STUDENT FOURTH AMENDMENT RIGHTS

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I. OVERVIEW – CONSTITUTIONAL LIMITS ON SEARCHES AND SEIZURES

A. The Fourth Amendment of the United States Constitution

1. Protects individuals against unreasonable searches and seizures by government officers: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . ."

B. Application to Schools

1. The U.S. Supreme Court has held that this protection applies to searches and investigations conducted by public school officials. *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).

    a. Resolved split of opinion in lower courts on this issue.

    b. Essentially ended the application of the *in loco parentis* doctrine to searches of public school students – school officials are representatives of the state, not surrogate parents.

II. REASONABLE SUSPICION – *T.L.O.* AND *SAFFORD*

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

1. *T.L.O.* set the standard for the legality of searches of students by school officials: Student searches ". . . should depend simply on the *reasonableness*, under all the circumstances, of the search (emphasis added)."

2. Facts – A teacher discovered a student smoking in the school bathroom and took the student to the principal's office. The vice-principal asked to see the student's purse (after the student denied smoking), and found a pack of cigarettes in her purse as well as a pack of rolling papers. He proceeded to search more thoroughly and found marijuana, a pipe, plastic bags, a substantial

amount of money, a list of people who owed the student money, and letter that implicated the student in drug-dealing activities.

B. Balancing of the Interests

1. The Court struck a delicate balance between the privacy interests of the students (their "legitimate expectations of privacy") and the responsibility of schools to maintain order and discipline to create a safe environment conducive to learning.

C. School Officials are Subject to Less Constitutional Restraint than Law Enforcement

"The school setting requires some easing of the restrictions to which searches by authorities are ordinarily subject." Thus:

1. There is no need for school officials to obtain a warrant.

2. School officials are not required to have "probable cause" before conducting a warrantless search.

    a. Probable cause generally means that, given all of the circumstances, there is a fair probability that evidence of a crime will be found in a particular place. This is a higher burden of proof than reasonable suspicion.

D. Two-pronged Reasonableness Test

School officials should "regulate their conduct according to the dictates of reason and common sense."

1. The search must be **justified at its inception (i.e. reasonable suspicion).**

    a. There must be reasonable grounds to believe the search will turn up evidence of a violation of law or a school rule (no matter how "trivial" the rule).

        i. E.g. drugs, alcohol, weapons, stolen master key, stolen cash, cheat sheet, IOUs from drug sales, etc.

        ii. Note: The search does not have to actually yield any evidence or contraband to be reasonably justified.

    b. A search cannot be based on pure speculation or a "hunch."

c. ***Deroches v. Caprio*, 156 F.3d 571 (4th Cir. 1998)**

i. Facts – The dean decided to search 19 students in a classroom for a pair of missing tennis shoes. Two students initially objected. One student continued to object and was suspended under the school policy.

ii. The Court held that the search was reasonable at its inception, because by the time the student refused consent, school officials had already developed reasonable suspicion by virtue of the unfruitful searches of the 18 other students; thus the proposed search was reasonable and the student could be punished for his lack of consent.

2. The search must be **permissible in its scope**.

a. As conducted, the search must be "reasonably related to the objectives of the search" and cannot be "excessively intrusive in light of the age and sex of the student and the nature of the infraction."

b. See *Safford United School Dist. No. 1 v. Redding*, 557 U.S. 364 (2009) (holding that a strip search of a student for a few non-narcotic pain pills without any investigation as to when the student possessed the pills or whether the pills were hidden in her underwear was excessively intrusive).

E. *T.L.O.* Holding

1. Applying the reasonableness test to the facts, the Supreme Court held that both searches of T.L.O.'s purse were legal:

a. The initial search of the purse was justified because the school official had a reliable report that T.L.O. had been smoking in the bathroom, and her purse was the logical and obvious place to look for evidence of the violation of schools' rules (i.e. cigarettes).

b. The second, further exploratory search of the purse was also justified because rolling papers are commonly associated with marijuana usage, and thus gave rise to a reasonable suspicion that marijuana or other evidence of drug use would also be located in the purse.

F. What *T.L.O.* Did *Not* Decide:

1. The Court explicitly stated that it was *not* deciding the following legal issues:

    a. Whether a student has a legitimate expectation of privacy in lockers, desks, or other school property provided for the storage of school supplies;

    b. The standards governing searches of such areas by school officials;

    c. The standard for assessing the legality of searches conducted by school officials in conjunction with or at the behest of law enforcement agencies; and

    d. Whether individualized suspicion is an essential element of the reasonableness standard.

