station of middle school girls was a disproportionate response to the school's need” (*Scott v. County of San Bernardino*, 2018, p. 951). Therefore, an arrest only to teach a student a lesson is unreasonable under *New Jersey v. T.L.O.* and violates the students’ Fourth Amendment rights.

***K.W.P. v. Kansas City Public Schools (2019)***

**Facts.** K.W.P., a second grader, was in class when a fellow classmate began to tease him. The teasing got so bad that K.W.P. yelled at the classmate that he wanted to push him. A second school employee entered the classroom in an attempt to deescalate the situation. This did not work, and the students continued to yell at each other. At this point, Officer Craddock, who is not an SRO and just happened to be on campus, was asked by a staff member to enter the room. Officer Craddock asked K.W.P. to come into the hall where Officer Craddock told K.W.P. he was not in trouble. Officer Craddock attempted to get K.W.P. to walk with him towards the office; however, K.W.P. refused. As K.W.P. continued to resist, Officer Craddock told him if he did not calm down, he would be placed in handcuffs. K.W.P. did not listen and was eventually handcuffed and brought to the front office. K.W.P. was handcuffed for a total of 20 minutes, 15 of which he was seated in the front office.

**Issue.** Did handcuffing K.W.P. for 20 minutes amount to a Fourth Amendment violation?

**Ruling.** Reversed and remanded. No violation of Fourth Amendment rights.

**Rationale.** The Supreme Court has previously held “the legality of a search of a student...depend[s] simply on the reasonableness, under all the circumstances, of the search” (*New Jersey v. T.L.O.*, 1985, p. 341). A two-prong test applies in determining if

such a search is reasonable: “First, one must consider ‘whether the...action was justified at its inception’; second, one must determine whether the search as actually conducted ‘was reasonably related in scope to the circumstances which justified the interference in the first place’” (*New Jersey v. T.L.O.*, 1985, p. 341). The court, turning to K.W.P.’s actions, stated, “K.W.P.’s own admissions indicate that he attempted to flee from Officer Craddock upon his removal from the classroom and that his escape efforts posed a safety risk to himself” (*K.W.P. v. Kansas City Public Schools*, 2019, p. 826). As such, the court determined any reasonable officer would have determined K.W.P.’s actions amounted to forcible resistance. Furthermore, the court decided keeping K.W.P. handcuffed for 15 minutes in the office while waiting for a parent was reasonable. As such, there was no violation of K.W.P.’s Fourth Amendment rights.

### **Federal District Courts**

#### ***Hoskins v. Cumberland County Bd. of Educ. (2014)***

**Facts.** T.H., frustrated by not being able to do the number of reps requested by his teacher, threatened he and his brother would beat the crap out of her and then swung his fist in her direction. As a result, T.H. was escorted to the principal’s office where he threatened to hit both the principal and the SRO. The SRO placed T.H. in handcuffs with the intention of placing him under arrest and transporting him to juvenile hall. Realizing he knew T.H.’s parents, the SRO called his parents and asked them to come pick him up. This conversation lasted 45 minutes, and T.H. remained in handcuffs for the duration of the conversation. Once off the phone, the SRO released T.H. to go home with his parents. T.H.’s parents claim the handcuffs left his wrists sore with indentions leading to emotional trauma.

**Issue.** Did the handcuffing of T.H. by police violate the Fourth Amendment?

**Ruling.** Although T.H.'s rights were violated, the SRO has qualified immunity, and the case was dismissed.

**Rationale.** Although other federal jurisdictions have applied the lower reasonableness standard laid out in *New Jersey v. T.L.O.* (1985) to seizure cases, the Sixth Circuit has yet to rule on such a case. As such, the court determined the traditional Fourth Amendment standard is what should be applied to this case. The first element the court looked at was if the movement of the student was significantly different than what is inherent in everyday life at the school. The court found that T.H. was seized from the moment he was placed in handcuffs until the moment he was released from those handcuffs. From here, the court considered T.H.'s age, the nature of his aggressive actions, the fact he threatened the principal and SRO but never took a swing at them, and the fact the handcuffing took place on school grounds. Looking at the totality of the circumstances, the court determined the handcuffing was not objectively reasonable, and keeping him handcuffed for 45 minutes was even less reasonable. Therefore, under a traditional Fourth Amendment standard, the SRO violated T.H.'s rights.

***J.H. ex rel J.P. v. Bernalillo County (2014)***

**Facts.** J.P., an emotionally disturbed student with an I.E.P., caused a disturbance in her classroom. During the disturbance, J.P. threw a marble at a wall and punched a student in the back of the head. After the teacher cleared the classroom, she instructed another staff member to call the office and request the crisis intervention team. In addition, a staff member from the school requested the SRO, Deputy Sharkey, to respond to the class as well. J.P., while being held by a teacher, tried to headbutt the teacher and



bit the teacher in an attempt to get free. J.P. eventually scratched this teacher so hard it drew blood. Getting free, J.P. ran out of the class, hit a student in the head, and continued to chase students. Two teachers attempted to catch J.P., each one grabbing one of her wrists. J.P. then kicked one of the teachers so hard in the leg that she left a shoeprint. Deputy Sharkey came around the corner and ordered J.P. to stop. J.P. ran to a room, sat on the floor, and locked her hands so the Deputy could not handcuff her. Deputy Sharkey, afraid J.P. would forcibly resist being handcuffed, called for a second deputy. Once the second deputy arrived, Deputy Sharkey informed J.P. she was under arrest and needed to stand up. J.P. complied and Deputy Sharkey walked her to his car.

**Issue.** Did handcuffing J.P. amount to a violation of her Fourth Amendment rights?

**Ruling.** Officer Sharkey did not violate J.P.’s Fourth Amendment rights when he placed her under arrest.

**Rationale.** The Supreme Court in *Terry v. Ohio* (1968) explained, “probable cause is an objective standard” (p. 96); thus, the court must determine “whether a reasonable officer would have believed probable cause existed in an arrest based on the information possessed” (*Olsen v. Layton Hills Mall*, 2002, p. 1312). Here, the court determined Deputy Sharkey had probable cause. He witnessed J.P. batter a school employee and he was told J.P. attacked a fellow student and a teacher. As such, arresting J.P. did not violate her Fourth Amendment rights.

***Thomas v. Barze (2014)***

**Facts.** Thomas was in the lunchroom with his friends. Also present in the lunchroom were Officer Mills, an SRO, and Officer Barze, a part-time officer hired

directly by the school when he was off duty to provide extra security. At the end of the lunch period, the school's head of security sent Officers Mills and Barze over to Thomas's table. While standing near the table, the officers overheard Thomas and his friends making comments back and forth. After lunch, the officers asked Thomas's teacher if they could use her office to speak with the gentlemen. The meeting with Thomas took place in the office with the door closed and resulted in Thomas being placed in a neck restraint move.

**Issue.** Did holding Thomas in a closed-door office amount to an unlawful seizure violating his Fourth Amendment rights?

**Ruling.** Yes, since this case was initiated by law enforcement, the relaxed *New Jersey v. T.L.O.* (1985) standards do not apply. With the traditional probable cause standard being used in this case, the officers did not meet their burden to show they had a reason to confine Thomas to a room.

**Rationale.** "Eighth Circuit precedent in this context indicates whether *TLO* or traditional Fourth Amendment standards apply depends on the extent to which the search or seizure was initiated and conducted by school officials as opposed to law enforcement officials" (*Thomas v. Barze*, 2014, p. 1060). "The Court concludes that here, where the idea and execution of the interview was entirely directed by the law enforcement officer rather than the school official, traditional Fourth Amendment principles, rather than the relaxed standards of *TLO*, apply" (*Thomas v. Barze*, 2014, p. 1062). As such, there must be probable cause for officers to conduct an arrest or seize a person. Here, the court believed a reasonable jury could find both that the officers meeting with Thomas was a seizure and that they lacked "particularized, reasonable suspicion to support such a

seizure” (*Thomas v. Barze*, 2014, p. 1063).

***L.S., By Hernandez v. Peterson (2019)***

**Facts.** A female student was found in possession of a vape pen. When a security specialist, not an SRO, questioned the student about the vape pen, she identified T.M. and some other students as involved in the sale of vape pens. The identified students were escorted by school security to the administration building to be interviewed and searched. Both the interview and the search took place by security personnel, not by Deputy Peterson, the school SRO. While searching the backpack, school security found \$200 in \$1 and \$5 denominations. At this point, the security guard escorted T.M. to the SRO’s office. Deputy Peterson was informed of the situation by the security personnel; and after a few minutes, he entered his office and searched T.M.’s backpack. T.M. told the deputy his mother had given him the money so he could take his girlfriend out for Valentine’s dinner and buy her a present. Deputy Peterson called T.M.’s mom and confirmed the story. Ultimately, Deputy Peterson determined there was no probable cause to seize the cash or arrest T.M.

**Issue.** Did Deputy Peterson violate T.M.’s Fourth Amendment rights when he searched the backpack and when he kept him in the office after confirming with his mother?

**Ruling.** Court finds that Peterson's initial detention of T.M. and search of his backpack did not violate T.M.'s Fourth Amendment rights.

**Rationale.** It is well established that Fourth Amendment rights apply to students at school; however, “school officials do not need to obtain a warrant before searching a student under their authority” (*New Jersey v. T.L.O.*, 1985, p. 340). Here, Deputy

Peterson's involvement was part of a larger investigation into illicit contraband on school property. In addition, Deputy Peterson did not start an investigation on his own; he was asked to get involved by school personnel. Accordingly, it was reasonable for the deputy to believe a search would produce evidence that either school policy or the law had been broken. Applying the *New Jersey v. T.L.O.* (1985) standard to these facts, the court believed the search was within the scope and circumstances of the drug investigation. As such, the court determined the initial search of the backpack did not violate the Fourth Amendment.

The court then turned to the post-search detention. The court determined evidence obtained from T.M.'s mother is not conclusive exonerative evidence. T.M.'s mother answering where the money came from did not address the ultimate question of is T.M. selling illicit material at school. As such, the court could not say the detention amounted to a Fourth Amendment violation. In addition, the court went on to say, unlike *Ziegler v. Martin County School District* (2016), the amount of time T.M. was detained was not excessive. Here, T.M. was only in the Deputy's office for 45 minutes, with 20 to 25 of those minutes being with Deputy Peterson. Additionally, there was no steadfast test that could be applied to immediately exonerate T.M. For those reasons, the court determined the ruling in *Ziegler v. Martin County School District* did not apply, the detention was not unreasonable, and no Fourth Amendment violation occurred.

## **State Courts**

### ***F.P. v. State (1988)***

**Facts.** A Tallahassee police officer was questioning a student on school grounds about a burglary that had taken place. This student told the investigator that F.P., a

schoolmate, had told him earlier in the day he had a stolen vehicle. With this knowledge, the investigator informed Officer Flint, the school SRO, of the situation. After the investigator left campus, the SRO located F.P., took him to her office, and asked him if he had anything to tell her. F.P. removed a set of car keys and papers from his pocket and put it on the SRO's desk. When the investigator returned to campus a few minutes later, he explained to F.P. why he was there and Mirandized him. F.P. fully admitted "that he found an envelope containing the car keys and paper on a white Pontiac behind a rental car agency, and that he planned to return later and drive the car around if he could locate it" (*F.P. v. State*, 1988, p. 1253).

**Issue.** Was a warrant required for the SRO to search F.P.?

**Ruling.** Yes, reverse and remand.

**Rationale.** Here, the SRO searched F.P. at the request of law enforcement, not a school official. Under *M.J. v. State* (1996), the "school official exception to the probable cause requirement for a warrantless search does not apply when the search is carried out at the behest of the police" (p. 996).

Even if Flint's apparently dual role as a school official and a law enforcement officer were not considered, the fact that she acted at the behest of a police officer requires the State to prove either that appellant consented to the search or that there existed probable cause to believe that appellant had violated the law and had in his possession evidence of that violation. (*F.P. v. State*, 1988, p. 1255).

Since this could not be determined based on the facts, the court reversed the lower court's decision and remanded it for the trial court to make these determinations.

***Coronado v. State (1992)***

**Facts.** Kim Benning, the AP, was given information that Coronado was selling drugs to other students. The AP questioned and searched Coronado. During the search, the AP asked Coronado, “Do you sell drugs,” and the appellant replied, “Not on campus” (*Coronado v. State*, 1992, p. 637). A week later, the AP received information that Coronado was leaving campus to attend a funeral. Suspecting Coronado was up to no good, the AP informed both the sheriff officer assigned to the school and the normal security guard on campus. Seeing Coronado outside, the AP asked Coronado where his car was, to which Coronado responded he did not drive (*Coronado v. State*, 1992, p. 637). The AP called Coronado’s relative to check on the funeral and was told there is no funeral and that Coronado drives a black Buick. After determining Coronado was lying about why he was leaving campus, the AP called Deputy Randall. Coronado was brought to AP’s office to “ascertain a ‘reasonable suspicion’ for appellant's actions” (*Coronado v. State*, 1992, p. 638). In addition, Randall believed he did not have probable cause to search Coronado. The AP continued to search Coronado’s person and locker. Coronado, after an extended period of time, agreed to take both the AP and Deputy Randall to his car. “Upon searching the car, Benning saw appellant attempt to hide a paper bag. Subsequently, Randall discovered bags of white powder, a triple beam balance, and what appeared to be marijuana” (*Coronado v. State*, 1992, p. 639). Coronado was arrested and handcuffed to a chair in Deputy Randall’s office for up to 3 hours.

**Issue.** Did the search and seizure violate Coronado’s Fourth Amendment rights?

**Ruling.** Reversed, Appellant’s Fourth Amendment rights were violated.

**Rationale.** To determine the reasonableness of the search, the court turned to *New*

*Jersey v. T.L.O.* (1985). “In *T.L.O.*, the discovery of contraband stemmed directly from a search of T.L.O.'s purse. The search was reasonable because T.L.O. had been discovered smoking and the search of the purse was reasonably related to the circumstances which initially justified the interference” (*Coronado v. State*, 1992, p. 640). Applying this to the current case, the court determined the AP had reasonable grounds to suspect Coronado had violated school rules. “However, the subsequent searches violated the second prong of *T.L.O.* The searches were not reasonably related in scope to the circumstances which initially justified Benning's interference with appellant, i.e., Benning's suspicion of appellant's skipping school” (*Coronado v. State*, 1992, p. 641). The court continued by pointing out the post-pat-down searches created an excessive intrusion based on skipping school; therefore, the drug evidence was obtained in violation of Coronado’s Fourth Amendment rights.

***A.J.M. v. State (1993)***

**Facts.** Officer Massey, an SRO, was walking past the principal’s office when he noticed several students sitting there. The principal asked Officer Massey to search the students on the grounds he had received information these students were involved in drugs. A.J.M. jumped up and ran out of the office. When Officer Massey caught him, A.J.M. was brought back and searched. Cocaine was found in A.J.M.’s pocket. Before the search, Massey did not gather any additional information to justify the search.

**Issue.** Did the search of A.J.M. violate his Fourth Amendment rights?

**Ruling.** Reverse and remand of the lower court’s ruling with a ruling the evidence should be suppressed.

**Rationale.** In *New Jersey v. T.L.O.* (1985), the court determined the warrant

requirement was “unsuited to the school environment and school officials do not need probable cause to justify a search of a student as long as the official is not acting at the behest of the police” (*A.J.M. v. State*, 1993, p. 1138). In *M.J. v. State* (1996), this court stated, “Where a law enforcement officer directs, participates or acquiesces in a search conducted by private parties, that search must comport with usual constitutional standards” (*A.J.M. v. State*, 1993, p. 1138). The court determined since the search was conducted by law enforcement, *New Jersey v. T.L.O.* did not apply. Applying the standard in *M.J. v. State*, Officer Massey must have probable cause to search A.J.M. Since there was no testimony from the principal to inform the court of what details there were concerning the drug possession, the court was not willing to determine that Officer Massey had probable cause to search.

