

# **Practicality of School Locker Searches**

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Many students at school carry around baggage, literally; textbooks, notebooks, water bottles, snacks and much more. They need a safe place to store all these belongings. School lockers are provided by schools to secure and safeguard these articles. Lockers prevent other students from stealing or vandalizing each other's property. Most lockers provide enough storage space for backpacks, books, coats, school supplies so these items won't be left in a classroom, hallway or desk. Most schools do not permit the use of electronic communication devices during class time. Technology provides countless personal electronic devices that need to be kept in a safe place until students can be permitted to use them. If students have a locker to store these devices, they will be less likely to use them and cause distractions during regular learning hours. There are also peripheral advantages for students to use lockers that can help prepare them to be good stewards. The lockers give the students a personal space of their own. The student is responsible for the contents of the locker, security of the locker and maintenance. Even the act of memorizing the locker combination will reinforce the responsibility for mentally storing important information.

If students value their lockers as their own personal and private space, they should also learn to respect other student's lockers and possessions. Lockers are like a rite of passage for many school-aged students. The young students feel like they've graduated to the "big league". Even though lockers can ease the burden of carrying around the weight of school supplies and allow private storage space for students, they can also contain dangerous things like drugs and weapons which can invite negative and possibly criminal behavior among

students. Unfortunately, all too often students use their lockers in furtherance of activities that run afoul of state laws or school rules (*State v. Joseph T*).

One of the responsibilities of the public school system is to provide a safe learning environment for all students in their care and at the same time, not violate their civil rights. The fourth Amendment of the Constitution guarantees that a person cannot be subject to unreasonable searches and seizures. According to Nathan L. Essex, there is a major difference between school officials being able to search a student and to search lockers or desks. Lockers and desks are property owned by the school so the administrators have more leniencies in being able to conduct a search of this property. (Essex, 2011) Although the fourth Amendment protects a student from unreasonable searches and seizures, it wasn't until 1985 that the Supreme Court made this a law (*New Jersey v. T.L.O.*, 1985). Before then, students could not expect the same level of privacy inside a school as they did outside of school. This case involved a high school student (whose initials were T.L.O.) in a New Jersey public school who was caught smoking in the school bathroom. During a subsequent search of the students' purse, the assistant principle discovered rolling papers and other drug paraphernalia along with a small amount of marijuana. The student was taken to the police station and charged as a juvenile. TLO claimed the search of her purse violated her Fourth Amendment rights. The Supreme Court ruled that the search was reasonable and that the schools needed to provide a safe environment for the students.

There have been other cases involving searches and school lockers since this time. For example, a school security guard at Mark Twain School received a tip that drugs and/or weapons were in the middle school area. The principal authorized a middle school wide locker

search. A knife and rolling papers were found in the locker of Patrick Y., an eighth grade student. Citing the school officials' need to keep the school safe, the Court of Special Appeals of Maryland affirmed the lower court's determination that the search was legal. The court found that the search of lockers was justified because of the report that drugs and/or weapons may be in the school. Maryland's State Supreme Court upheld these decisions, determining that a student has a lower expectation of privacy regarding his/her locker and that a locker search is not seriously intrusive as it is not an intrusion on the person (*In re Patrick Y.*, 2000).

Before school officials can search a student's locker, they must have reasonable suspicion. This suspicion can come from information they receive from a student, teacher or even anomalously in some cases. During the search, another witness may be present. Although some items are considered school property (lockers, desks) the administrators still need to have reasonable suspicion before they conduct a search. The schools policy should specifically state in writing when these searches can be conducted and why they may be conducted.

Most schools consider the lockers to be school property although the students use them on a daily basis. The schools have the right to search these lockers at any time and to hold the students responsible for the contents of the lockers. If the school finds stolen items, illegal substances or dangerous weapons during a search of these lockers, the student who uses that locker will receive the punishment or consequences.

There are many arguments that surround the issue of locker searches in schools, but most of them center on the students' rights versus the schools rights. Students argue that they have the right to privacy. The school system argues that they have a duty to provide a safe environment for the students. Every state, city and school district has in place their own laws and regulations regarding their position on locker searches. Some school systems only allow

locker searches if there is “just cause” to warrant a search. Other school systems allow unannounced random searches. However, students have no “reasonable expectation of privacy” in their lockers where the school has published a written policy that indicates that school lockers are under the ownership and control of the school (*State v. Engerud*). Similarly, some of the questions school administrators must ask themselves before conducting a search would be:

- Who is the source of the information
- Who reported the crime or violation?
- Is the search based on an anonymous tip
- Where and when did the violation occur?
- Was a specific student or a group of students identified?
- What was the nature of the violation?
- Does the alleged violation justify a specific locker search, and is there a threat of imminent danger to other students?

Students should be aware that many school districts have been granted *in loco parentis* which is Latin for “in place of the parent”. This grants the school administrators the same rights as a parent to have access to the student’s property but at the same time, not violate their civil rights. The role of the school as *in loco parentis* was in place before the landmark case of *New Jersey v. T.L.O.* One of the important results of this case was to establish the rules that schools had to follow whenever a locker search was conducted. The searches could not be unreasonably intrusive and they must be related to whatever offense is being investigated. So, even though the schools own the lockers, they must also protect themselves from being accused of violating a student’s rights.