    [Note some of these issues have been addressed by the Court in cases decided since 1985.]

G. *Individualized* Suspicion

1. A search based on individualized suspicion requires school officials to have reason to suspect a *particular* student or a *specific, identifiable* group of students of violating the law or school rules, as opposed to random searches of students or suspicionless searches of many students.

2. Individualized suspicion is very often an element of reasonable suspicion.

3. However, it is not an "irreducible requirement (See *Vernonia*)." There are exceptions:

    a. E.g. random drug testing of athletes and students participating in extracurricular activities.

H. Reasonable Suspicion Revisited: *Safford Unified School District No. 1 v. Redding*, 557 U.S. 364 (2009)

1. Most of the case focuses on the second prong of the *TLO* reasonableness test – the scope of a search – in the context of strip searches.

2. Facts – An assistant principal received a report from a student that Redding, a 13-year old female student, had been giving prescription-strength pain pills (equivalent to two Advil) – banned under school rules without advance permission – to fellow students. School officials searched her backpack and outer clothing for pills but found nothing. Redding was then sent to the school nurse's office where she was instructed to remove her clothing and pull her bra and underwear away from her body, somewhat exposing her pelvis and chest. No pills were found.

I. Search of Backpack and Outer Clothing

1. The Supreme Court provided a more concise definition of reasonable suspicion: "a moderate chance of finding evidence of wrongdoing."

2. The Court held that the school officials did have reasonable suspicion (based primarily on a reliable tip) to search the student's backpack and outer clothing.

3. Also, the search of her backpack, jacket, socks and shoes was permissible in scope.

J. Strip Search

1. The Court held that strip searches require specific justifications because:

    a. Students who are subjected to a strip search have a higher expectation of privacy than those subjected to a search of their belongings or outer clothing, due to the "patent intrusiveness of the exposure" and their "adolescent vulnerability."

    b. Strip searches are frightening, embarrassing, and degrading.

2. In this case, the Court found the strip search to be excessively intrusive in scope, given the circumstances, because "the content of the suspicion failed to match the degree of intrusion." The school officials had no reason to suspect a high threat of danger (only a few non-narcotic painkillers; no hard drugs), and no reason to suspect the student was hiding the contraband in her underwear.

III. REASONABLE SUSPICION – FACTORS TO CONSIDER

The reasonableness test outlined in *T.L.O.* and revisited in *Safford* is a **fact-specific, contextual test**. Whether reasonable suspicion exists will always depend on the specific facts and particular circumstances surrounding a search. Reasonable suspicion usually is based on a combination of the following factors:

A. School Official's Personal Observations and Common-Sense Judgments Based on Prior Experience

1. Courts should defer to school officials' judgment because of their "educational expertise and familiarity with the students involved." *Wofford v. Evans*, 390 F.3d 318 (4th Cir. 2004).

2. *In re D.D.*, 146 N.C. App. 309, 554 S.E.2d 346 (2001)

    a. The N.C. Court of Appeals held that a principal had reason to suspect students coming on campus to fight might have weapons: "*Based upon his prior experience,* the principal knew that when students come on campus to fight, they usually bring weapons with them to use (emphasis added)."

3. For instance, school officials might recognize the smell of alcohol or marijuana or other behavior symptomatic of alcohol or drug use (e.g. bloodshot eyes, incoherent statements); or might know that a particular location is well-known for using or selling drugs; or might observe nervous or fidgety behavior along with bulging pockets.

B. Reliable Information/Tip

1. Only a minimal showing of reliability is required – less than that required for probable cause. In determining reliability, school officials should make "common-sense conclusion[s] about human behavior." *In re Murray*, 135 N.C. App. 648 525, S.E.2d 496 (2000).

2. Independent corroboration of an informant's tip is not absolutely necessary.

3. Tip from a student

    a. *In re Murray*, 135 N.C. App. 648, 525 S.E.2d 496 (2000)

        i. The principal was approached by one student who told her another student (Murray) "had something in his book bag he should not have at school."

        ii. The Court held that the tip, followed by the Murray's lie about owning the book bag, "provided sufficient grounds for a reasonable person to decide that a search of the book bag would yield evidence that Murray had broken a school rule or law."

b. See also *Wofford* (holding that several classmates' allegations that a student brought a gun to school constituted a reasonable basis for the seizure and questioning of the student).