***S.A. v. State (1995)***

**Facts.** A rash of locker break-ins was taking place on campus. A student came to Officer Grooms of the PSPD and gave him the names of students he believed were committing the break-ins. Based on this information, Officer Groom searched those students’ lockers but came up empty. The following day, the same student informant came to Officer Grooms’s office and told him S.A. had the locker combination book in his book bag. Officer Groom contacted his assistant and instructed the assistant to have S.A. removed from class, making sure to bring the book bag, and escort him to the vice principal’s office. Officer Groom was informed S.A. had placed the missing book in his backpack. Officer Groom reached in the backpack and pulled out the missing book. Upon questioning, S.A. denied any involvement; however, after S.A.’s father arrived on campus, S.A. confessed to taking the book along with jackets from other students.



**Issue.** Did the locker and bag search violate S.A.’s constitutional rights?

**Ruling.** The appellate court affirmed the lower court’s ruling.

**Rationale.** The leading Supreme Court case to determine if a search and seizure is constitutional is *New Jersey v. T.L.O.* (1985); however, the Indiana Supreme Court has previously ruled on and adopted rules for this matter in *Berry v. State* (1990). In this case, the court “held that the school principal’s search of a student’s jacket was reasonable under the totality of the circumstances” (*S.A. v. State*, 1995, para. 15). S.A. argued both *New Jersey v. T.L.O.* and *Berry v. State* should not apply to this case. The court disagreed, stating Officer Grooms was acting in his capacity as a security officer and as such, “his conduct regarding student searches on school premises is governed by the test announced in *T.L.O.*” (*S.A. v. State*, 1995, para. 17). When applying the two-prong test of *New Jersey v. T.L.O.*, the court determined there were reasonable grounds to suspect S.A. was engaging in unlawful behavior and therefore the search was reasonable in its scope.

***State v. D.S. (1996)***

**Facts.** Karen Robinson, an AP, received information D.S. was attempting to sell drugs to students on campus. Robinson spoke with another AP about the situation, and they decided to call D.S. to the office. A public school police officer was at Robinson’s desk when the two APs walked in with D.S. Robinson told D.S. they suspected she was selling drugs on campus and she needed to empty her pockets. D.S. pulled out a plastic bag full of marijuana and placed it on the table. Robinson informed the officer sitting at her desk D.S. was in violation of school rules by possessing drugs.

**Issue.** Did the search by the AP in the presence of law enforcement violate D.S.’s Fourth Amendment rights?

**Ruling.** Reversed the lower courts granting of the motion to suppress.

**Rationale.** The court gave three separate reasons why the lower court erred in granting D.S.’s motion to suppress. First, the lower court incorrectly applied the law of *M.J. v. State* (1996) to the current case. The lower court determined that since a police officer was present for the search, this violated D.S.’s rights; however, the fact that an SRO was doing paperwork “does not mean he directed, participated, or acquiesced in the search. The mere presence of the school police officer did not trigger the requirement of probable cause under *M.J. v. State*” (*State v. D.S.*, 1996, p. 42). The court continued by stating *M.J. v. State* only applies to cases where a police officer participates in a search.

Second, the court determined the correct stand that should have been applied by the lower court was the two-pronged test laid out in *New Jersey v. T.L.O.* (1985). School officials, according to *New Jersey v. T.L.O.*, only need reasonable suspicion to conduct a search, not probable cause. In addition, this court believed that the reasonable suspicion standard from *New Jersey v. T.L.O.* extends to SROs conducting searches on school campuses; therefore, “even if the school police officer had directed, participated, or acquiesced in the search herein, only reasonable suspicion, rather than probable cause, would have been required to justify the search” (*State v. D.S.*, 1996, p. 43).

Last, the court determined there is more than enough evidence to show probable cause to conduct the search, so even if the court was going to use the standard in *M.J. v. State* (1996), there was enough evidence to meet that burden.

***People v. Dilworth (1996)***

**Facts.** The defendant is a 15-year-old who attends an alternative school for students with behavioral disorders. Detective Reuttiger is a liaison officer assigned to the

school as a member of their staff. The detective's main objective is to prevent criminal activity on campus, but he does handle some disciplinary problems and has the authority to give students detention, just like a teacher. Two teachers approached the detective and let him know a student had been overheard talking about selling drugs on campus, specifically that he would be bringing more drugs tomorrow. The following day, the detective searched the student and, finding nothing, escorted him to his locker. As the detective turned to walk away, the defendant and another student began to talk and giggle. This caused the detective to believe he missed something. As he turned back towards the students, he noticed a flashlight in one of their hands and immediately thought it contained the drugs. The detective grabbed the flashlight from the students, unscrewed the top, and saw a bag full of white powder, which later tested positive for cocaine.

**Issue.** Did the search and seizure of the flashlight violate Dilworth's Fourth Amendment rights?

**Ruling.** Reverse the Appellate Court's ruling.

**Rationale.** The detective is a liaison officer on staff at an alternative school. He works full time in that role, handling both criminal activity and disciplinary problems. The detective was told about the drugs by two teachers; he did not initiate the investigation on his own. Once the detective found no drugs on the student, he escorted him back to his locker, essentially ending the investigation. Based on how the students were acting once returned to the lockers, the detective felt like he missed something. It was at this point the detective noticed the flashlight and believed it contained the drugs. Based on this, the court determined, "this case is best characterized as involving a liaison

police officer conducting a search on his own initiative and authority, in furtherance of the school's attempt to maintain a proper educational environment” (*People v. Dilworth*, 1996, p. 208). Therefore, the court determined only reasonable suspicion was needed by the detective to conduct the search. No Fourth Amendment rights were violated.

***People v. Pruitt (1996)***

**Facts.** This case covers three separate cases involving search and seizure of handguns on school campuses by the Chicago Police Department.

Officer Sonne was assisting in random searches at Fener High School, a school that utilized metal detectors in conjunction with the Chicago Police Department (CPD). Officer Sonne was stationed at a metal detector in full CPD uniform. Pruitt passed through the metal detector, setting it off. Officer Sonne performed a protective pat-down search as a result of the metal detector going off. As a result of the pat-down search, a .38 caliber revolver was discovered in Pruitt’s pants pocket.

Officer Taylor and Officer Grissett were Chicago police officers assigned as school patrol officers to Chicago Vocational School. Officer Taylor received information a student had a weapon on campus. Officer Taylor contacted Officer Grissett. Together, they obtained the student’s schedule and went to the student’s class. The officers removed the student, took the student to an office, and asked if the student had anything in his possession that he should not. The student told the officers he had a gun in his coat pocket.

Isaiah Kurry, a school administrator, received information from a teacher that a stranger was trying to use the back staircase on campus. Isaiah Kurry confronted the stranger, who identified himself as a student. Escorting the stranger to the office, Isaiah

Kurry asked Officer Rozzell to be present. After almost an hour of questioning by Isaiah Kurry, the stranger was asked to empty his pockets. After the stranger's pockets were empty, Officer Rozzell conducted a pat-down search and discovered a handgun.

**Issue.** Was the search and seizure of the handguns a violation of the defendants' constitutional rights?

**Ruling.** The first two cases were reversed and remanded for no violation of constitutional rights. The last case was affirmed; Fourth Amendment rights had been violated.

**Rationale.** In *Pruitt's* case, the court determined that walking through a metal detector does amount to a search for Fourth Amendment purposes. The search was directed and controlled by school officials and carried out by CPD. The metal detectors were the property of the school board, and the purpose of the detectors is to ensure student safety, not to investigate students. "Because all students were required to walk through the detectors no official discretion or opportunity to harass was involved. The intrusion was minimal, not involving any physical touching until the metal detector reacted" (*People v. Pruitt*, 1996, p. 547). Furthermore, the court determined once the metal detectors went off, the officers had sufficient cause to conduct a frisk. As such, the court determined the Fourth Amendment was satisfied based on the reasonableness test from *New Jersey v. T.L.O.* (1985).

In *Cheatham's* case, the court determined the officers gaining information that the student had a gun was a reasonable suspicion needed to conduct a search. The intrusion of asking Cheatham to leave his class was less intrusive than questioning and searching him in front of his peers. Furthermore, no search took place until after the student

informed the officers he had a gun. Based on all this information, no Fourth Amendment right was violated.

In Brooks's case, an almost hour passing between entering the office and a search taking place was unreasonable. There was no reasonable suspicion amounting to justify searching Brooks's pockets. Brooks posed no danger; there was no evidence of either school policy or the law being broken. Therefore, Brooks's constitutional rights were violated. Had the search been conducted right when Brooks entered the office, the search would have been justified.

***State v. Tywayne H. (1997)***

**Facts.** Police officers were working security at a school dance. To get into the dance, students were required to enter through the front door where they would receive a stamp on their hand. Once a student left the dance, they were not permitted to reenter. One of the police officers noticed two students entering the dance through a side door. An officer asked a teacher if students were allowed to do that; he was told they were not. The officers approached the two students to determine if they had stamps on their hands. While talking to the students it became evident one of the students had been drinking alcohol. The officers asked the students to come with them outside. Once outside, the officers conducted a pat-down search where they discovered one of the students carrying a loaded semi-automatic handgun.

**Issue.** Did the search that uncovered the weapon amount to a Fourth Amendment violation?

**Ruling.** Reverse and remand. Yes, the search was unlawful.

**Rationale.** The search of the students was not performed by school administration

on their own, nor was it performed at the request of law enforcement. Furthermore, there was not even a school administrator present during the search. The police acted completely on their own. As such, the lowered standard of reasonable suspicion does not apply, and the police must have had probable cause to conduct the search. Nothing in the fact pattern indicated the police had probable cause to search a child, resulting in an unlawful search.

***J.A.R. v. State (1997)***

**Facts.** A student reported to the AP that J.A.R. had a gun on campus. The AP contacted the school SRO to inform him about the gun. Both the SRO and the AP went to pull the student out of class. Once out of class, the SRO asked if the student had a gun. J.A.R. admitted to having a gun, and the SRO conducted a pat-down search where a pistol was discovered in the student's waistband.

**Issue.** Did the search and seizure of a firearm by a deputy in the presence of a school administrator violate Fourth Amendment rights?

**Ruling.** Affirm, no violation of rights.

**Rationale.** Here, a school administrator was faced with the possibility one of his students had a weapon on campus. As such, both school administrators and law enforcement officers only need reasonable suspicion to perform a search. With a possible gun in the possession of a student, the court determined it would be both foolish and dangerous for an untrained administrator to conduct this type of search.

If a school official has a reasonable suspicion that a student is carrying a dangerous weapon on his or her person, that official may request *any* police officer to perform the pat-down search for weapons without fear that the

involvement of the police will somehow violate the student's Fourth Amendment rights or require probable cause for such a search (*J.A.R. v. State*, 1997, p. 1244). As such, the search was permissible and did not violate J.A.R.'s constitutional rights.

***In Interest of Thomas B.D. (1997)***

**Facts.** Thomas's mother phoned the police to let them know her son had not come home that night and was staying at an apartment with a female. Thomas's mother asked the police if they would go to the apartment and get him. Three police officers went to the apartment but did not observe Thomas. They waited for him to arrive, conducted a pat-down search, and transported him to his mother's place of business. Thomas's mother asked the officers to take him to school. While en route to school, Thomas asked the officers for a cigarette. Upon arriving at school, the officer took the cigarette pack out of Thomas's pocket, opened it, and noticed a marijuana cigarette. The officers placed Thomas under arrest and conducted a more thorough search in which they found additional marijuana.

**Issue.** Did the search of Thomas violate his Fourth Amendment rights?

**Ruling.** The court affirmed the lower court's ruling stating no violation occurred.

**Rationale.** The officers who conducted the search were not agents of the school or school district and had not been asked to conduct a search by school officials. The search was conducted in furtherance of a law enforcement objective. Even though Thomas was a student at the school and the search took place on school grounds, the officers were acting of their own volition. Since there were no connections between the officers and the school, these officers do not receive protections laid out in *New Jersey v.*



*T.L.O.* (1985); however, when the officers fulfilled their statutory requirements of removing a child from a bad situation and taking them to school, the possession of cigarettes on campus became a violation of school policy, punishable by suspension; thus, the court determined the plain view exception to a warrantless search gave officers probable cause to conduct the search. As such, there was no violation of Thomas's rights.

***In Interest of Angelia D.B., 211 Wis.2d 140 (1997)***

**Facts.** A student informed an AP that Angelia D.B. had a weapon on campus and might even have a gun. With this information, the AP contacted the school's liaison officer and informed him of the possibility a student had a weapon on campus. After interviewing the informant, the officer and the school administrator went to Angelia D.B.'s classroom and pulled her into the hall. The officer introduced himself and informed her he had information she was in possession of a weapon on campus. The officer conducted a pat-down search and looked through the defendant's backpack before walking her to his office. In his office and in the presence of another officer, a further search was conducted. Upon lifting Angelia D.B.'s shirt, a knife was discovered in her waistband. Angelia D.B. was placed under arrest and Mirandized.

**Issue.** Did the search and seizure by a school liaison officer violate Angelia D.B.'s Fourth Amendment rights?

**Ruling.** Reverse and remand.

**Rationale.** The officer involved in the search was a school liaison officer. He entered the investigation only after school administration requested his involvement. Furthermore, once involved, the officer acted with school officials on school grounds. A weapon on campus poses a direct threat to both students and staff on campus.

Maintaining a safe educational environment is a paramount school objective. This alone would give the officer and school officials a reason to conduct a search. When the court further applied the two-prong test from *New Jersey v. T.L.O.* (1985), it was determined the search was reasonable from the start and reasonably related to the objective. As such, the search was conducted within the rules enumerated in *New Jersey v. T.L.O.*, and no Fourth Amendment rights were violated.

***Commonwealth v. J.B (1998)***

**Facts.** Officer Singleton is an SRO employed by the Philadelphia school board. During a routine patrol of the hallways, he observed J.B. walking with his eyes closed and staggering. Officer Singleton stopped J.B. and asked if he was alright. J.B. did not respond at first; but when he did, his speech was slurred. Officer Singleton, thinking J.B. was under the influence of something, brought J.B. up to the on-campus police office. Once in the office, J.B. was instructed to empty his pockets. With no contraband found in J.B.'s pockets, Officer Singleton shook J.B.'s pants and found marijuana and a weapon.

**Issue.** Did the search that found drugs and a weapon violate J.B.'s Fourth Amendment rights?

**Ruling.** Affirm, no rights were violated.

**Rationale.** To determine if this search violated J.B.'s rights, the court turned to *New Jersey v. T.L.O.* (1985). Here, J.B. was staggering with his eyes closed, seeming to be dazed and confused in the hallway. Furthermore, once up in the police office, J.B. continued to seem out of it. Officer Singleton testified about how this type of behavior typically indicated a student is under the influence of something. With this, the court determined it was reasonable for Officer Singleton to suspect J.B. had contraband on his

person. Second, Officer Singleton's search of J.B. was reasonably related to the belief J.B. was under the influence of something; therefore, the court held no Fourth Amendment right was violated.

***In re Josue T. (1999)***

**Facts.** The student road to school in a truck with other students. An informant contacted a school AP to let her know the student smelled like marijuana. The AP conducted interviews and searches of the students who had been in the truck on the way to campus. When the AP got to the student, she smelled burnt marijuana. At this point, the AP decided to take the student to the office. As they were walking to the office, both the AP and Officer Reese, the school SRO, noticed something bulging from the student's pants pocket. Once in the office, the student was informed a search was going to be performed and everything from his pockets needed to be removed. The student removed everything from his left pocket but refused to do the same with his right pocket. This raised a safety issue, and the AP requested the SRO search the student. The SRO removed the student's hand and reached in to see what was in the pocket. In the pocket, the SRO found a .38 caliber handgun.

**Issue.** Does an SRO need probable cause or reasonable suspicion to search a student during school hours at the request of school administration?

**Ruling.** Affirm the lower court's ruling. Only reasonable suspicion is required.

**Rationale.** According to the court, this case involves a law enforcement officer getting involved only by request from a school official. Furthermore, the law enforcement officer maintained minimal involvement in questioning or searching the student. As such, the lower standard expressed in *New Jersey v. T.L.O.* (1985) applies. The AP was given

information the student smelled like marijuana. In addition, when the AP made contact with the student, she too smelled marijuana coming from the student, thereby making the search reasonable at its inception. When questioned, the student acted abnormally and refused to empty and remove his hand from his right pocket. Assuming there was contraband in that pocket, the search of the right pocket was reasonable in scope. As such, the two-pronged test laid out in *New Jersey v. T.L.O.* was met and there was no violation of the student's Fourth Amendment rights.