Whenever a school decides to conduct a locker search, there are several regulations that must be followed. According to the U.S. Department of Education, a locker may be searched if there is evidence that a school rule is being violated or that evidence is contained inside a student's locker ("Creating Safe and Drug-Free Schools: An Action Guide," 1996). When deciding to conduct the search, teachers are only allowed to act on trustworthy sources such as a trusted student's testimony, the same testimony from several students, a teacher or school official' suspicion or a combination of these sources. When these requirements are fulfilled, a teacher can search a locker without any prior notice and typically in the presence of the student and another staff member. There can be many factors that would trigger this level of suspicion, including, illegal substances, bullying and weapons. According to a 2004 study done by the National Center on Addiction and Substance Abuse at Columbia University on teen substance abuse, parents generally approve locker searches for illegal substances(*CASA National Survey of American Attitudes on Substance Abuse*, 2004). Lockers can be a prime location for bullies to hide any evidence of their wrong doing. Their lockers could contain stolen money or other items from their victims. Schools have used locker searches as a way to uncover hidden weapons. In a 2009 Youth Risk Behavior Survey by the National Center of Education Statistics, 6 percent of students brought weapons inside school property for one to six days in a 30-day period. Some of these students even resorted to bringing their own weapons out of fear; in a 1998 National Survey on High School Youths, Weapons and Violence by the National Institute of Justice, 43 percent of students stated that they carried their guns to protect themselves.

School administrators should have solid reasons for conducting locker searches. Because lockers are school property, the administrators can authorize searches, but they must

be careful not to go through the personal belongings in the lockers unless they have a compelling and convincing reason to do so. Before conducting any searches the schools must inform the students about the search to allow the students to witness the search. If an item or items are seized without going through proper procedures, then the evidence collected will be considered found illegally and cannot be used in a criminal prosecution. The legality of a locker search is dependent on the specific facts of each situation. The fourth Amendment does not specify the step-by-step procedure for this search but it does contain a series of tests that balance the rights of the student against the need of the school to maintain order and discipline. The first determination for the school to make is a need for the search. There are two primary ways the need can arise; a serious threat such as the possibility of a gun, bomb or drugs which allows the school an immediate search, or the school must have "reasonable suspicion" in the form of direct observation or a tip from a student or other school official. School officials are permitted to search a student locker without first obtaining a warrant. Courts have ruled in favor of the schools interests for safety and security over the individual students' privacy rights. Students are in the care of the school, and schools are bound morally and legally to protect students from harm. Having to get a warrant to protect students is not necessary. Also, since schools own the lockers, they don't need a warrant to search their own property.

Everyone involved parents, teachers, students and administrators agree that schools need to be a safe place where students can focus on the important work of learning. Locker searches are one tool that schools have to ensure that students are following school policies,

but the searches do have drawbacks. The searches are intended to increase campus safety by discouraging weapons, controlled substances, non-authorized medications, or alcohol.

After observing numerous occurrences of what appeared to be suspicious student behavior (frequent phone calls, use of beepers, and carrying large sums of money), administrators at Harborcreek High School in Erie County, requested the state police to conduct canine sniffing of student lockers. Drugs were found in only one of the 2,000 lockers searched. Drug paraphernalia and a small amount of marijuana was seized. The student was called to the principal's office and read his rights. Overturning a state superior court decision, Pa.'s Supreme Court maintained that this search was reasonable under the federal constitution and Article 1, §8 of the Pa. Constitution. The court pointed out the danger of drugs and students' limited privacy in schools as a basis for its decision (*Commonwealth v. Cass*, 1998).

A National Survey concluded that 55 percent of school administrators polled said they conducted locker searches at their school sites (Sheley & Wright, 1998). Searches may, however, have negative effects. The primary advantage of locker searches is their effectiveness. Finding contraband material such as stolen property, drugs or weapons in a student's locker is an easy way to establish guilt and know which students to punish for theft or other violations of school policy. As the result of a random search of student lockers, a gun and cocaine were found in Isiah B's coat pocket. Wisconsin's Supreme Court held this search as reasonable because lockers are school property as defined in the student handbook, student locks are not permitted on the lockers, and there was a risk of imminent, serious harm to students and staff (*In re Isiah B.*, 1993).



If students know their lockers are subject to search, they may be less likely to bring banned items to school in the first place, making the school environment safer. However, the biggest drawback to locker searches is the lack of trust that students feel because of the invasion of their privacy. Students keep personal items in their lockers like photographs and personal letters and the school searches of the lockers can lead to negative feelings between student and school facilitators.