4. Tip from a teacher

    a. Information from teachers and other staff members are generally presumed to be reliable. See e.g., *In re D.D.*

5. Anonymous tip

    a. An anonymous tip, absent any other evidence (e.g. identity of tipper, timing of tip, basis of knowledge) or independent corroboration might not be enough to support reasonable suspicion. School officials should carefully consider whether there is an immediate need to search without delay, such as when there is a very high threat of danger. See generally, *Florida v. J.L.* 529 U.S. 266 (2000).

C. Student's Age, History, and School Record

D. Compelling Need to Search Without Delay

1. An imminent safety threat or highly dangerous situation such as a weapon or bomb would be a compelling need to search without delay or without time for further investigation.

E. Prevalence and Seriousness of the Problem at the School

IV. CONSENT

A. Must be Valid

1. A student may consent to a search as long as the consent is valid – given freely and voluntarily (i.e. not coerced).

2. Consider the circumstances – age of the student, intelligence/disabilities of the student, level of coerciveness.

3. Consent may be difficult to prove because of a school official's position of authority over the student, especially with young students and/or students with disabilities.

B. Refusal to Consent

1. May a student be disciplined for his or her refusal to consent to a search?

    a. In the *Deroches v. Caprio* case cited above, the Fourth Circuit held that a student may be punished for refusing to consent to a search, pursuant to a school policy, as long as the request for the search was based on reasonable suspicion.

V. DRUG TESTING (E.G. URINALYSIS)

A. Drug Testing is a "Search"

1. The Supreme Court has held that the collecting and testing of urine constitutes a "search" under the Fourth Amendment. *Skinner v. Railway Labor Executives' Association*, 489 U.S. 602 (1989).

B. Based on Individualized Suspicion

1. Drug testing of a student by urinalysis is considered permissible when there is individualized suspicion of drug use in certain situations.

C. Suspicionless or Random Searches

1. Searches for drugs without individualized suspicion is not permitted as a matter of routine, but has been upheld in the following situations: as a prerequisite for participation in athletics specifically and extracurricular activities in general; in the context of drug dog sweeps of facilities; and in school-wide locker searches (see sections IX and X).

2. Note: Some commentators argue that random drug tests are actually better than those based on suspicion, because there is less chance for bias or arbitrariness, and less of a burden on school officials. See *Board of Education v. Earls*, 536 U.S. 822 (2002).

D. *Vernonia School District 47J v. Acton*, 515 U.S. 646 (1995)

1. *Vernonia* upheld the use of random urinalysis drug testing of students who participate in athletics at high schools.

2. Facts – Drugs were a major problem at the school and athletes were "leaders of the drug culture." The district had tried other programs and alternatives before resorting to drug testing.

3. The Supreme Court did not strictly apply *T.L.O.* because the search in *Vernonia* was a *suspicionless* search. Rather, the Court balanced three factors to determine the reasonableness of the drug testing program:

    a. **The nature of the privacy interest intruded upon;**

    b. **The character of the intrusion; and**

    c. **The nature and immediacy of the governmental concern at issue, and the efficacy of the means for meeting it.**

4. Application of the factors:

    a. The Court held that the expectation of privacy is low for students in general, because the State has "custodial and tutelary" power over schoolchildren, and students routinely submit to physical examinations and vaccinations. The expectation of privacy is even lower for athletes because they communally shower/undress in locker rooms, and because they voluntarily subject themselves to rules and regulations not imposed on the student body generally.

    b. The Court ruled that the character of the intrusion is insignificant, akin to everyday use of the restroom. Also, the results are only disclosed to a limited class of school personnel, are not reported to law enforcement, and are not used for any internal discipline.

    c. The governmental concern in deterring drug use by schoolchildren is significant, even more so because of the pervasive drug problem and because other measures had not been working.

5. Therefore, the Court held the interest of the school in safety outweighed the interest of the student athletes in privacy, and the policy is upheld as constitutional.

E. *Board of Education v. Earls*, 536 U.S. 822 (2002)

1. *Earls* upheld a drug testing policy for all students who participated in extracurricular activities.

2. Facts – This was an even broader policy than the one upheld in *Vernonia*, and there was little evidence of a pervasive drug problem at the school in general, or amongst students who participated in extracurricular activities.