***C.S. v. State (2000)***

**Facts.** C.S. was attending summer school when an SRO got information C.S. was in possession of contraband. The SRO pulled C.S. from class and conducted a pat-down search. During the pat-down search, the SRO discovered a weapon hidden in C.S.'s pants.

**Issue.** Did the pat-down search of C.S. violate his Fourth Amendment rights?

**Ruling.** Affirm. No Fourth Amendment violation occurred during the pat-down search.

**Rationale.** "This court has adopted a two-part test established by the United States Supreme Court to determine whether the search is reasonable" (*C.S. v. State*, 2000, p. 275). Applying the two-prong test to the current case, the court determined the officer was given information about C.S. which prompted her to remove him from class. Upon removal from class, for officer safety, C.S. was subject to a pat-down search. As such, the court found this made the search reasonable at its inception. Second, the court determined the search was reasonably related in scope. The pat-down search was the least intrusive search possible to determine if C.S. was in possession of contraband.

Furthermore, once the gun was discovered, the search stopped; therefore, the search was reasonable under the *New Jersey v. T.L.O.* (1985) standard and no Fourth Amendment violation occurred.

***D.B. v. State (2000)***

**Facts.** During a routine bathroom check, SRO Austin smelled cigarette smoke coming from a bathroom stall. Additionally, SRO Austin noticed two students were in one stall. When the students exited the stall, the SRO asked them why there were in a stall together. When she got no answer, she conducted a pat-down search of the two students. During the pat-down search of D.B., the SRO discovered a white paper folded in her overalls pocket. SRO Austin asked D.B. to unfold the paper; when she did, 2.7 grams of marijuana were discovered.

**Issue.** Was the search of D.B. unreasonable under the circumstances?

**Ruling.** Affirm. The search of D.B. was reasonable.

**Rationale.** The court determined since Officer Austin was an SRO, she should be considered a school official, and the less stringent standard laid out in *T.L.O.* should apply. In the court's opinion, the search was reasonable at its inception because Officer Austin smelled cigarettes coming from a bathroom stall that contained two students. Moreover, the search was reasonably related in scope to the objective. Officer Austin conducted the most minimally invasive search to determine if any contraband was on the student's person and ceased the search once marijuana was found. As such, the search was reasonable and no Fourth Amendment violation occurred.

***Russell v. State (2002)***

**Facts.** A parking lot attendant at a high school noticed some students smoking in

a car. This attendant notified the school principal who walked out to the parking lot to investigate. While walking to the parking lot, the principal noticed three students walking from the parking lot. The principal stopped the students and had them come to the office with her. While sitting in the office, the principal noticed one of the students kept messing with his shorts pocket. Fearing there might be a weapon, the principal got the SRO. Upon entering the room, the SRO determined the shorts pocket was so baggy no one could visually see if there was a weapon or not. As such, the officer conducted a pat-down search of the student and discovered a small bag of marijuana.

**Issue.** Did the pat-down search performed by the SRO constitute a violation of Fourth Amendment rights?

**Ruling.** No Fourth Amendment violation occurred.

**Rationale.** When Officer Lee conducted the pat-down search, he knew a parking lot attendant had observed the defendant in the parking lot, the defendant was wearing baggy shorts, the defendant was messing with his pocket, and the defendant refused to empty his pocket for the school principal. Based on these facts, the court concluded Officer Lee had reasonable grounds to believe the defendant had contraband on his person. Accordingly, the search was justified at its inception. In addition, the court found “under the facts of this case, we hold that a search of Russell's pocket was reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction” (*Russell v. State*, 2002, p. 893). For these reasons, the court ultimately held the search did not violate the defendant’s Fourth Amendment rights.

***State v. N.G.B. (2002)***

**Facts.** A student alerted the teacher there was a bag of marijuana on the floor. The teacher reported this information to a school administrator who contacted the school SRO to meet her in the classroom. The AP and SRO began questioning and searching several students and their belongings. The AP discovered a note that mentioned the defendant and smoking weed. Following this, the SRO asked the class if they knew where the marijuana came from, to which one student said he thought it fell out of the defendant's pocket. The SRO searched the defendant after believing the AP received consent and found a small bag with marijuana residue in it and a dime bag similar to the one found on the classroom floor.

**Issue.** Did the SRO need probable cause to search N.G.B.?

**Ruling.** No, probable cause is not needed for an SRO to conduct a search of a student.

**Rationale.** "Courts apply the T.L.O. reasonableness standard to those cases where a school official initiates the searches on his own or law enforcement involvement is minimal" (*State v. N.G.B.*, 2002, p. 568). As such, the court concluded only reasonable suspicion is needed since the SRO was only involved in the search after being asked to get involved by the AP.

***In re William V. (2003)***

**Facts.** Officer Johannes, the school SRO, was walking toward the administration building when he noticed the defendant standing alone in the hall with a red bandanna hanging from his back pocket. The school has had gang problems, and having a bandanna is a violation of school rules. The SRO approached the defendant and asked about the

bandanna. After the defendant acted like he had no idea he had a bandanna, the officer took the bandanna from the defendant's pocket and took him to the office. Before going to the office, the SRO conducted a pat-down search for officer safety since, in the SRO's experience, having a bandanna in a manner the defendant did typically means some sort of gang activity was about to happen. During the search, the SRO discovered a bulge coming from the defendant's waistband which turned out to be a knife.

**Issue.** Was the SRO bound to the probable cause or reasonable suspicion standard?

**Ruling.** The SRO only needs reasonable suspicion to conduct a search.

**Rationale.** Applying the two-prong test found in *New Jersey v. T.L.O.* (1985), the court found the SRO made initial contact with the defendant because the defendant was flying gang colors at school. This flying of colors is a violation of school policy, justifying the initial contact and detention of the defendant. The color of the bandanna and the way it was folded indicated to the SRO a gang confrontation was imminent. As such, the SRO's search of the defendant was reasonably related to the initial detention. Furthermore, the court determined the search was not excessive. As such, the court ruled no Fourth Amendment violation occurred.

***People v. Williams (2003)***

**Facts.** The SRO at the defendant's high school was investigating a burglary that resulted in a stolen firearm. On the day in question, the SRO had interviewed numerous students including the defendant in regard to the burglary. Based on the information received, the SRO left campus to go to an apartment complex. While at the apartment complex, one of the deans received information the missing gun was located in the



defendant's car. The dean went to collect the student's keys so a search of the car could be done. While en route to the school, the SRO was informed consent had been given to search the vehicle; however, once on campus, the SRO received information the defendant's mother did not consent to the search. The SRO did not obtain a search warrant. During the search of the vehicle, the missing handgun was found in the trunk of the car.

**Issue.** Did the SRO violate the defendant's Fourth Amendment rights?

**Ruling.** Only reasonable suspicion is needed and therefore there was no violation of Fourth Amendment rights.

**Rationale.** In making this ruling, the court said, "The United States Supreme Court has held that teachers and school officials do not need a warrant before searching a student, nor must their searches be based on probable cause" (*People v. Williams*, 2003, p. 960). The court further opined, "The reasonableness standard has been extended to situations involving police officers where (1) school officials initiate the search or police involvement is minimal, or (2) school police or liaison officers acting on their own authority conduct the search" (*People v. Williams*, 2003, p. 960). In the current case, the SRO had reasonable suspicion the missing gun was located in the defendant's car. The search was minimally intrusive and limited to the defendant's car. Furthermore, the court said the state has a compelling interest to keep schools safe. Having a handgun on campus poses grave danger to all the students and staff on that campus; therefore, school officials acted appropriately when asking the SRO to search the vehicle. Last, the court mentioned that although the SRO was investigating a burglary that happened off campus, the facts of the investigation made the school intimately involved in that investigation. In

addition, the SRO was only involved with the vehicle search at the request of school administration. The dean received information from another student which made her believe the defendant had a gun in her car. It was only at this point that the SRO was called to search the vehicle. As such, the search was justifiable at its inception and reasonably related in scope to the overall investigation. For those reasons, the court determined “the seizure and search of defendant's car were reasonable under the circumstances and, therefore, were constitutional” (*People v. Williams*, 2003, p. 963).

***In re J.F.M. (2005)***

**Facts.** Deputy Barr, an SRO, was investigating a scuffle involving one of the defendants. Deputy Barr witnessed one of the defendants leaving school grounds and issued three separate commands for her to stop. She did not listen, and the SRO went to speak to school administration who identified one of the defendants. Shortly thereafter, the SRO was leaving campus when he noticed the defendant standing at the bus stop located on school grounds. Deputy Barr stopped his car and told the defendant she needed to come with him to go speak with school administration. Defendant 1 refused, and Defendant 2 pushed the SRO. Defendant 1 ran off but quickly returned and hit the officer with an umbrella. The two sisters fled the scene and were later apprehended by other sheriff officers.

**Issue.** Did the SRO have legal authority to detain the defendants?

**Ruling.** Yes, the SRO had legal authority and no Fourth Amendment violation occurred.

**Rationale.** The court acknowledges the Supreme Court in *New Jersey v. T.L.O.* (1985) was limited to searches conducted by school administrators; however, the courts

in North Carolina have adopted an extension of *New Jersey v. T.L.O.*, extending the reasonableness standard to SROs working with school officials “where these officers are primarily responsible to the school district rather than the local police department” (*In re J.F.M.*, 2005, p. 147). Using this extension, this court, for the first time in North Carolina history, found the *New Jersey v. T.L.O.* standard applicable to an SRO, working with school officials, detaining a student on school grounds. The court, based on the facts of the case, believed the SRO was working with school officials. The facts indicate the SRO intended to take the defendants to an administrator, not handle the situation himself. Furthermore, “The detainment occurred while he was on duty, on school premises, and close in time to his investigation” (*In re J.F.M.*, 2005, p. 149). Turning to the reasonableness test spelled out in *New Jersey v. T.L.O.*, the court determined the SRO was investigating an array he witnessed, and administration had identified the defendants as suspects. Furthermore, the detention of the defendants occurred soon after they were identified by administration. As such, the SRO had reasonable grounds to detain the defendants. The SRO had legal justification and therefore no Fourth Amendment violation occurred.

***In re S.W. (2005)***

**Facts.** The SRO noticed a strong smell of marijuana coming from a couple of students. After making contact with the students, the SRO located two APs and asked the students and APs to go with him to the school’s weight room. The SRO asked the students if they had anything on their person; they responded they did not. At this point, the SRO asked the students if they were okay with him searching them; they said it was fine. While emptying one of the student’s pockets, a small plastic bag containing 10

smaller bags of marijuana was located.

**Issue.** Was the search of the students lawful?

**Ruling.** Yes, no United States or North Carolina constitutional rights were violated.

**Rationale.** The SRO was employed full time as an SRO. As such, he was tasked with being visible in the halls and ensuring a drug-free environment. The SRO smelled marijuana coming from a couple of students, giving him reasonable suspicion to think the students had something illegal on school grounds. The SRO was working in conjunction with school officials when he brought two APs into the investigation. Since the SRO smelled marijuana coming from the students, a search of those students was reasonably related in scope to the investigation. Furthermore, the students consented to the search. As such, there was no violation of rights.

***State v. K.L.M. (2006)***

**Facts.** A student overheard the defendant saying he was going to sell drugs on school grounds. This student alerted the principal. The SRO was off campus, so the principal contacted the city's director of public safety (DPS) who is a law enforcement officer. At the direction of the principal, the DPS searched the defendant and found marijuana.

**Issue.** Did the search of the defendant by the DPS violate his Fourth Amendment rights?

**Ruling.** Yes, the DPS needed a search warrant to conduct the search.

**Rationale.** It is not disputed the DPS was on campus to ensure the safety of school personnel during the search; however, the DPS is a law enforcement officer. He

does not have any ties to the school or the school district. As such, he, like all law enforcement officers not working in a school or district, is required to have probable cause to conduct a search. Here, probable cause was nonexistent, thereby making the search a violation of constitutional rights.

***D.L. v. State (2007)***

**Facts.** An SRO saw three students in the hallway during a non-passing period and made contact with them. The SRO asked the students for some identification, hall pass, or schedule that would show why they were out of class. After being told they do not have the documents the SRO wanted, the SRO conducted a pat-down search of the students. When the SRO got to the defendant, she noticed that he put something down his pants. The defendant was placed in handcuffs and taken to the office. Once in the office, another officer shook the defendant's pants and a plastic bag containing an ounce of marijuana fell out.

**Issue.** Can an SRO search a student who refuses to produce identification?

**Ruling.** Yes, this type of search does not violate Fourth Amendment rights.

**Rationale.** When the SRO made contact with the defendant, she asked him for his required school identification, which he did not have. The point of having students carry school identification is for the overall safety of the student body. The court, comparing the current fact pattern to other cases, pointed out, "the presence of an unidentified individual on school grounds has greater potential safety implications than does the mere scent of cigarette smoke" (*D.L. v. State*, 2007, p. 506). Based on this, the court determined it was not unreasonable for the SRO to conduct a minimally invasive pat-down search. The SRO observed the defendant place something in his pants, making the

search by the male officer within the scope of the initial contact with the defendant.

Putting these two pieces together, the court determined the search was reasonable at its inception and reasonably related in scope, justifying the search. No Fourth Amendment violation took place.

***T.S. v. State (2007)***

**Facts.** Sergeant Driskell, a member of the IPSP, received an anonymous tip that T.S. had marijuana in his right front pocket. Acting on this tip, Sergeant Driskell pulled T.S. out of his physical education class and brought him to the locker room. The sergeant and T.S. have differing stories of what happened in the locker room, but both agree T.S. gave the sergeant at least one bag of marijuana.

**Issue.** Did the seizure of T.S. amount to a violation of his Fourth Amendment rights?

**Ruling.** No violation of T.S.’s Fourth Amendment rights occurred.

**Rationale.** Sergeant Driskell is employed by the Indiana Public Schools Police and was inside the high school’s police office when the anonymous tip came in. The court, agreeing with both North Carolina and Pennsylvania courts, determined “the presence of drugs on school property presents a serious threat to a learning environment. Therefore, Sergeant Driskell acted not only to ferret out criminal activity, but also to preserve an environment conducive to education” (*T.S. v. State*, 2007, p. 371). Since Sergeant Driskell was acting to preserve this educational environment, the court had to determine if the seizure of T.S. was justified. Analyzing various case law from other jurisdictions across the country, this court determined that since a search under *New Jersey v. T.L.O.* (1985) was justified upon reasonable suspicion, “it follows that some

lower standard should be required for an investigatory stop in a public school” (*T.S. v. State*, 2007, p. 375). Furthermore, the court contoured to reason,

Students enjoy a lesser expectation of privacy in a public school than they do in public. Because an investigatory stop in public may be justified upon reasonable suspicion, it follows that a lower standard should be required in the public school setting. (*T.S. v. State*, 2007, p. 375)

After making this determination, the court determined if Sergeant Driskell’s actions were reasonable. The court believed the removal of T.S. from class, although an invasion of privacy, did not amount to an invasive intrusion. Furthermore, the court pointed out that having drugs on a school campus is counter to maintaining a proper learning environment and therefore reasonable for Sergeant Driskell to investigate a drug-related tip. Taking all of this into account, the court held Sergeant Driskell was an SRO acting to preserve an educationally related goal and as a result, the reasonableness standard from *New Jersey v. T.L.O.* should apply. No Fourth Amendment violation occurred.

***R.D.S. v. State (2008)***

**Facts.** A student suspected of being under the influence of a controlled substance was taken to the vice principal’s office. Once in the office, the vice principal asked for the SRO, Deputy Lambert, to assist in the investigation. The SRO inquired into what the student had consumed before the student arrived at school, and the SRO was told cough syrup. Not sure the statement was truthful and armed with information the student had skipped class, the SRO asked where the student had been. The student told the SRO he had been in the defendant’s truck. Believing the truck, or its contents, played a part in the student’s intoxication, the SRO decided to search the defendant’s truck. Upon searching

the vehicle, the SRO discovered marijuana and a glass pipe containing a tarry residue. When questioned about his whereabouts that morning, the defendant reported he and the intoxicated student left campus to smoke some weed and go to the bank. This information was confirmed by school security cameras.