Lawsuits have been filed arguing that locker searches violate the Fourth Amendment to the U.S. Constitution: “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. Const. amend. Fourteenth Amendment). The key word in this phrase is “unreasonable”. Most schools have clearly stated their locker search policy in their handbook for students which immediately reduces the student’s right to privacy. Since lockers are school property, the schools must inform the students of an imminent search based on a reasonable suspicion that it will uncover evidence that a student has broken the law or a school rule. Implementation of locker searches can be time-consuming, costly, and can distract from the students learning time. Searches take time away from the other duties of teachers and administrators. The school must sometimes employ costly private security companies, or prevail upon a police officers' time. Because searches must be based on suspicion, rumors run rampant among students when a search is underway and crowding the classroom windows to watch is not uncommon. Sometimes entire hallways are cleared and students must be redirected. Locker search policies also presuppose

wrongdoing. Although locker searches are widely employed, their effectiveness has not been systematically researched on a national scale. The focus remains on reacting to potential wrongdoing instead of proactively creating a culture where abiding by laws and rules is preferable and expected (Yell & Rozalski, 2000, p. 12).

After a search has been completed, administrators should meet with those individuals who are involved. Administrators should record and reflect on the crucial areas of the search since this exercise could be invaluable if the search is subsequently challenged in court. The record should include; the names of the people who conducted the search; the background of the student who was searched; the alleged infraction; the way the school learned of the infraction; the basis for the search (for example, how reasonable suspicion, probable cause, or consent was obtained); the time and location of the search; the names of the people who were present at the search; and the school policies that were implicated and followed. School officials should also note whether the police were involved or present during the search. The best search policies are developed by school boards who work collaboratively with local law enforcement officials, local judges and attorneys, school staff, and community members. A sound policy can make the difference between a legal or illegal search. The school search policies should have a mission statement: to maintain a safe learning environment. The policy should outline techniques for searching student lockers and describe the types of searches students may be subjected to while on school property or at a school function. The policies should also explain what happens to any of the seized possessions; state that lockers and other school property are provided for students' use, and are under the school's control, and are

subject to search at all times; and require that students and parents acknowledge that they have read and understood the school search policy.

Good policies can guide educators' actions, but school staff members need to remember that what constitutes a legal student search depends upon the context. Courts are more willing now than ever to find student searches legal to preserve safety. In the final analysis, school personnel should balance the student's expectation of privacy with the school's unique need to create and preserve a safe learning and working environment.

Lockers do relieve a certain amount of weight from a student's shoulders and back and the lockers do provide useful storage space, but they can also elevate a student's level of anxiety and stress. Sometimes a student arrives late to class because of a jammed locker, or a lock combination that didn't work or they can't remember. A locker can become a chronic problem for students who struggle to keep theirs organized. School lockers typically have a relatively small space on the inside. Students usually force their textbooks and notebooks in haphazardly. Items get misplaced or lost in the resulting mess. Additionally, expensive text books get worn down from being jammed into these tight spaces. Classes begin and end in at very specific times in a day. Usually the area around the lockers creates more congestion and disorganization during times when students pass from one class to another. Kids use time at the lockers as a social time and risk being late for class. Due to the proximity of the lockers, students don't have much space to maneuver their bodies or belongings. Some students have to spend additional time waiting to get at their lockers. This produces a last-minute rush to classes, resulting in an increase in injuries and tardiness. Bullies are always looking for ways to humiliate their victims. A bully may put a threatening note inside another students' locker.

Even if the threat never reaches execution, it can have real psychological ramifications. The victim becomes anxious and unable to concentrate, avoiding their locker for fear of receiving more threats. Kids frequently get teased or bullied while they're at their lockers and out of the teachers' sight. Another negative factor about locker searches is that random locker searches don't happen often enough. Therefore, students have no dissuasion from hiding weapons and drugs in their lockers. Lockers make it too easy for kids to take a quick swig of a spiked bottle of juice. A troubled victim of frequent bullying could bring a gun or other weapon to school and hide it in his locker. Drug pushers have been known to keep their stashes in lockers. Kids have a way of finding out combinations and breaking into lockers. Theft isn't uncommon and the schools are not liable for any item that goes missing from a locker. Although lockers are useful as storage, their negative aspects outweigh their practicality. Rethinking the storage and management of supplies and coats would simplify students' days and eliminate the need for lockers altogether.

For a variety of reasons, schools across the country are beginning to ban the use of school lockers. New York architect Peter Lippman, who serves on the American Institute of Architects' Committee on Architecture for Education, said the trend is growing. "If you are talking about new technology — electronic textbooks, iPads and things like that — maybe there is no need for a locker," he said. "I'm not sure every school is there yet, but it does provide some opportunities" (Crisp, 2011, para. 3). While some schools are simply not allowing students to use them, others are removing campus lockers altogether. Bullying, concealed weapons and drugs, and violence have all been instigators for the changing policies on lockers

in schools. Banning lockers for many has presented a way to regulate concealed activities in school and to screen out potentially harmful activities.

A hard truth that parents, school officials, and policymakers must accept is that even the strongest security measures will not and cannot perfectly prevent those determined to commit violent acts inside schools. It is simply impossible to ensure the safety of all our children at all of our schools (Duncan, 2012).

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