3. As in *Vernonia*, the Court upheld the policy, because it found a limited privacy interest, low intrusion on students' expectation of privacy, and a high degree of government concern.

    a. All school children have a limited privacy interest in a school setting, "where the State is responsible for maintaining discipline, health, and safety." Those who participate in extracurricular activities have even less of a privacy interest because they voluntarily subject themselves to intrusions on privacy (like athletes) and have their own rules and requirements for participation that do not apply to the student body as whole.

    b. The degree of intrusion is negligible because students produce the samples behind a closed stall. In addition, the intrusion on students' privacy is insignificant because test results remain confidential, are not turned over to law-enforcement, and do not lead to school disciplinary or academic consequences.

    c. The governmental interest in preventing drug use is high to protect the safety of *all* schoolchildren, not just those being tested. As for the immediacy of the problem, the school is not necessarily required to prove the existence of a drug problem, although "some showing" (as in this case) can "shore up the need" for a suspicionless testing program.

        i. Note: The Court refused to fashion a "constitutional quantum" of drug use necessary to qualify as a "drug problem" at the school. Whether the amount of drug use at the school warrants the adoption of a testing policy is left to the discretion of school officials.

F. Summary

1. The Supreme Court has not addressed the issue of whether a school system may impose routine, suspicionless testing on all students required to attend school. However, most commentators believe that this practice would not withstand a legal challenge.

2. Both *Vernonia* and *Earls* dealt with drug testing policies that only applied to students who had *voluntarily chosen* to participate in activities independent of the school curriculum. In other words, the students' participation in such activities was a *privilege* that could be suspended or revoked if a student violated the policy. Presumably, the analysis would be different if a school system implemented a suspicionless drug testing policy for the entire student

body. Students have a fundamental *right* to an education, and students are required to attend school.

VI. SEARCHES OF THE BODY/PERSON

A. Pat-Downs

1. The standard for pat-downs is *T.L.O.* reasonable suspicion.

2. NC cases have generally held that a frisk or pat-down search is not excessively intrusive. See *In re S.W.*, 171 N.C. App. 335, 614 S.E.2d 424 (2005), *In re D.L.D.*, 694 S.E.2d 395 (2010).

3. As a precaution, frisks and/or pat-downs should be conducted by a school official of the same gender and in the presence of another witness.

B. Strip Search

1. *T.L.O.* still applies after *Safford*, but due to the invasive nature of a strip search, there must be a specific type of suspicion, and the second prong of the reasonableness test is applied very strictly. See *Safford* (the "content of the suspicion" must match the "degree of intrusion").

2. What counts as a "strip search?"

    a. There is no universal definition.

    b. *Safford* refused to explicitly define "strip search" in terms of who was looking or how much was seen. Rather, the Court only held that the fact this particular student exposed her breasts and pelvic area to some degree was enough to treat this search as categorically distinct from searches of clothes or belongings. The Court also used the phrases, "search down to the body" and "exposure of intimate parts."

    c. Lower courts have defined the term in various ways.

    d. Generally, a strip search is more intrusive than a search of outer clothing. However, it does not require a student to be completely naked.

3. Courts have relied on the following factors in determining the permissible scope of a strip search: the student's age and sex, the nature of the infraction,

who conducted the search, where it was conducted, whether there were less intrusive means available, etc.

4. From *Safford*:

    a. Students have a higher expectation of privacy because of "adolescent vulnerability" and the "patent intrusiveness" of strip searches.

    b. Strip searches are frightening, embarrassing, and degrading.

5. Thus, the government interest and the level of suspicion must be very high to justify a highly intrusive strip search.

    a. Courts are unlikely to find a sufficiently important government interest in locating money or personal property. In some circumstances, it would seem that the court might find a government interest sufficient to justify a search for drugs or weapons.

    b. Past cases indicate that school officials are likely to be held liable for strip searches conducted to find lost or misplaced money or property (e.g. strip searching an entire class to find a stolen cell phone). Strip searches for money are very likely to be held unreasonable due to the excessively intrusive scope of the search given the relatively minor nature of the infraction. A strip search of a single student based on individualized suspicion seems more likely to be upheld than a strip search of a group of students; even so, such a search is only justified in very limited circumstances.

6. Based on the holding in *Safford*, strip searches are generally only permissible:

    a. to find highly dangerous content such as drugs or weapons; *or*

    b. when there is *specific evidence* that a particular student is hiding contraband in his or her underwear.

        i. In *Safford* the court held that general knowledge that "students hide contraband in or under their clothing" is not sufficient to justify intrusive searches of underwear and/or private parts of the student's body.