**Issue.** What is the standard applied when a police officer performs a search of a student on a school campus?

**Ruling.** Remand to the lower court.

**Rationale.** Here, the SRO was assigned to Page High School as a full-time SRO and was conducting a search on a student's vehicle located on campus. In addition, the SRO was contacted by the vice principal at the start of the investigation, and the vice principal was present during the search. The court further holds reasonable suspicion should apply to a police officer assigned to a school who has duties beyond a normal law enforcement officer; however, the trial court record is void of this information, especially the SRO's daily activities and normal interaction with students. "Here, the parties conclusively labeled Deputy Lambert an SRO, but did not provide sufficient facts for the trial court to appropriately label her as a school official or a law enforcement officer" (*R.D.S. v. State*, 2008, p. 370); therefore, this case is being sent back down to the lower court to gain this information.

***Ortiz v. State (2010)***

**Facts.** An AP witnessed the defendant smoking a cigarette on school campus. The AP escorted the defendant to an administrative building and called for a second administrator and the SRO. The SRO made it clear this was an administrative matter and he was only present for everyone's safety. After this, one of the APs asked the defendant



to turn his pocket inside out so he could be searched. The defendant, fearing the AP would cut herself, freely told all in the room he had a razor blade in his breast pocket. The defendant was arrested, charged, and found guilty of carrying a weapon on school property.

**Issue.** Did the search conducted by the school administrator violate the defendant's Fourth Amendment rights?

**Ruling.** No Fourth Amendment violation took place.

**Rationale.** "Under *Young*, [234 Ga. at 488], if the school official acts without law enforcement involvement, the exclusionary rule does not apply, even if the official's conduct violates the Fourth Amendment" (*Ortiz v. State*, 2010, p. 599). In the present case, the search was entirely conducted by school administrators. The SRO entered the room while the search was ongoing and was in no way involved in the search. The sole purpose of the SRO being present was for the safety of all the parties. "An officer's mere presence in the room, without more evidence of his involvement, does not indicate police participation thereby implicating the exclusionary rule" (*Ortiz v. State*, 2010, p. 600). Since the exclusionary rule did not apply to the facts, the court ruled there was no violation of the defendant's rights.

***In re D.L.D. (2010)***

**Facts.** While watching the security cameras, the SRO and AP witnessed some male students going into a bathroom while two other students stood guard. Deciding this looked fishy, the SRO and AP went to go check it out. As they got close to the bathroom, the students inside the bathroom started walking out. When the students noticed the AP and SRO, they went back into the restroom. The SRO followed them in and witnessed the

defendant stuffing something into his pants. The SRO reported this to the AP who instructed the SRO to search the student. A frisk of the defendant revealed a container with three bags of what was later identified as marijuana. The defendant was arrested and charged with possession with intent to sell.

**Issue.** Did the search conducted by the SRO violate the defendant's Fourth Amendment rights?

**Ruling.** No Fourth Amendment violation occurred.

**Rationale.** According to *New Jersey v. T.L.O.* (1985), "the legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search" (*In re D.L.D.*, 2010, p. 437). Furthermore, in North Carolina the reasonableness standard applies "where a police officer works in conjunction with school officials, in varying degrees, to maintain a safe and educational environment" (*In re D.L.D.*, 2010, p. 438). The AP and SRO witnessed something that looked suspicious on the security cameras. Upon investigating this matter, the SRO witnessed the defendant placing something in his pants. Based on this, the court determined the search of the defendant was justified at its inception. Based on this same information, the court determined the frisk of the defendant was not unnecessarily intrusive. As such, the court determined the search was constitutional under the *New Jersey v. T.L.O.* standard and no violation occurred.

***In re D.H. (2010)***

**Facts.** A K-9 officer was on campus to conduct random classroom searches. An AP entered the defendant's classroom, told everyone to leave all of their belongings and go into the hall so the officer could conduct a search. During the search, the dog hit on

the defendant's backpack. The officer called the defendant back into the room, read D.H. her rights, and searched her backpack. In D.H.'s backpack, the officer found a small bag of marijuana.

**Issue.** Was the evidence illegally obtained in violation of the defendant's constitutional rights?

**Ruling.** No Fourth Amendment violation took place.

**Rationale.** "Although students in public schools do not 'shed their constitutional rights...at the schoolhouse gate, their constitutional rights are not' automatically coextensive with the rights of adults in other settings, and must be considered in view of the school environment" (*In re D.H.*, 2010, p. 958). The defendant's backpack was not opened nor was any content examined until after the dog alerted to it. Furthermore, school authorities must exercise control and supervision to perform their role as guardians of their students. With this in mind, the court determined the defendant's inability to remove her backpack from the classroom only constituted a minor privacy interest. In addition, the court stated, "There is an important governmental concern in preventing drug use by schoolchildren... The Supreme Court has held that deterring drug use by schoolchildren is an 'important-indeed, perhaps compelling' interest" (*In re D.H.*, 2010, p. 959). The court determined the defendant brought her backpack to school where she has a reduced expectation of privacy, the search conducted by the dog was of minimal intrusion, and the school has a custodial responsibility to its students and an interest in keeping a drug-free campus. As such, the search and detention were reasonable and no constitutional violation occurred.

***In re S.M.C. (2011)***

**Facts.** A student informed an AP that S.M.C. was high. After receiving this information, the AP reported what she had been told by the student to the school district's canine officer. After seeing S.M.C. in the hallway, both the AP and the canine officer escorted S.M.C. to the nurse's office. The AP requested the school security officer be present for the examination of S.M.C. After examining S.M.C., the nurse's aide determined S.M.C. was not under the influence of anything but did acknowledge S.M.C.'s red eyes could be from smoking marijuana. With this information, the AP searched S.M.C.'s notebook while an officer performed a pat-down search to check for weapons. When no contraband was found, S.M.C.'s locker was searched. In S.M.C.'s backpack, a pair of brass knuckles were found. This is a violation of Texas Penal Code.

**Issue.** Did the search of S.M.C.'s locker violate the Fourth Amendment for lack of reasonable suspicion?

**Ruling.** Affirmed, no Fourth Amendment violation occurred.

**Rationale.** "Although it is the fruit of the second search, the knuckles, that is at issue in Appellant's motion to suppress evidence, the validity of that search depends upon the reasonableness of the initial search for marijuana" (*In re S. M. C.*, 2011, p. 166). With this in mind, the court looked at the factual argument made by the lower court. The court determined there was ample evidence to suggest both the AP and officer had observed S.M.C. with red eyes and dilated pupils, symptoms which had previously been observed with those on drugs. As such, this court found there was reasonableness established under the *New Jersey v. T.L.O.* (1985) two-pronged test. Furthermore, since the AP was informed by another student that S.M.C. was under the influence, the initial search of

S.M.C. was justified at its inception. Although the initial search of S.M.C. resulted in no drugs, the AP, based on experience, knew students tend to hide contraband in their lockers; therefore, the court concluded the locker search was within the scope of the initial search, making it a justified search. Since both prongs of *New Jersey v. T.L.O.* were satisfied, the court determined no Fourth Amendment violation took place.

***State v. Meneese (2012)***

**Facts.** The SRO was conducting routine checks of the boy's bathrooms when he came across Meneese standing by a sink holding a bag of drugs and a medicine vial. The SRO took possession of the contraband and took Meneese to the office. In the office, the school administrators took a passive role and the SRO placed Meneese under arrest, calling for a second officer to transport the student to the police station. While waiting for the second officer, the SRO became suspicious that additional drugs were located in Meneese's locked backpack. When the SRO asked Meneese for the key, he was told it was at home. The SRO conducted a search of Meneese and found the key. Inside the backpack, the SRO discovered a Beretta air pistol.

**Issue.** Does the school search exception apply when conducted by an SRO?

**Ruling.** No, it does not apply; therefore, a Fourth Amendment violation occurred, and the evidence should be suppressed.

**Rationale.** Teachers and administrators have an extensive interest in keeping order on school campuses. "This need for swift action renders the warrant requirement particularly unsuited to the school environment" (*New Jersey v. T.L.O.*, 1985, p. 340). The SRO is employed by the police department and is not on campus to discipline students. Furthermore, the SRO was attempting to search the backpack, not for school

discipline reasons but for evidence to be used in a criminal prosecution. In addition, Meneese was already placed under arrest, with backup on the way. This rendered the need for swift action to be obsolete. As a result, “the underlying purpose of the school search exception is not served. Without the application of the exception, Fry required a warrant supported by probable cause to search Meneese's locked backpack” (*State v. Meneese*, 2012, para. 22). Without the warrant, the search was unlawful, and any evidence obtained in the backpack should be suppressed.

***Hunt ex rel. DeSombre v. State, Dept. of Safety and Homeland Security, Division of Delaware State Police (2013)***

**Facts.** Officer Pritchett was serving as the SRO for the Cape Henlopen School District assigned to the high school. Vice Principal McDowell asked Officer Pritchett to come speak to a group of fourth or fifth graders who were in in-school suspension about bullying. The following day, a student approached Vice Principal McDowell to inform him of an incident on the bus where A.B., a student at the school, stole money from an autistic student. McDowell called A.B.'s mother and informed her of what happened and requested permission to speak with A.B. about it. A.B.'s mother agreed, and Vice Principal McDowell contacted Officer Pritchett and asked for his assistance in dealing with the stolen money. Both McDowell and Pritchett were present during the start of the questioning, but McDowell got called away to an emergency. During the interview, A.B. admitted to having the stolen dollar but claimed another student (Hunt) was the person who actually took it from the autistic student. Without discussing what he had learned with McDowell, Pritchett arranged for Hunt to be called out of class so he could question him along with A.B. Before Hunt was brought into the room with A.B., Pritchett

informed him A.B. had accused him of stealing the money but that he was 99% sure Hunt had nothing to do with it. During the interview, Hunt became distressed with what Officer Pritchett claimed would happen to him for stealing. Seeing Hunt distressed, A.B. confessed to taking the money. When Hunt got home and told his mother what happened, he was removed from the district and homeschooled for 18 months.

**Issue.** Did the interrogation of Hunt violate his Fourth Amendment rights?

**Ruling.** There was a seizure violating Hunt's Fourth Amendment rights.

**Rationale.** A reasonable child in Hunt's position would not believe they were free to leave the room being used for the interrogation. As such, the court deemed the interrogation to be a seizure under the Fourth Amendment. Next, the court looked at if the seizure was reasonable under the circumstances. Before taking Hunt into the room, Officer Pritchett told Hunt he was 99% sure he had nothing to do with the stolen money, yet Pritchett continued with his charade, causing Hunt to become increasingly upset, all to elicit A.B.'s confession. The court determined not only was the questioning of Hunt unreasonable, but Officer Pritchett should have known scaring Hunt for the sole purpose of eliciting a confession of A.B. was unreasonable.

***K. P. v. State (2013)***

**Facts.** The MDCPD got a tip that K.P., a student at a local high school, was in possession of a firearm. Once informed of this information, the SRO assigned to K.P.'s school verified K.P. attended the school and notified the AP and school security officers. Both security officers and the AP went to K.P.'s class, took possession of his belongings, and walked him to the office. Once in the office, the AP gave the bag to the SRO who promptly opened it and discovered a loaded semi-automatic firearm.

**Issue.** Did the search of K.P.'s bag violate his Fourth Amendment rights?

**Ruling.** Affirmed, no violation took place.

**Rationale.** The court pointed out an anonymous tip, like the one in this case, may not pass the reliability threshold required by the Fourth Amendment for a police officer on a public street; however, this requirement is much lower when dealing with a student in possession of a firearm on a public school campus. "Here, the lower level of reliability reflected in such an anonymous tip is more than offset because (1) a student's expectation of privacy in the school setting is reduced, and (2) the government's interest is heightened" (*K.P. v. State*, 2013, p. 1121). The court further pointed out the search of K.P.'s bag was proportionately intrusive to the purpose of discovering a firearm on campus and was directly related in scope to the tip they received; therefore, no Fourth Amendment violation took place.

***J.V. v. Sanchez (2013)***

**Facts.** J.V. is a special education student at Mary Ann Binford Elementary School who suffers from autism. J.V. became disruptive in class, calling fellow students stupid and refusing to do his work. Martinez, J.V.'s social worker, was called in for assistance. Martinez brought J.V. to her office next door where J.V. started throwing his shoes as well as anything else he could get his hands on at Martinez. Martinez called the office for assistance, and the school's AP came to help. J.V.'s parents were contacted, and J.V.'s father refused to come to campus to help. When J.V. saw the AP, he started to run off. Afraid J.V. would run off campus like he has in the past, Martinez and the AP went after him. After catching him, they brought J.V. to the office where he picked things up and threw them at them and ran off several more times. Albuquerque Public Schools Police



were contacted about an out-of-control child and Officer Sanchez was dispatched to the school. When first arriving at the school, Officer Sanchez met with school administrators who told him about J.V. Officer Sanchez contacted J.V.'s parents to let them know they needed to come pick up their child. J.V.'s mother agreed to come pick him up but needed at least 30 minutes. Officer Sanchez asked and was given permission by his mother to restrain J.V. School staff got J.V. into a classroom where Officer Sanchez blocked the door so J.V. could not run out. At one point, J.V. started kicking and hitting Officer Sanchez who warned him to stop or he would be put in handcuffs. J.V. stopped but picked up a rubber band and attempted to hit Officer Sanchez with it numerous times, finally hitting her on the final attempt. Again J.V. was warned to stop, but he continued to shoot rubber bands and hit Officer Sanchez. Finally, Officer Sanchez handcuffed J.V. to a chair, double locking the handcuffs to make sure they would not tighten. Another officer arrived to assist with J.V. When J.V.'s mother finally arrived, J.V. was crying and had visible welts and scratches on his wrists where the handcuffs had injured him.

**Issue.** Did the handcuffing of J.V. violate his Fourth Amendment rights?

**Ruling.** No Fourth Amendment violation.

**Rationale.** Officer Sanchez, the SRO assigned to this school, was summoned by school officials to assist with an out-of-control child. Upon Officer Sanchez's arrival, she was informed J.V. has been out of control for almost 2 hours. As such, the seizure of J.V. was to maintain school order and ensure a safe learning environment for all. Because of this, the court determined the reasonableness standard from *New Jersey v. T.L.O.* (1985) should apply. Furthermore, "Sanchez specifically asked J.V.'s mother for permission to restrain J.V. J.V.'s mother responded, Yes. Accordingly, Sanchez believed that she was

acting with J.V.'s mother's consent in handcuffing J.V. This belief was reasonable under the circumstances" (*J.V. v. Sanchez*, 2013, para. 37). In addition, the court noted a reasonable officer in Officer Sanchez's shoes would not have known not to handcuff J.V. Additionally, the court determined Sanchez was entitled to qualified immunity; therefore, there was no Fourth Amendment violation.

***In re K.J. (2018)***

**Facts.** William Cushman, an AP at Fairfield High School, received a text message from a student alerting him to the fact a student had a gun on the campus of Sam Yeto High School. After receiving the message, Cushman told his secretary to call the police and he headed to Sam Yeto High School to report the incident to that school's principal. Once on campus, the AP met with the SRO who had called for backup. At the request of the SRO, Cushman made contact with the student informant who let him know she saw, via Snapchat, a student sitting in class with a gun and magazine clip. The student informant gave the AP a description of the student including his race, gender, hairstyle, and the fact he once attended the AP's school. Based on this description, Cushman and the school principal came up with two potential suspects. When they showed the pictures to the informant, K.J. was pointed to as the offender. After police backup arrived, the SRO and school principal went to K.J.'s class where he was removed and placed in handcuffs. A search of K.J. resulted in a loaded magazine found in his pocket and an unloaded semi-automatic pistol in the shorts he was wearing under his pants.

**Issue.** Did the search violate K.J.'s Fourth Amendment rights?

**Ruling.** No Fourth Amendment violation occurred.

**Rationale.** The court, recognizing students have Fourth Amendment rights in a

public school setting, pointed out those rights are balanced against the school's interest in preserving a safe educational environment. Furthermore, the court pointed out that in California, for Fourth Amendment issues, SROs are considered school officials.

Expanding on this, the court extended this to the backup officer called out as part of police protocol. "The relationship between a student and campus resource officer is no different than that between a student and the backup officer merely because one is assigned to work at the school and the other is not" (*In re K.J.*, 2018, p. 1130). Since the primary role of an SRO is to ensure school safety, the accusation that K.J. had a gun on campus would justify an officer to detain K.J. and conduct a search. Furthermore, the court held even if the tip Cushman received was marginally reliable, due to the extreme danger a gun on campus would pose, a search would still have been justified at its inception.

***T.L.B. v. State (2019)***

**Facts.** T.L.B., a known gang member, had engaged in a verbal altercation with a rival gang member on campus. Later that day, the school nurse saw C.H. and T.L.B. use the bathroom in her office 5 minutes apart. This raised some suspicion to her and she reported the incident to the SRO who asked her to check the bathroom for any contraband. The nurse reported nothing unusual; however, the SRO brought T.L.B. to the office anyway. Fearing T.L.B. might have a weapon and an exchange may take place later in the day, the SRO decided to search T.L.B. During the search, the SRO discovered some marijuana in T.L.B.'s shoe. T.L.B. was charged with possession and found guilty.

**Issue.** Did the search of T.L.B. violate his Fourth Amendment rights?

**Ruling.** The search was based on mere suspicion and therefore violated T.L.B.'s

Fourth Amendment rights.

**Rationale.** “The question of reasonable or founded suspicion for a search of a student is viewed from the standpoint of a reasonable officer with this officer's training and experience” (*T.L.B. v. State*, 2019, p. 1041); however, the court pointed out a feeling or hunch does not amount to the reasonable suspicion standard needed to justify a search. Here, the SRO had no information T.L.B. had a firearm or drugs on him. All he knew was T.L.B. was a gang member. The altercation T.L.B. was involved in earlier in the day was only verbal and the nurse turned up no foul play in the bathroom. Here, the SRO was acting solely on a hunch. Since he only had a mere suspicion something was not right, he does not meet the standard laid out in *New Jersey v. T.L.O.* (1985) and therefore violated T.L.B.’s Fourth Amendment rights.

### **Summary**

All school district personnel, including SROs, have a legal obligation to safeguard the constitutional right of students. To make sure no constitutional rights are being infringed on, all those involved in a school district, especially school administration, need to know and understand Fourth Amendment issues.

The primary purpose of this study was to determine the level of understanding school administrators have about Fourth Amendment issues as they pertain to SROs on school grounds. The secondary purpose of this study was to determine if school administrators are receiving proper training, either through their administration training program, district trainings, or professional development, on Fourth Amendment issues as it relates to searches conducted by SROs.

## **Chapter 3: Methodology**

### **Introduction**

This multiple case study was designed to investigate if school administrators understand the complex issues involved in the search and seizure of students by an SRO that takes place on school grounds.

### **Purpose of the Study**

The primary purpose of this study was to determine the level of understanding school administrators have about Fourth Amendment issues as they pertain to SROs on school grounds. The secondary purpose of this study was to determine if school administrators are receiving proper training, either through their administration training program, district trainings, or professional development, on Fourth Amendment issues as it relates to searches conducted by SROs.

### **Research Questions**

The research questions guiding this study were as follows:

1. What is the level of understanding school administrators have about Fourth Amendment issues related to search and seizure by an SRO in a school environment?
2. How prepared are school administrators to understand the rights of students as it relates to search and seizure by an SRO in a school environment?

### **Case Study Research Design**

Case study research is rooted in the social sciences. The origin of case study research can be traced from the mid-1900s in the “University of Chicago’s sociological studies to the early 1900s in Malinowski’s study of the Trobriand Islands all the way to

the 1800s in studies of anthropology and sociology, including LePlay's study of families" (Creswell, 2005, p. 73). "Case study research methods allow researchers to capture multiple realities that are not easily quantifiable" (Hancock & Algozzine, 2016, p. 78). Stake (1995) stated, "as a form of research, a case study is defined by interest in individual case(s), not by the method of inquiry used" (p. 236). According to Yin (2013), a case study is appropriate when the researcher is interested in investigating a real-life problem where the phenomenon and its context are closely interwoven. This study examined how well-trained school administrators are to handle complex Fourth Amendment issues involving SROs.

When designing a case study, Yin (2013) enumerated five key components of effective design: "(1) research questions, (2) propositions or purpose of study, (3) unit analysis, (4) logic that links data to propositions, and (5) criteria for interpreting findings" (p. 27). When looking at the first component, Yin asserted the research question needs to answer the "how" or "why" of a specific problem. For this study, I asked how well trained administrators are and how well they understand their requirements under the law.

The second element is to clearly define the study's purpose. The purpose of this case study was two-fold: first, to understand how well trained school administrators are to handle Fourth Amendment issues; and second, to determine how well school administrators understand what to do in a Fourth Amendment issue.

The third element is the unit analysis. Yin (2013) described this as the area of focus that is being analyzed by the case study. Yin wrote an appropriate unit of analysis arises when the research is precisely stated and directly tied to the research questions established. The unit of analysis found in this case study are the high school principals

found in different districts throughout the state of North Carolina.

The fourth element is the connection between data and propositions. Once data are collected, they are analyzed to determine if any patterns emerge. Any patterns served as answers to this study's research questions.

The final element is the principles for interpreting findings. Data were carefully extracted from the interviews conducted. I determined meaning from these findings and used this as a basis to make recommendations and determine what areas of future research are needed.

### **Rationale**

There is an absence of research on how well principals understand Fourth Amendment issues pertaining to SROs; therefore, the rationale for this study was to fill the void in the research. Through this multi-case study research, I was able to figure out how well-equipped sitting principals are to handle Fourth Amendment issues that arise with the use of SROs.

### **Advantages of a Multi-Case Study Design**

While single case studies only focus on one particular case, a multiple case study design brings components in from many cases (Hagan, 2006). The advantage of a multiple case study approach is not only does the researcher understand similarities, but they also are able to look at the differences between the cases (Stake, 2005). "Multiple case studies can be used to either augur contrasting results for expected reasons or either augur similar results in the studies" (Gustafsson, 2017, para. 8). Multiple case studies "are chosen so that the collective understanding of multiple issues will lead to a more complete answer to the research question" (Gustafsson, 2017, para. 6). Furthermore, "the

evidence from multiple cases is often considered more compelling, and the overall study is therefore regarded as being more robust” (Yin, 2013, p. 57).

### **Delimitations (Boundaries)**

The boundaries of this study were (a) a sitting high school principal with at least 3 years of experience and (b) only one principal per district being utilized.

### **Case Selection Criteria**

The cases used for this study were adapted from United States Circuit Courts of Appeal cases, United State District Court cases, and various state court cases. In total nine different court cases (Appendix B) were utilized in this study. These nine cases all involve either an SRO or another law enforcement officer who was asked to get involved by school administration and was entangled in a Fourth Amendment issue. The outcomes, as determined by the courts, were used to determine how well school administrators are prepared to deal with Fourth Amendment issues.

### **Participants**

Since high school principals are the most likely to encounter Fourth Amendment issues, it was determined all participants must be sitting high school principals. In addition, all participants needed to have been a high school administrator for at least 3 years.

### **Research Permission and Ethical Considerations**

Gardner-Webb University’s Institutional Review Board (IRB) reviewed and granted permission to conduct this study. After IRB approval, emails were sent to school districts across the state requesting permission to conduct a study within their district. After permission was granted, high school principals within that district received an



email inviting them to participate in the study. This email let them know what the qualifying requirements were to be a participant in the study. In addition, this email let the potential participants know the study was voluntary and had been approved by both Gardner-Webb University's IRB as well as their central office. After a participant expressed interest in becoming part of the study, an informed consent was emailed to them, with a request for signature that was kept on file. If the participant did not sign the informed consent, their data were not part of the study. All participants remained anonymous with their responses kept confidential.

## **Data Collection**

### ***Interviews***

This study's participants were interviewed face to face via Zoom. With consent from the participants, this method allowed for the meeting to be recorded and the use of transcription software to be embedded into the Zoom call. The interview consisted of 19 semi-structured and open-ended questions (Table 1).

**Table 1***Interview Questions With Correlation*

Interview question	Research question answering	Court case (if applicable)
1. How long have you been a high school principal?	2	N/A
2. Where did you receive your school administration degree or credential from?	2	N/A
3. Did that institution require you to take a course in law? If so, do you remember anything on search and seizure law?	2	N/A
4. Does your district offer administrators professional development on 4 <sup>th</sup> Amendment search and seizure?	2	N/A
5. Have you ever sought out professional development on 4 <sup>th</sup> Amendment issues? If so, what can you tell me about that training?	2	N/A
6. Have you ever conducted a search and or seizure of a student? Tell me about your most recent incident.	2	N/A
7. Does your district/school utilize a school resource officer?	2	N/A
8. What is the role of the school resource officer?	2	N/A
9. Do you involve your SRO in search and seizures?	2	N/A
10. Does your SRO have the authority to conduct a search and seizure without administrations' knowledge?	2	N/A
11. Do administrators need a search warrant to conduct a search or seizure of a student?	1, 2	<i>New Jersey v. T.L.O.</i> (1985)
12. Would a search of a student on a school field trip initiated by one or more school liaison officers without a warrant violate a student's Fourth Amendment rights?	1	<i>Shade v. City of Farmington, Minnesota</i> (2002)
13. A student threatened a teacher. This threat was overheard by the SRO who stepped in. The SRO removed the student from class, placed the student in handcuffs, and made the student stay in handcuffs for at least five minutes before removing the handcuffs and sending the student back to class. Was this action by the SRO a violation of the student's Fourth Amendment rights? Can you elaborate?	1	<i>Gray ex rel. Alexander v. Bostic</i> (2006)
14. A student was being bullied both on and off campus. At the request of an assistant principal, all students involved, along with the SRO, were taken to a room. During the conversation, the SRO determined the students were being disrespectful and told them he would take them all to jail to prove a point. The SRO called for backup, handcuffed all seven students, and took them to jail. Was this situation handled correctly? Why or why not?	1	<i>Scott v. County of San Bernardino</i> (2018)

(continued)

Interview question	Research question answering	Court case (if applicable)
15. An SRO and an off-duty police officer who regularly works security at the school were in the lunchroom when they overheard two students arguing. After lunch, the two officers pull the students out of class, bring them to a room, shut the door, and speak to them. This conversation resulted in one student being placed in a neck restraint move. Was there a Fourth Amendment violation? Why or why not?	1	<i>Thomas v. Barze</i> (2014)
16. Police officers working security at a school dance see students sneaking in a back door. The officers checked with a teacher to see if that was allowed, to which they were told it was not. The officers approached the students and asked if their hands had been stamped. Since they did not have a stamp, the officers escorted the students back outside. Believing that one of the students had been drinking, the officers conduct a pat-down search and discover a gun. Was there a violation of the student's Fourth Amendment rights? Why or why not?	1	<i>State v. Tywayne H.</i> (1997)
17. A school administrator received word that a student was selling drugs on campus. Since the SRO was off campus, the principal phoned the city's Director of Public Safety who is a law enforcement officer. At the direction of the principal, the director searched the student and found drugs. Did this search violate the student's Fourth Amendment rights? Why or why not?	1	<i>State v. K.L.M.</i> (2006)
18. The SRO noticed the smell of marijuana coming from a couple of students. As a result, the SRO contacted the school's assistant principal. With the assistant principal present, the SRO asked the students if it would be okay to search them, which they agreed to. While conducting the search, the SRO discovered 10 small bags of marijuana. Did this search violate the student's Fourth Amendment rights? Why or why not?	1	<i>In re S.W.</i> (2005)
19. A known gang member and his associate used the school nurse's bathroom five minutes apart. This act raised some concerns for the nurse who alerted the SRO. Fearing a weapon may be on campus or some other exchange took place, the SRO decided to search the students. During the search the SRO found marijuana. Did the search violate the student's rights? Why or why not?	1	<i>T.L.B. v. State</i> (2019)

The semi-structured interview approach was utilized to ascertain demographic information, years of principal experience, years of experience as a high school principal, what school the participants got their administrative credential from, if their district offers professional development on Fourth Amendment issues and if they seek out professional development on Fourth Amendment issues. The open-ended questions were used to get

the participants to discuss, in detail, the cases being utilized (Appendix B).

### ***Interview Script***

I utilized video recording with embedded transcription software to get a verbatim record of the interviews. Once the interview was transcribed and checked, the participant received a copy of their interview with instructions to review and sign if the transcription was an accurate representation of our conversation. After all transcriptions were approved by the participants, I analyzed the data, looking for themes and patterns.

### **Data Analysis**

#### ***Themes***

According to Stake (1995), analysis is the process of giving meaning to “first impressions or final compilation” (p 71). “The search for meaning often is a search for patterns, for consistency, for consistency within certain conditions, which we call correspondence” (Stake, 1995, p.78). Patterns can immerge from reviewing documents and/or observations or interviewing. Over time, the reappearance of information will show us the patterns and important data. Since the cases being utilized for this study were adapted from decided court cases, we already know how a principal should respond and why they should give that answer. Therefore, by reviewing the interview data, I was able to see patterns that gave meaning to if administrators are properly prepared to deal with Fourth Amendment issues.

#### **Trustworthiness**

Creswell (1998) identified the following eight procedures to establish trustworthiness in research findings: “a) prolonged engagement and persistent observation in the field; b) use of triangulation techniques; c) peer review or debriefing;

d) negative case analysis; e) clarifying researcher bias; f) member checks; g) rich thick description; and h) external audits” (p. 213).

Creswell (2013) stated,

Examining these procedures as a whole, I recommend that qualitative researchers engage in at least two of them in any given study. Unquestionably, procedures such as triangulating among different data sources, writing with detailed and thick description, and taking the entire written narrative back to participants in member checking are all reasonably easy procedures to conduct. (p. 209)

Trustworthiness in this study focused on credibility and dependability. Member checks defined *credibility* in this study. Principals were asked to review the verbatim transcripts of the interviews and sign off on the fact that they are a true and accurate copy of our conversation. An audit trail including an in-depth description of how data were collected and analyzed assures *dependability* in this study.

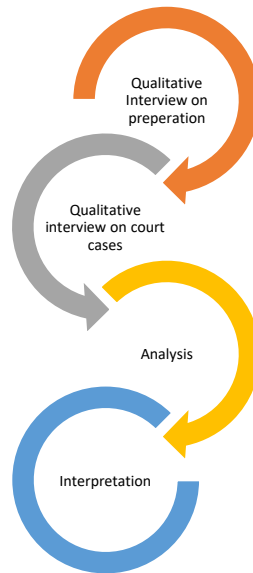
## **Summary**

A case study analysis was utilized to determine if school administrators understand Fourth Amendment issues and if administrators received adequate training on dealing with Fourth Amendment issues. The participants in this study were from three different districts, were sitting as a high school principal, and had at least 3 years of experience as a high school administrator. The cases were adapted from actual federal and state court cases. Interviews took place on recorded video conference software with embedded transcription software. I utilized semi-structured, open-ended, and follow-up question types. The transcriptions of all interviews were analyzed to determine if any patterns were present. The emergence of patterns assisted in answering this study’s

research questions. The case study design approach (Figure 2) allowed for the adaptation of real-life cases that have gone through the court system to be utilized to determine if principal responses followed the rules enumerated by the courts.

**Figure 2**

*Case Study Design*



## **Chapter 4: Results**

### **Introduction**

The purpose of this research was to understand if principals know about Fourth Amendment search and seizure issues as it pertains to the utilization of an SRO. Case study methodology using interviews was used to investigate the following questions: What is the level of understanding school administrators have about Fourth Amendment issues related to search and seizure by an SRO in a school environment, and how prepared are school administrators to understand student rights related to search and seizure by an SRO in a school environment? Through data analysis, themes emerged to answer the research questions.