7. A number of school systems ban strip searches no matter what the facts may be. *Safford*.

VII. LOCKER AND DESK SEARCHES

A. School-Wide Suspicionless Searches are Generally Permissible

1. Such searches are presumed to be permissible, despite a lack of case law in our jurisdiction.

2. School systems should have an express policy on locker searches explaining that the school retains extensive or joint control of lockers/desks, and giving students notice that all lockers/desks are subject to search at any time.

3. An "all school" locker search may be conducted in emergencies (e.g. bomb threat), for health/sanitation reasons, or to deter students from storing contraband.

B. Items within a Locker or Desk

1. Even with a policy that states that lockers/desks are subject to search at any time, reasonable suspicion would still be required to search personal items found inside a locker or desk, and the search must be reasonable in scope.

VIII. USE OF DRUG DOGS

A. Generalized Dog Sniff of Lockers, Automobiles, and/or Personal Items

1. These searches are permissible because a dog sniff is **not considered a search.** *U.S. v. Place*, 462 U.S. 696 (1983) (involved a dog sniffing unattended luggage).

2. Other jurisdictions have applied this rule to permit dog sniffs of lockers (*Zamora v. Pomeroy*, 639 F.2d 662 (10th Cir. 1981)), automobiles (*Jennings v. Joshua Independent School District*, 877 F.2d 313 (5th Cir. 1989)) and personal belongings (*Doran*, 616 F. Supp. 2d 184 (D.N.H. 2009)).

B. Dog Sniff of a Person

1. There is no case law from the Fourth Circuit holding that school officials may permit dogs to sniff students' persons.

IX. USE OF METAL DETECTORS

A. Minimally Intrusive

B. "Point of Entry" Searches

"Point of Entry" metal detector searches of all students have been upheld in other jurisdictions:

1. To ensure safety,

2. Even without individualized suspicion.

C. Policy and Notice

1. The school system must have a policy providing students with notice of the searches and the standardized procedures.

X. SEARCHES OF NON-STUDENTS

A. Young people

1. The reasonable suspicion standard applies to non-student young people on school grounds, during or immediately after the school day. See *In re D.D.* (students from another school were rumored to be coming on school campus to fight; school officials detained and searched students once they were on school property).

B. Adults

1. The issue of searching adults on campus has not been addressed by the courts.

2. Adults on school grounds without permission should be treated as trespassers – asked to leave and reported to law enforcement.

XI. SEIZURES – DETAINMENT AND QUESTIONING

A. Seizure/Detainment

1. *Wofford v. Evans*, 390 F.3d 318 (4th Cir. 2004)

    a. Several students reported that a student had brought a gun to school. The accused student was detained in the principal's office and questioned twice by school officials and once by detectives over the course of two school days. During two of the interviews, the student asked for her mother several times, but the school officials did not oblige. A detective eventually called the student's mother on his way back to the station.

b. The Court held that the *TLO* reasonableness standard for searches by school officials also applies to seizures. Thus, a student may be detained by a school official "if there is a reasonable basis for believing the pupil has violated the law or a school rule."

c. The Court also held there is no constitutional ban on detainment for a specific length of time; it just had to be reasonable.

2. The NC Court of Appeals held that a school resource officer (SRO), acting in conjunction with school officials, needs only reasonable suspicion to detain a student. *In re J.F.M.*, 168 N.C. App. 143, 607 S.E.2d 304 (2005).

3. A New Hampshire court has held that keeping students on a football field for 90 minutes, while dogs conducted a school-wide sweep of students' belonging, was not a seizure. See *Doran*.

B. Questioning

1. Questioning students may help to establish reasonable suspicion for a search.

2. *Miranda* rights generally do not apply to questioning by a school official. The protections only apply to "custodial interrogations" by law enforcement. See *In re D.L.D.*, 694 S.E.2d 395 (2010).

C. Parental Notification Not Required

1. *Wofford* held that there is no constitutional requirement that parents be notified prior to a student's detention or questioning by a school official.

    a. This would be especially true in situations of imminent danger, where immediate inquiry in the absence of a parent may be "a necessary investigative step."

    b. According to the Fourth Circuit, a notification requirement would only invite further issues to be litigated (what counts as notice, timing of notice, role of parents once notified, etc.).