The primary source of data for this study was a semi-structured interview consisting of 19 questions including scenarios taken from decided court cases. Follow-up or clarifying questions were utilized to ensure all participants fully answered the questions. The interviews lasted approximately 10-20 minutes and took place via Zoom. The participants were informed that the interviews were recorded to ensure validity and accuracy of transcription.

The study consisted of six sitting principals from three school districts. Two of the principals were female, and four were male. Five of the participants identified as Caucasian, and one identified as African American. The participants have a combined 38 years of experience as a high school principal with the average being 6.3 years of experience. The least experienced high school principal reported just finishing Year 2, while the most experienced principal reported just finishing Year 11. Three universities are represented as institutions where the participants received their administrative

credentials. All participants reported having been involved in a search and seizure of a student.

### **Qualitative Data Analysis**

A 19-question interview was conducted to address both principal understandings of Fourth Amendment issues as it pertains to the use of an SRO and how well prepared principals are to handle these Fourth Amendment issues. The interview began with background information on how many years they had been a principal and what university they attended. From there, the questions centered on if the participants took a law class during their administrative training and if that law class covered search and seizure issues. The next section of questions centered on if their districts offer Fourth Amendment professional development or if they have ever sought out professional development on Fourth Amendment issues. The final line of questions were scenario-based fact patterns pulled from decided court cases. The responses were then compared to the correct answer and rationale as laid out by the court that decided that case. Finally, emergent themes from a set of scenario answers were determined.

### **Trustworthiness**

Trustworthiness in this study focused on credibility and dependability. Member checks defined credibility in this study. Principals were asked to review the verbatim transcripts of the interviews and sign off on the fact that they are a true and accurate copy of our conversation. An audit trail including an in-depth description of how data was collected and analyzed assures dependability in this study.



## Research Question 1

### *Scenario 1*

The first scenario asked of the participants was, “Would a search of a student on a school field trip initiated by one or more school liaison officers without a search warrant violate a student's Fourth Amendment rights?” The court in *Shade v. City of Farmington, Minnesota* (2002) determined this was not a violation of student rights. Participant 1 correctly answered this scenario, stating, “I would say yes he has; I would think he would have the authority to do so.” Participant 2 answered in a manner that was contrary to the court, stating, “I think yes. I don't think the SRO can get involved until administrator has actually located something that, or has conducted a search would be able to, to view, unless they've been asked to assist by the administrator.” Participant 3 answered along the same lines as Participant 2: “Yes, if the SRO did it without school school-based staff. I feel like the search should have been initiated by an administrator.” Participant 4 responded,

In that scenario, if a school resource officer left our school campus to go on a field trip to search a kid, I would think that would be very problematic. I would think a lawyer could probably tear that apart.

Participant 5 echoed what the previous few participants said: “Yes, I think it would.”

Participant 6 went a little bit further, stating, “I think it was a violation, calling them out there--field trips are still school property so to speak and so the SRO should not search.”

This means only one of six participants (17%) correctly identified if the SRO had violated the students’ rights. Table 2 summarizes these finds.

**Table 2***Scenario 1 Summary*

	Violation of rights?	Rationale
The court	No	The students were still under the control of the school since they were on a school trip and that teachers are not trained to handle dangerous weapons. A teacher attempting to remove a dangerous weapon could cause more harm than good.
Participant 1	No	SRO had the authority to search
Participant 2	Yes	I don't think the SRO can get involved until administrator has actually located something.
Participant 3	Yes	SRO did it without school school-based staff. I feel like the search should have been initiated by an administrator.
Participant 4	Yes	SRO should not leave campus.
Participant 5	Yes	*No Rationale Given*
Participant 6	Yes	Field trips are still school property so to speak and so the SRO should not search.

*Themes Emergent From Scenario 1*

No participant was able to correctly identify why this was not a violation of rights; however, even though incorrect, there were some common themes among the participants when given their rationale. Fifty percent of the participants said searches should be conducted by administration not an SRO. This would indicate the participants are unaware of when an SRO can or cannot conduct a search.

*Scenario 2*

Scenario 2 asked the participants, “A student threatened a teacher. This threat was overheard by the SRO who stepped in and removed the student from class, placed the

student in handcuffs, and made the student stay in handcuffs for at least five minutes before removing the handcuffs and sending the student back to class. Was this action by the SRO a violation of a student's Fourth Amendment rights?" The court in *Gray ex rel. Alexander v. Bostic* (2006) determined that the action by the SRO was a violation of the student's rights, basing this decision on the fact that handcuffing the student was nothing more than a punishment and therefore an excessive intrusion on the student's rights. Four of the six participants correctly identified this as a violation of student rights. Participant 1 correctly identified this as a violation, stating the rationale that the "resource officer shouldn't be going into classrooms and taking kids out now without administration, so that was, in my opinion, out of the scope is what he's supposed to do." Participant 2 also correctly identified this as a violation but incorrectly stated the rationale. According to Participant 2, this was a violation because "I don't think he [SRO] has the right to remove them [students] from a public education setting." Participant 3 incorrectly identified the scenario as a non-violation, stating, "the SRO witnessed a crime being committed by him hearing the threat to the teacher." Participant 4 believed the SRO violated the student's rights. The rationale given by Participant 4 was, "I don't think it's a crime to cuss out a teacher. I don't think it would be a school board policy. I don't think that is a crime." Participant 5 not only correctly identified that a violation had been committed but also correctly gave the rationale for the violation: "In every way, there was no reason to restrain that student under those circumstances. You don't put a student in handcuffs, just to talk to them." Participant 6 was not sure if this was a violation but was adamant that this would never happen in their school since it violated district protocol: "I don't know but I can tell you it violates our district's protocols, I would be furious, and there would

be a lot of conversations about what the SRO should have done, apologies to parents and students, etc.” Table 3 summarizes the data from Scenario 2.

**Table 3**

*Scenario 2 Summary*

	Violation of rights?	Rationale
The court	Yes	The handcuffing of the student was nothing more than a punishment and therefore an excessive intrusion on the student’s rights.
Participant 1	Yes	Resource Officer shouldn't be going into classrooms and taking kids out now without administration.
Participant 2	Yes	I don't think he [SRO] has the right to remove them [students] from a public education setting.
Participant 3	No	The SRO witnessed a crime being committed by him hearing the threat to the teacher.
Participant 4	Yes	I don’t think it's a crime to cuss out a teacher. I don't think it would be a school board policy. I don’t think that is a crime.
Participant 5	Yes	In every way, there was no reason to restrain that student under those circumstance. You don't put a student in handcuffs, just to talk to them.
Participant 6	Did not know	It violates our district’s protocols.

***Themes Emergent From Scenario 2***

Sixty-seven percent of the participants correctly identified that there was a violation of rights in Scenario 2; however, only one participant (17%) was able to correctly give the rationale. Among the rationales, each participant gave an entirely different answer. As a result, there was no common theme that emerged.

### ***Scenario 3***

In Scenario 3, the participants were asked, “A student was being bullied, both on and off campus. At the request of an AP, all students involved, along with the SRO, were taken to a room. During the conversation, the SRO determined that the students were being disrespectful and told them he would take them all to jail to prove a point. The SRO called for backup, handcuffed all seven students, and took them to jail. Was there a violation of rights? Why or why not?” According to the court in *Scott v. County of San Bernardino* (2018), this act was a violation of the student’s rights. One of the reasons the court based this decision on was the fact that the arrest was made for impermissible reasons. Eighty-three percent, or five of the six participants, correctly identified the act of the SRO as a violation of rights. Participant 1 is one of the six who correctly said this was a violation of rights. The rationale given by Participant 1 was, “It is not the SRO’s job, especially to place handcuffs and take students downtown.” Participant 1 continued by saying that bullying should be handled by administration. Participant 2 also correctly said this scenario violated the student’s rights. When explaining why, Participant 2 said, “What charges is he gonna make? I mean, I know you said disrespect, but I mean, I don’t think he had enough evidence to relate this to disorderly conduct. Like, what would be the charges of him?” Participant 3 answered in the same manner as Participant 2: “There wasn’t a crime committed. Being disrespectful is not a crime.” Participant 4 also said this was a violation. Just like Participants 2 and 3, Participant 4 said the reason for the violation was, “I don’t see a crime being committed. You cannot take a student off campus without a crime being committed.” Participant 5 correctly identified this as a violation of rights. The rationale given by Participant 5 was, “There was no justification.

What was the point, because it would be disrespectful?” Participant 6 incorrectly claimed this was not a violation. Participant 6 did not give a real justification for why it was not a violation other than to say, “I don’t think so, but it was incredibly stupid and provocative.” Table 4 summarizes the data from Scenario 3.

**Table 4**

*Scenario 3 Summary*

	Violation of rights?	Rationale
The court	Yes	The arrest was made for impermissible reasons.
Participant 1	Yes	It is not the SRO’s job, especially to place handcuffs and take students downtown.
Participant 2	Yes	What charges is he gonna make? I mean, I know you said disrespect, but I mean, I don't think he had enough evidence to relate this to disorderly conduct. Like, what would be the charges of him?
Participant 3	Yes	There wasn’t a crime committed. Being disrespectful is not a crime.
Participant 4	Yes	I don’t see a crime being committed. You cannot take a student off campus without a crime being committed.
Participant 5	Yes	There was no justification. What was the point, because it would be disrespectful?
Participant 6	No	*No rationale given*

***Themes Emergent From Scenario 3***

Scenario 3 saw 83% of participants correctly identify that a violation had taken place. In addition, the same five of six participants were able to identify that the reason for the violation was because there was no crime committed (impermissible reasons for the arrest). Therefore, the theme that emerged from this scenario was arresting for no

reason violates Fourth Amendment rights.

#### ***Scenario 4***

Scenario 4 asked the participants, “An SRO and an off-duty police officer, who regularly works security at the school, were in the lunchroom when they overheard two students arguing. After lunch, the two officers pulled the students out of class, brought them to a room, shut the door, and spoke to them. This conversation resulted in one student being placed in a neck restraint move. Was there a Fourth Amendment violation? Why or why not?” According to the court in *Thomas v. Barze* (2014), this was a violation of the student’s rights. The rationale given by the court was that interaction was directed by the SRO rather than a school official. Eighty-three percent of the participants correctly identified this as a violation of rights. Participant 1 was one of the participants who correctly stated this was a violation of rights. In doing so, Participant 1 believed this to be the case, because “it's not their job to enforce the school rules and expectations. They should say hey, you know principal I heard Bill and Dan over here, getting ready to escalate the fight. They should notify the administration first.” Participant 2 also said this was a violation, stating, “I don't think the SRO should be involved unless it is requested by the administration, or if there is any harm or danger to someone.” Participant 3 was unable to answer if this was a violation or not. The reason for this was, “I think it has to do with what was said by the student to the officer in the meeting. Without knowing that it’s kind of hard to if rights were violated” (Participant 3). Participant 4 also correctly identified this situation as a violation of student rights; however, Participant 4 did not correctly give the reasoning for why it is a violation. Participant 4 stated, “No school resource officer has the right to start questioning students, especially in a private room

with its door shut.” Participant 5 also agreed that this was a violation. In their rationale for it being a violation, Participant 5 touched on the correct response: “Where was the administrator in the middle of all this?” Participant 5 also went on to say, “A chokehold is illegal, and you don't put people in chokeholds.” Participant 6 was confused as to why this was a Fourth Amendment issue, stating, “I don’t understand how this is search and seizure”; however, Participant 6 ultimately stated, “Our memorandum of understanding is quite clear, we would have serious consequences all round.” Table 5 summarizes these data.

**Table 5**

*Scenario 4 Summary*

	Violation of rights?	Rationale
The court	Yes	The interaction was directed by the SRO rather than a school official.
Participant 1	Yes	It's not their job to enforce the school rules and expectations. They should notify the administration first.
Participant 2	Yes	I don't think the SRO should be involved unless it is requested by the administration.
Participant 3	*Could not answer, wanted more facts outside of the scenario*	I think it has to do with what was said by the student to the officer in the meeting. Without knowing that, it's kind of hard to know if rights were violated.
Participant 4	Yes	No school resource officer has the right to start questioning students, especially in a private room with its door shut.
Participant 5	Yes	Where was the administrator in the middle of all this? A chokehold is illegal, and you don't put people in chokeholds.
Participant 6	*No Answer Given*	Against Memorandum of Understanding.



### ***Themes Emergent From Scenario 4***

One hundred percent of the participants who were able to answer the violation question got it correct; however, since two participants were unable to answer the question, the effective rate is 67% correct. That number is even smaller for the participants who were able to give the correct rationale. That number stands at three of six participants (50%). The common theme among those who got the rationale correct was that administration should have been involved. There was no common theme among those participants who were unable to correctly state the rationale.

### ***Scenario 5***

Scenario 5 asked the participants, “Police officers working security at a school dance see students sneaking in the back door. The officers check with the teacher to see if that was allowed to which they were told it was not. The officers approach the students and ask if their hands had been stamped. Since they did not have a stamp, the officers escorted the students back outside. Believing that one of the students had been drinking, the officers conducted a pat-down search and discovered a gun. Was there a violation of a student’s Fourth Amendment rights? Why or why not?” According to *State v. Tywayne H.* (1997), this was a violation of the student’s rights. The rationale utilized by the court was that the police acted on their own without school administration and therefore did not have the necessary probable cause to perform the search. Here, Participant 1 answered that this was not a violation. The rationale given by Participant 1 was, “They noticed him sneaking in the back.... He asked a teacher or somebody in school...were they supposed to do that.” The interesting thing about Participant 1’s answer is that it continued to include, “However, I still think these things need to be done in front of administration.”

Participant 2 not only correctly identified this scenario as a violation of rights but also identified that things should have been initiated by administration: “So, they should not have arrested or they should not have handcuffed him. They should have let administration initiate.” Participant 3 said this was not a violation of rights. As to why, Participant 3 said, “because they had reasonable suspicion of drinking.” Participant 4 correctly said this scenario created a violation of the student’s rights; however, this participant was unable to correctly say why that is the case: “I don’t think that the smell of alcohol on a student would be at the degree to need a pat-down search.” Participant 5 incorrectly said this was not a violation of rights. The rationale given by Participant 5 was, “He suspected the student of being under the influence and he had justification; he could do a search.” Participant 6 got both the violation answer and the rationale correct. Participant 6 said this was a violation, stating, “I don’t see probable cause. The first thing they should do unless there is imminent danger is get with school admin.” Table 6 shows s summary of the data.

**Table 6***Scenario 5 Summary*

	Violation of rights?	Rationale
The court	Yes	The police acted on their own without school administration and therefore did not have the necessary probable cause to perform the search.
Participant 1	No	They noticed him sneaking in the back.... He asked a teacher or somebody in school...were they supposed to do that. These things need to be done in front of administration.
Participant 2	Yes	They should not have arrested or they should not have handcuffed him. They should have let administration initiate.
Participant 3	No	They had reasonable suspicion of drinking.
Participant 4	Yes	I don't think that the smell of alcohol on a student would be at the degree to need a pat-down search.
Participant 5	No	He suspected the student of being under the influence and he had justification; he could do a search.
Participant 6	Yes	I don't see probable cause. The first thing they should do unless there is imminent danger is get with school admin.

***Themes Emergent From Scenario 5***

Only 50% of the participants were able to correctly identify this scenario as a violation of Fourth Amendment rights. Even less, two of six participants (33%) correctly identified the appropriate rationale. A common theme for this scenario is that administration should have been involved. This theme was seen not only with the two participants who correctly identified the rationale but also with a participant who said this was not a violation.

### ***Scenario 6***

In Scenario 6, participants were asked, “A school administrator received word that a student was selling drugs on campus. Since the SRO was off campus, the principal phoned the city's Director of Public Security, who was a law enforcement officer. At the direction of the principal, the director searched the student and found drugs. Did this search violate the student's Fourth Amendment rights? Why or why not?” According to the court in *State v. K.L.M.* (2006), this was a Fourth Amendment violation. The court’s rationale for this was that the director of public safety was a duly sworn law enforcement officer, not an SRO. As such, the officer needed probable cause to search, which he did not have. Participant 1 believed this was not a violation of student rights. The rationale given by Participant 1 was, “Another police officer comes in with the principal there. Somebody said that they've been selling drugs, so I don't think so.” Participant 2 correctly said it was a violation but did not correctly state the rationale. The rationale given by Participant 2 was, “That would be a violation. Administration should start the search and seizures and once something is located, with an SRO present, then the SRO can take over at that point.” Participant 3 believed this scenario posed no violation because “the principal had reasonable suspicion that the child had drugs.” Participant 4 correctly stated that this would violate the student’s rights. The rationale given was, “I would never bring an outside police officer to investigate. I know the memorandum of understanding between the district and sheriff’s department gives them some rights that other police officers don't have because they are on campus” (Participant 4). Participant 5 incorrectly stated that this scenario was not a violation of rights. In doing so, Participant 5 said, “If you hear something you have to respond. And I don't see, I can't see that being wrong.”

Participant 6 correctly answered that this was a violation of rights; however, this participant incorrectly gave the rationale. The rationale given by Participant 6 was, “Only school admin can do this.” Table 7 summarizes these findings.

**Table 7**

*Scenario 6 Summary*

	Violation of rights?	Rationale
The court	Yes	The Director of Public Safety was a duly sworn law enforcement officer, not an SRO. As such, the officer needed probable cause to search, which he did not have.
Participant 1	No	Another police officer comes in with the principal there. Somebody said that they've been selling drugs, so I don't think so.
Participant 2	Yes	Administration should start the search and seizures and once something is located, with an SRO present, then the SRO can take over at that point.
Participant 3	No	The principal had reasonable suspicion that the child had drugs.
Participant 4	Yes	I would never bring an outside police officer to investigate. I know the memorandum of understanding between the district and sheriff's department gives them some rights that other police officers don't have because they are on campus.
Participant 5	No	If you hear something you have to respond. And I don't see, I can't see that being wrong.
Participant 6	Yes	Only school admin can do this.

***Themes Emergent From Scenario 6***

Three of the six participants were able to correctly state that this was a violation of rights, but only 17% of the participants could correctly identify why this scenario violated the student's Fourth Amendment rights. A common theme mentioned by two of

the participants was that school administration should be performing the search. A second theme mentioned by another two participants was that the principal has to act when they get information on drugs.

### ***Scenario 7***

Scenario 7 asked the participants, “The SRO noticed the smell of marijuana coming from a couple of students. As a result, the SRO contacted the school's AP. With the AP present, the SRO asked the student if it would be okay for them to be searched. They agreed. While conducting a search, the SRO discovered 10 small bags of marijuana. Did the search violate the student's Fourth Amendment rights? Why or why not?”

According to the court in *In re S.W.* (2005), this did not violate the students’ rights. The court’s rationale was that the SRO was employed full time by the school; the officer smelled the drugs, giving rise to reasonable suspicion; and finally, the students consented to the search. Participant 1 correctly identified this as a non-violation. This participant’s rationale was, “They smelled marijuana and got an assistant principal involved.”

Participant 2 incorrectly claimed this was a violation, giving a rationale of, “The assistant principals should have initiated the search versus the SRO.” Participant 3 said, “Because the SRO smelled marijuana, there was reasonable suspicion to search”; therefore, there was no violation. Participant 4 also correctly said this was not a violation of rights. Participant 4 explained their reasoning for this as, “The student gave consent.”

Interestingly, Participant 4 also stated, “I would never have my school resource officer search.” Participant 5 was able not only to identify correctly this as a non-violation but also to give the correct rationale. Participant 5 said, “They asked for permission to this student there was probable cause, because he smelled it. He did grab an administrator

who was present.” Participant 6 was able to correctly say this was not a violation. The rationale given by Participant 6 was, “They don’t do that--admin does.” Table 8 summarizes this data.

**Table 8**

*Scenario 7 Summary*

	Violation of rights?	Rationale
The court	No	The court’s rationale was that the SRO was employed full time by the school; the officer smelled the drugs, giving rise to reasonable suspicion; and finally, the students consented to the search.
Participant 1	No	They smelled marijuana and got an assistant principal involved.
Participant 2	Yes	The assistant principals should have initiated the search versus the SRO.
Participant 3	No	Because the SRO smelled marijuana, there was reasonable suspicion to search.
Participant 4	No	The student gave consent.
Participant 5	No	They asked for permission to this student there was probable cause, because he smelled it. He did grab an administrator who was present.
Participant 6	Yes	They don’t do that--admin does.

***Themes Emergent From Scenario 7***

Four of six participants (67%) correctly identified that this scenario did not violate the student’s Fourth Amendment rights. Only one participant (17%) was able to give the full rationale as spelled out by the court. An additional three participants were able to identify parts of the complete rationale given by the court. A common theme that emerged from 67% of the participants was that either administration was present or that

administration should have conducted the search.

### ***Scenario 8***

The final scenario asked, “A known gang member and his associate use the school nurse's bathroom five minutes apart. This act raised concerns from the school nurse who alerted the SRO. Fearing a weapon may be on campus or some other exchange took place, the SRO decided to search the students. During the search, the SRO found marijuana. Did the search violate the student's rights? Why or why not?” The court in *T.L.B. v. State* (2019) said this was a violation of Fourth Amendment rights. The rationale given by the court for this decision was that a feeling or a hunch does not amount to reasonable suspicion and therefore no search should have taken place. Participant 1 said this was a violation of rights. When asked why, Participant 1 explained, “I don't think any administration was notified. When it comes to search and seizure of a student, I think it's really, really, really important when those things happen and they do every day, that they have...administration there.” Participant 2's answers were the same as Participant 1. Participant 2 said this was a violation of rights, explaining, “The administrator should have initiated the search instead of the SRO.” Participant 3 was unable to identify this as a violation of rights, because “the SRO had reason to believe there was a gun on campus, and for school safety reasons, that had a right to search.” Participant 4 correctly answered that this scenario violated the student's rights. In explaining their rationale for thinking this way, Participant 4 said, “I just think assumption of gang members and just a stereotypical discrimination or concern based off that student's behavior that they may have a weapon violates their Fourth Amendment rights.” Participant 5 also correctly stated that this scenario violated the student's rights. The rationale given by Participant 5



was, “There's no reason to search because a nurse thinks that something is going on. There's no proof. There's no probable cause. I mean it could be a racial profile that they could know why she thought that was relevant, and if they, if the SRO found drugs on him, he shouldn't have been searching him in the first place.” Participant 6 was unable to identify this scenario as a violation of rights. The rationale given was, “Here, I think that this is probable cause. When a weapon is involved, we have to act” (Participant 6). Table 9 summarizes these findings.

**Table 9**

*Scenario 8 Summary*

	Violation of rights?	Rationale
The court	Yes	A feeling or a hunch does not amount to reasonable suspicion and therefore no search should have taken place.
Participant 1	Yes	I don't think any administration was notified.
Participant 2	Yes	The administrator should have initiated the search instead of the SRO.
Participant 3	No	The SRO had reason to believe there was a gun on campus, and for school safety reasons, that had a right to search.
Participant 4	Yes	I just think assumption of gang members and just a stereotypical discrimination or concern based off that student's behavior that they may have a weapon violates their Fourth Amendment rights.
Participant 5	Yes	There's no reason to search because a nurse thinks that something is going on. There's no proof. There's no probable cause. I mean it could be a racial profile that they could know why she thought that was relevant, and if they, if the SRO found drugs on him, he shouldn't have been searching him in the first place.
Participant 6	No	Here, I think that this is probable cause. When a weapon is involved, we have to act.

### ***Themes Emergent From Scenario 8***

Four of six participants (67%) correctly identified this as a violation of Fourth Amendment rights. However, only two participants (33%) were able to correctly say that there was no reason for the search based on assuming something was wrong. Two themes emerged from participant answers. The first was that administration needed to conduct the search. The second theme was that for safety, the SRO can act.

### ***Research Question 1 Summary***

Table 10 shows how well each participant performed in correctly stating if a scenario was or was not a violation of rights and stating the correct rationale.

**Table 10**

### ***Research Question 1 Summary***

Participant	Number of correctly stating that a scenario was or was not a Fourth Amendment violation	Number of incorrectly stating that a scenario was or was not a Fourth Amendment violation	Percent correct	Number of correct rationale statements	Number of incorrect rationale statements	Percent correct
1	5	3	63%	1	7	13%
2	6	2	75%	3	5	38%
3	2	5	25%	2	6	25%
4	6	2	75%	4	4	50%
5	5	3	63%	5	3	63%
6	2	4	25%	1	6	13%

On average, the participants correctly stated that a scenario was or was not a Fourth Amendment violation 54% of the time. No participant was able to answer all eight scenarios correctly, with two participants only correctly answering 25% of the time. These numbers are even lower when we look at if the participants correctly gave the

rationale. Participants, on average, were only able to give the correct rationale 34% of the time. No participant was able to identify the rationale in all eight scenarios, with the highest correct total being five and the lowest being one correct.

A common theme emerged after looking at all scenarios. In six of the eight scenarios, multiple participants mentioned that administration needed to be either present or actually conduct the search. The problem with this is that the courts only mentioned administrative involvement in two cases, thereby showing that the participants do not understand when it is permissible for an SRO versus a school administrator to conduct a search.

### **Research Question 2**

The six participants in this study received their administrative licenses from three different universities. All participants in this study reported that the university they attended required them to take a course in school law. When asked if they remember anything about search and seizure from their law class, Participant 1 stated, "I do remember about search and seizure." Participant 2 added, "I do remember parts of it [search and seizure] but I would have to go back and review it." Participant 3 also stated that they "remember some stuff on search and seizure." Participant 4 stated that it had been a very long time and all they remember is going over search and seizure. Participant 5 was the only one who did not remember anything about search and seizure. When asked about it, Participant 5 said, "I don't remember anything from the course. However, when I went into the field, I learned several things that you could and cannot do, when it came down to search and seizure of children's property or anyone else's property." When asked if they remembered anything, Participant 6 simply stated, "yes."

When the participants were asked if their district offers training on search and seizure, only 33% of the participants said yes. Participant 1 reported, “We get our attorneys to come twice a year and go over different things. I’m sure they would if we...the principals got together and said, ‘hey we need some professional development,’ they certainly would.” Participant 2 simply responded, “no,” while Participant 3 said, “There has been in the past.” Participant 4 also reported, “It has been a while.” Participant 5 reported, “It has come up in conversations because of circumstances, but I haven’t gone through a training that I can remember on search and seizure for students.” Participant 6 also reported that no training has been offered: “I have not needed to due to our district directives.” In addition, 100% of the participants reported never seeking professional development on Fourth Amendment issues. Table 11 shows a summary of the data collected for Research Question 2.

**Table 11**

*Research Question 2 Data Table*

Participant	Did your university make you take a law class?	Do you remember anything about search and seizure?	Does your district offer Fourth Amendment professional development?	Have you sought professional development on Fourth Amendment issues?
1	Yes	Yes	No	No
2	Yes	Yes	No	No
3	Yes	Yes	Yes	No
4	Yes	Yes	Yes	No
5	Yes	No	No	No
6	Yes	Yes	No	No

### **Summary of Qualitative Analysis**

Research Question 1 asked, “What is the level of understanding school administrators have about Fourth Amendment issues related to search and seizure by an

SRO in a school environment? The data indicate principals were able to correctly identify if a Fourth Amendment issue had or had not taken place only 54% of the time. Even worse, principals were only able to give the correct rationale 34% of the time.

A common theme emerged after looking at all scenarios. In six of the eight scenarios, multiple participants mentioned that administration needed to be either present or actually conduct the search. The problem with this is the courts only mentioned administrative involvement in two cases, thereby showing the participants do not understand when it is permissible for an SRO versus a school administrator to conduct a search.

Research Question 2 asked, “How prepared are school administrators to understand the rights of students as it relates to search and seizure by an SRO in a school environment?” All participants reported having gone through an education law class while obtaining their school administrator license. While all took a law class, only 83% reported remembering anything from their training. District professional development on Fourth Amendment issues was only reported by 33% of the participants. Finally, when asked if any participant sought their own training on Fourth Amendment issues, 100% reported not having looked for or taken any professional development.

When you look at the data from Research Question 2 and compare it to Research Question 1, the data make sense. With only 33% of districts offering professional development and no participant seeking professional development on their own, you can see why participants were only able to correctly identify if a scenario did or did not violate rights 54% of the time and give the correct rationale only 34% of the time.

## **Chapter 5: Discussion**

The primary purpose of this study was to determine the level of understanding school administrators have about search and seizure conducted by SROs in a school environment. The secondary purpose of this study was to determine if school administrators are receiving proper training, either through their administration preparation training program, district trainings, or professional development, on Fourth Amendment issues as it relates to searches conducted by SROs. This study informs school districts and universities on principal understandings of Fourth Amendment issues as it pertains to the use of an SRO. This information will also assist school districts in the need for continued professional development on Fourth Amendment issues.

This chapter is divided into seven sections: (a) research questions, (b) summary of findings, (c) implications for school districts, (d) suggestions for districts and universities, (e) limitations, (f) suggestions for future research, and (g) summary. This study used a case study design utilizing data extrapolated from interviews and compared to actual court cases to determine the level of understanding principals had on Fourth Amendment issues. This method was used to answer Research Question 1. Research Question 2 was answered through participant responses during the interview.

### **Research Questions**

1. What is the level of understanding school administrators have about Fourth Amendment issues related to search and seizure by an SRO in a school environment?
2. How prepared are school administrators to understand the rights of students as it relates to search and seizure by an SRO in a school environment?

## Summary of the Cases

This study utilized eight decided court cases to determine the level of understanding principals have when it comes to Fourth Amendment issues and the use of SROs. The eight cases utilized were (a) *Shade v. City of Farmington, Minnesota* (2002), (b) *Gray ex rel. Alexander v. Bostic* (2006), (c) *Scott v. County of San Bernardino* (2018), (d) *Thomas v. Barze* (2014), (e) *State v. Tywayne H.* (1997), (f) *State v. K.L.M.* (2006); (g) *In re S.W.* (2005), and (h) *T.L.B. v. State* (2019).

In *Shade v. City of Farmington, Minnesota* (2002), Shade was on a bus that stopped at a fast-food restaurant. After getting food, Shade asked if anyone had something he could use to open his juice and was passed a knife. The bus driver saw Shade use the knife and contacted school administration. The principal determined the students needed to be searched and contacted their liaison officer. The officers conducted a pat-down search of all the students and found the knife and a tactical baton on Shade. In determining that the search of Shade was not a violation of rights, the court pointed out that the students were still under the control of the school because they were on a school trip; and since teachers are not trained to handle dangerous weapons, a teacher attempting to remove the weapon could cause more harm than good.

In *Gray ex rel. Alexander v. Bostic* (2006), Gray threatened her teacher. This threat was overheard by the school's SRO, who took Gray outside and placed her in handcuffs for at least 5 minutes to show her the seriousness of her actions. After removing the handcuffs from Gray, the SRO sent Gray back to class. At no point did the teacher fear bodily harm or injury. The court in this case determined this was a violation of rights. In doing so, they relied on the fact that the deputy fully admitted he placed Gray

in handcuffs to show her the seriousness of her actions. The court determined this was a punishment. As such, the handcuffing was not reasonably related to the scope and constituted an excessive intrusion on Gray's Fourth Amendment rights.

In *Scott v. County of San Bernardino* (2018), several students were being bullied both on and off campus. All parties were eventually called into a room by the AP, who asked the school's SRO to join as well. While listening to the students speak, the SRO determined they were being disrespectful and told the students he would take them all to jail just to prove a point. The SRO called for backup and eventually did take them all to jail. The court determined this violated the students' Fourth Amendment rights, stating it is clear that the seizure occurred for an impermissible motive; this alone is sufficient to conclude that a warrantless arrest is unreasonable. In addition, the court went on to state that even if this was not true, the arrest, handcuffing, and police transport to the station of middle school girls was a disproportionate response to the school's need and would not meet the second prong of *New Jersey v. T.L.O.* (1985). Therefore, an arrest only to teach a student a lesson is unreasonable under *New Jersey v. T.L.O.* and violates the students' Fourth Amendment rights.