2. Despite the ruling in *Wofford*, board policy may specify that parents be notified as soon as possible.

XII. ROLE OF LAW ENFORCEMENT

School officials work with and/or are called upon to cooperate with law enforcement officers in various capacities. The standard applied to a particular search (or seizure) depends on the role of law enforcement in the specific situation and the extent of participation by law enforcement under the circumstances. Every school system should have a memorandum of understanding (MOU) that clearly defines the role and duties of law enforcement working in the school environment.

A. When Does the *T.L.O.* Reasonableness Standard Apply?

1. *T.L.O.* applies when a school official initiates and conducts a search, and law enforcement is minimally involved for safety or security purposes. Courts refer to this situation as law enforcement acting "in conjunction with" school officials.

2. *T.L.O.* applies when a school resource officer (SRO) conducts a search at the direction of a school official. This is also considered to be acting "in conjunction with" school officials.

B. When Does the Probable Cause Standard Apply?

1. Probable cause applies when an outside law enforcement officer searches a student as part of an independent investigation. Such a search may require a warrant.

2. Probable cause applies when a school official conducts the search at the request of outside law enforcement officers or agencies. Courts refer to this situation as school officials acting "at the behest of" law enforcement.

C. Gray Area

The following questions help determine which standard a court would apply in close cases, typically when an SRO is highly involved in a search:

1. Is the officer more concerned with school disciplinary violations or criminal investigation and prosecution?

    a. For example, even if an SRO initiates and conducts the search based on his/her own investigation, if the search is "in the furtherance of well-established educational and safety goals," the *T.L.O.* standard would likely apply. *In re D.L.D.*

2. Is the officer assigned to a particular school, and is that assignment full-time or part-time?

3. Is the officer paid by the school system or the law enforcement agency?

4. Is the officer ultimately responsible to the school district or the law enforcement agency?

5. Does the officer wear a different uniform from other law enforcement or no uniform?

D. NC Cases Involving SROs and Law Enforcement

The North Carolina Court of Appeals has decided at least five student search cases involving SROs or law enforcement since 2000. In each of the five cases, the Court applied the T.L.O. reasonableness test to search and held that the search or seizure was based on reasonable suspicion and permissible in scope.

1. *In re Murray*, 136 N.C. App. 648, 525 S.E.2d 496 (2000)

    a. A school administrator questioned a student and conducted the search. The SRO intervened to restrain the student when the student refused to give up his bag.

    b. The Court applied the reasonable suspicion standard, despite the assistance from the SRO, because the school official initiated and conducted the search.

2. *In re D.D.*, 146 N.C. App. 309, 554 S.E.2d 346 (2001)

    a. A school administrator and law enforcement officers approached, detained, and searched students from another school who had allegedly come on school grounds to fight. The principal asked the officers' opinion before conducting the search, the officers were present during the search, and the officers prevented the students from leaving school grounds.

    b. The Court applied the reasonable suspicion standard because law enforcement acted in conjunction with the school official and the school official initiated the search.

3. *In re J.F.M. and T.J.B.*, 168 N.C. App. 143, 607 S.E.2d 304 (2005)

    a. The SRO attempted to escort a student from an on-campus bus stop to the principal's office to discuss a violation that had occurred earlier in the day. The student and her sister then

assaulted the SRO and were eventually handcuffed and restrained.

b. The Court applied the reasonable suspicion standard for the detention because the SRO was acting in conjunction with the school administrators.

c. The Court relied on the following factors: the SRO had been involved with the investigation of the earlier incident, had consulted with administrators before approaching the student at the bus stop, was still on duty and on school premises at the time of the detainment, and the sole purpose for detainment was to discuss school disciplinary issues.

4. *In re S.W.*, 171 N.C. App. 335, 614 S.E.2d 424 (2005)

a. The SRO smelled marijuana near the student, patted down the student, asked the student to empty his pockets, and found bags of marijuana.

b. The Court applied the reasonable suspicion standard because the SRO was working in conjunction with school officials.

c. The Court relied on the following factors: the SRO was assigned to the school on permanent, full-time duty, assisted school officials with discipline matters, and was not conducting the investigation at the behest of an outside officer investigating a non-school related crime.

5. *In re D.L.D.*, 694 S.E.2d 395 (2010)

a. A law enforcement officer (employed by the system) and assistant principal were looking at live surveillance footage of students acting suspiciously outside a school bathroom, an area notorious for drug offenses. When the officer and school official approached the students, one student ran, hid something in his pants, and a search located bags of marijuana on his person.

b. The Court applied the reasonable suspicion standard because the SRO was working in conjunction with and at the direction of the school official to maintain a safe and educational environment.