In *Thomas v. Barze* (2014), Thomas was in the lunchroom talking to other students at his table. The school's SRO and security guard (an off-duty police officer) overheard the conversation. After lunch, the officers asked Thomas's teacher if they could use her office to speak with the gentlemen. The meeting with Thomas took place in the office with the door closed and resulted in Thomas being placed in a neck restraint move. Since the idea and execution of the interview were entirely directed by the law enforcement officer rather than the school official, traditional Fourth Amendment



principles rather than the relaxed standards of *New Jersey v. T.L.O.* (1985) apply; therefore, there was a violation of Fourth Amendment rights.

In *State v. Tywayne H.* (1997), police officers were working security at a school dance that required all students to enter the dance through the front door and get a stamp on their hand. One of the officers noticed some students entering the dance through a side door. This officer checked with a teacher to see if this was allowed, to which he was told no. The officers went up to these students to determine if they had stamps on their hands. During this contact, the officers noticed one of the students appeared to be drunk. The officers asked the students to go outside with them and conducted a pat-down search. This search resulted in a firearm being discovered on one of the students. The court determined this search violated the student's rights. The rationale given by the court was that the police acted completely on their own. As such, the lowered standard of reasonable suspicion does not apply, and the police must have probable cause to conduct the search. Nothing in the fact pattern indicated that the police had probable cause to search a child, resulting in an unlawful search.

In *re S.W.* (2005), the SRO noticed a strong smell of marijuana coming from a couple of students. After making contact with the students, the SRO located two APs and asked the students and APs to go with him to the school's weight room. The SRO asked the students if they had anything on their person, and they responded they did not. At this point, the SRO asked the students if they were okay with him searching them, and they said it was fine. While emptying one of the student's pockets, a small plastic bag containing 10 smaller bags of marijuana was located. This court determined this was not a violation of rights because the SRO was employed full time as an SRO. The SRO

smelled marijuana coming from a couple of students, giving him reasonable suspicion to think that the students had something illegal on school grounds. The SRO was working in conjunction with school officials when he brought two APs into the investigation. Since the SRO smelled marijuana coming from the students, a search of those students was reasonably related in scope to the investigation. Furthermore, the students consented to the search.

In *T.L.B. v. State* (2019), a known gang member and one of his associates used the nurse's bathroom within 5 minutes of each other. Fearing something sinister was going on, the nurse contacted the SRO. Fearing T.L.B. may have a weapon, the SRO brought T.L.B. to his office and searched T.L.B., finding marijuana. In deciding this case, the court said that a feeling or hunch does not amount to the reasonable suspicion standards needed to justify a search. Here, the SRO had no information that T.L.B. had a firearm or drugs on him. All he knew was that T.L.B. was a gang member. The SRO was acting solely on a hunch. Since he only had a mere suspicion that something was not right, he does not meet the standard laid out in *New Jersey v. T.L.O.* (1985) and therefore violated T.L.B.'s Fourth Amendment rights.

## **Summary of Findings**

### ***Research Question 1***

What is the level of understanding school administrators have about Fourth Amendment issues related to search and seizure by an SRO in a school environment? A comparison of participant answers measured against the actual court decisions revealed that the principals were able to correctly identify if a situation was or was not a Fourth Amendment violation 54% of the time. When participant rationales were compared to

those of the court, participants only correctly identified the right rationale 34% of the time. These incorrect answers did bring to light a common misconception or theme, administration needs to be involved or initiate all search and seizures.

### ***Research Question 2***

How prepared are school administrators to understand the rights of students as it relates to search and seizure by an SRO in a school environment? All participants in this study reported taking an educational law class while earning their school administrator license. An overwhelming percentage of the participants (83%) reported remembering information about search and seizure from their law class. A far smaller percentage of the participants (33%) reported professional development being offered by their district on Fourth Amendment issues, while none of the participants reported seeking professional development on their own on Fourth Amendment issues; thus, the analysis indicates that once a principal graduates from their college or university, they will not get updates on new court decisions that affect how they should or should not use their SRO in Fourth Amendment situations.

### **Implications for School Districts**

The study demonstrates a relationship between lack of professional development and incorrectly identifying (a) Fourth Amendment issues and (b) the rationale behind the Fourth Amendment issue. Furthermore, the study indicates once an administrator leaves their university, they may never get any additional training on Fourth Amendment issues. According to this study, this lack of continued training would cause a principal to incorrectly address a Fourth Amendment issue 46% of the time. Improperly dealing with a Fourth Amendment issue just once can open a district up to a lawsuit. With the findings

of this study showing almost 50% of all Fourth Amendment issues will be handled incorrectly, it is only a matter of time before a district is sued for violating a student's rights. Jones (2017) stated, "So many times, school administrators get themselves in hot water because they do not understand the legal ramifications of some of their actions" (para. 4). According to Eastern Washington University (2020),

Society is becoming increasingly litigious, and the number of cases of parents and their children filing claims against school systems is increasing.... Although it is not necessary to turn administrators into lawyers, education leaders do need to have a basic understanding of school law. (para. 3)

### **Suggestions for School Districts and Universities**

#### ***School Districts***

Based on the findings of this study, it is suggested that school districts institute Fourth Amendment professional development. The first recommended professional development would be for first-year APs and first-year principals who have never been through the training. "New principals and assistant principals, just like new teachers, benefit from ongoing learning when they assume their new roles. Knowing district, state, and federal policies, laws, and procedures requires substantial time for study" (Mizell, 2010, p. 6). This professional development would include an in-depth overview of applicable laws that pertain to the Fourth Amendment and SROs. According to Schuler (2010),

Courses should examine classic cases such as...New Jersey v. T.L.O. However, such courses also should cover more contemporary cases that show the practical application of these judicial decisions and that further articulate the standards that

must guide the day-to-day practice of search and seizure in school investigations.

(p. 86)

Based on the finding of this study, this training would also focus on when a search should be conducted by an administrator and when it is permissible for a search to be conducted by an SRO. “Districts that provide this training would be better equipped to preserve their students' rights in the area of search and seizure and to avoid costly lawsuits” (Schuler, 2010, p. 86). In addition to this in-depth professional development, it is recommended that districts allow for a refresher course each year that updates all administrators on any changes to the law. This recommendation is echoed by Slack (2005): “District level administrators need to provide in-service programs periodically on the law as it pertains to schools, with emphasis on search and seizure issues.” (p. 102). Jones (2017) reiterated this recommendation when he stated, “If they [principals] had more training, they might have a clearer perspective and be able to more efficiently handle an issue” (para 4). The final suggestion for districts is to have a clear set of policies that all administrators are trained on yearly as to when the use of an SRO is permitted by the district.

### ***Universities***

The data show universities are training their students on Fourth Amendment issues; therefore, the only suggestion offered to universities would be to compile a summary of any new and relevant case law and email it out to their alumni. This could ensure graduates of that university have the latest information, especially if cases are decided after a district training.

**Limitations*****Principals***

This study utilized at least one principal from three different districts. This, coupled with the fact that the principal needed to have at least 3 years of high school administrative experience, limited the participant pool.

***Number of Participants***

This study only utilized six participants. Being that this is such a small number, it is difficult to know if the findings from this study would be the same if a larger pool was utilized.

***COVID-19***

This study took place during an uptick in COVID-19 cases. As a result, it was difficult to find principals who had the time to participate in this study.

***Universities***

The study participants only represented three universities. A larger sample size of universities is needed to fully determine if schools are properly training their students.

***Case Law***

New case law is a limiting factor in this study. A higher court's ruling can always overturn a lower court's decision, thereby making the case law obsolete. In this study, all existing case law through the end of 2020 was examined. The addition of new case law in 2021 pertaining to SROs could limit the results of the study.

**Suggestions for Future Research**

This study started to fill the void in existing research into how well principals understand Fourth Amendment issues as they relate to the use of an SRO. This study

established that principals were only able to identify if a situation was or was not a violation of rights 54% of the time and could only correctly say why 34% of the time.

There are still questions that remain, and the following items should be considered in any future study:

1. How well do APs understand Fourth Amendment issues as it pertains to the use of an SRO?
2. Do SROs understand Fourth Amendment issues as it pertains to a school setting?
3. Does continuous professional development aid in the understanding of Fourth Amendment issues?
4. Should SROs perform search and seizures, or should this only be conducted by school administration?
5. Should all districts expressly lay out for their administrators what searches should be conducted by an administrator and what should be conducted by an SRO?

## **Summary**

In summary, this multi-case study examined principal understandings of Fourth Amendment issues as it pertains to the use of an SRO and if administrators are being properly trained on these issues. This study filled a void in the research and determined principals may not understand how to handle a Fourth Amendment situation that involves an SRO. As such, it was suggested that districts implement extensive professional development and have robust policies on the use of SROs in a search and seizure situation. Finally, it was suggested universities keep their alumni up to date on any new

court cases that involve Fourth Amendment issues. By implementing these suggestions, we have a far better chance of not infringing on a student's Fourth Amendment rights.



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## Appendix A

### Interview Questions

1. How long have you been a high school principal?
2. Where did you receive your school administration degree or credential from?
3. Did that institution require you to take a course in law? If so, do you remember anything on search and seizure law?
4. Does your district offer administrators professional development on 4<sup>th</sup> Amendment search and seizure?
5. Have you ever sought out professional development on 4<sup>th</sup> Amendment issues? If so, what can you tell me about that training?
6. Have you ever conducted a search and or seizure of a student? Tell me about your most recent incident.
7. Does your district/school utilize a school resource officer?
8. What is the role of the school resource officer?
9. Do you involve your SRO in search and seizures?
10. Does your SRO have the authority to conduct a search and seizure without administrations' knowledge?
11. Do SROs need a search warrant to conduct a search or seizure of a student?
12. Would a search of a student on a school field trip initiated by one or more school liaison officers without a warrant violate a student's Fourth Amendment rights?
13. A student threatened a teacher. This threat was overheard by the SRO who stepped in. The SRO removed the student from class, placed the student in handcuffs, and made the student stay in handcuffs for at least five minutes before removing the handcuffs and sending the student back to class. Was this action by the SRO a violation of the student's Fourth Amendment rights? Can you elaborate?
14. A student was being bullied both on and of campus. At the request of an assistant principal all students involved, along with the SRO were taken to a room. During the conversation the SRO determined the students were being disrespectful and told them he would take them all to jail to prove a point. The SRO called for backup, handcuffed all seven students, and took them to jail. Was this situation handled correctly? Why or why not?
15. An SRO and an off-duty police officer who regularly works security at the school were in the lunchroom when they overheard two students arguing. After lunch the two officers pull the students out of class, bring them to a room, shut the door and speak to them. This conversation resulted in one student being placed in a neck restraint move. Was there a Fourth Amendment violation? Why or why not?
16. Police officers working security at a school dance see students sneaking in a back door. The officers checked with a teacher to see if that was allowed, to which they were told it was not. The officers approached the students and asked if their hands had been stamped. Since they did not have a stamp, the officers escorted the students back outside. Believing that one of the students had been drinking the officers conduct a pat-down search and discover a gun. Was there a violation of the student's Fourth Amendment rights? Why or why not?
17. A school administrator received word that a student was selling drugs on campus. Since the SRO was off campus, the principal phoned the city's Director of Public Safety who is a law enforcement officer. At the direction of the principal, the director

searched the student and found drugs. Did this search violate the student's Fourth Amendment rights? Why or why not?

18. The SRO noticed the smell of marijuana coming from a couple of students. As a result, the SRO contacted the school's assistant principal. With the assistant principal present, the SRO asked the students if it would be okay to search them, which they agreed to. While conducting the search the SRO discovered 10 small bags of marijuana. Did this search violate the student's Fourth Amendment rights? Why or why not?
19. A known gang member and his associate used the school nurse's bathroom five minutes apart. This act raised some concerns for the nurse who alerted the SRO. Fearing a weapon may be on campus or some other exchange took place, the SRO decided to search the students. During the search the SRO found marijuana. Did the search violate the student's rights? Why or why not?

## Appendix B Question Correlation

Interview Question	Research Question Answering	Court Case (If applicable)
20. How long have you been a high school principal?	2	N/A
21. Where did you receive your school administration degree or credential from?	2	N/A
22. Did that institution require you to take a course in law? If so, do you remember anything on search and seizure law?	2	N/A
23. Does your district offer administrators professional development on 4 <sup>th</sup> Amendment search and seizure?	2	N/A
24. Have you ever sought out professional development on 4 <sup>th</sup> Amendment issues? If so, what can you tell me about that training?	2	N/A
25. Have you ever conducted a search and or seizure of a student? Tell me about your most recent incident.	2	N/A
26. Does your district/school utilize a school resource officer?	2	N/A
27. What is the role of the school resource officer?	2	N/A
28. Do you involve your SRO in search and seizures?	2	N/A
29. Does your SRO have the authority to conduct a search and seizure without administrations' knowledge?	2	N/A
30. Do SROs need a search warrant to conduct a search or seizure of a student?	1, 2	New Jersey v. T.L.O., 469 U.S. 325 (1985)
31. Would a search of a student on a school field trip, initiated by one or more school liaison officers, without a warrant violate a student's Fourth Amendment rights?	1	Shade v. City of Farmington, Minnesota, 309 F.3d 1054 (2002)
32. A student threatened a teacher. This threat was overheard by the SRO who stepped in. The SRO removed the student from class, placed the student in handcuffs and made the student stay	1	Gray ex rel. Alexander v. Bostic, 458

in handcuffs for at least five minutes before removing the handcuff and sending the student back to class. Was this action by the SRO a violation of the student's Fourth Amendment rights? Can you elaborate?		F.3d 1295 (2006)
33. A student was being bullied both on and off campus. At the request of an assistant principal all students involved, along with the SRO were taken to a room. During the conversation the SRO determined the students were being disrespectful and told them he would take them all to jail to prove a point. The SRO called for backup, handcuffed all seven students, and took them to jail. Was this situation handled correctly? Why or why not?	1	Scott v. County of San Bernardino, 903 F.3d 943 (2018)
34. An SRO and an off-duty police officer who regularly works security at the school were in the lunchroom when they overheard two students arguing. After lunch the two officers pull the students out of class, bring them to a room, shut the door and speak to them. This conversation resulted in one student being placed in a neck restraint move. Was there a Fourth Amendment violation? Why or why not?	1	Thomas v. Barze 57 F.Supp.3d 1040 (2014)
35. Police officers working security at a school dance see students sneaking in a back door. The officers checked with a teacher to see if that was allowed, to which they were told it was not. The officers approached the students and asked if their hands had been stamped. Since they did not have a stamp, the officers escorted the students back outside. Believing that one of the students had been drinking the officers conduct a pat-down search and discover a gun. Was there a violation of the student's Fourth Amendment rights? Why or why not?	1	State v. Tywayne H., 933 P.2d 251 (1997)
36. A school administrator received word that a student was selling drugs on campus. Since the SRO was off campus the principal phoned the city's Director of Public Safety who is a law enforcement officer. At the direction of the principal the director searched the student and found drugs. Did this search violate the student's Fourth Amendment rights? Why or why not?	1	State v. K.L.M., 278 Ga.App. 219 (2006).

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|---|---|--|
| <p>37. The SRO noticed the smell of marijuana coming from a couple of students. As a result, the SRO contacted the school's assistant principal. With the assistant principal present, the SRO asked the students if it would be okay to search them, which they agreed to. While conducting the search the SRO discovered 10 small bags of marijuana. Did this search violate the student's Fourth Amendment rights? Why or why not?</p> | 1 | <p><i>In re S.W.</i>, 171<br/><i>N.C.App.</i> 335<br/>(2005)</p> |
| <p>38. A known gang member and his associate used the school nurse's bathroom five minutes apart. This act raised some concerns for the nurse who alerted the SRO. Fearing a weapon may be on campus or some other exchange took place the SRO decided to search the students. During the search the SRO found marijuana. Did the search violate the student's rights? Why or why not?</p>  | 1 | <p>T.L.B. v. State<br/>271 So.3d 1038<br/>(2019)</p>             |