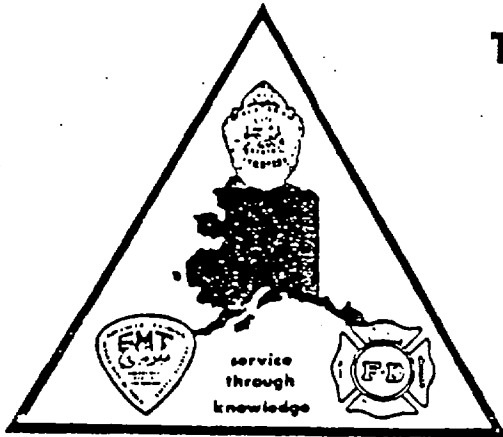


DEPARTMENT OF PUBLIC SAFETY

TRAINING ACADEMY

LEGAL BULLETIN NO. 90
February 7, 1985



SEARCH OF STUDENT BY SCHOOL OFFICIALS

Reference: New Jersey
v.
T.L.O.

United States Supreme Court
~~36 CrL 3091~~ 465 US 1003
January 15, 1985

FACTS:

T.L.O. was observed smoking in a school lavatory by a teacher. Smoking is a violation of the school rules. T.L.O. was taken to the vice-principal's office where she denied she had been smoking and further stated that she did not smoke at all. The vice-principal took T.L.O.'s purse, opened it and removed a package of cigarettes. During removal of the cigarettes, the vice-principal saw some cigarette-rolling papers which he associated with marihuana usage. He then proceeded to search the purse thoroughly and found some marihuana, a pipe, plastic bags, a list of students who owed T.L.O. money, two letters implicating T.L.O. in marihuana dealing and a quantity of money. All of these items were seized and the vice-principal then contacted T.L.O.'s parents and the police. T.L.O. admitted her involvement in trafficking of marihuana. At the court hearing, her lawyer sought to suppress the evidence as an illegal seizure and her subsequent confession.

ISSUE NO. 1:

Does the Fourth Amendment apply to school officials?

HELD: Yes.

ISSUE NO. 2:

Was the purse search conducted by school officials reasonable for Fourth Amendment purposes?

HELD: Yes.

REASONING:

1. In carrying out searches and other functions pursuant to disciplinary policies mandated by state statutes, school officials act as representatives of the state, not merely as surrogates for the parents of students. (emphasis added)

2. School officials need not obtain a warrant before searching students who are under their authority. Moreover, school officials need not be held subject to the requirement that searches be based on probable cause to believe the subject of the search has violated or is violating the law.

3. Under ordinary circumstances, the search of a student by a school official will be justified at its inception when there are reasonable grounds for suspecting the search to turn up evidence that the student has violated or is violating either the law or rules of the school.
(emphasis added)

4. The search in this case was not unreasonable for Fourth Amendment purposes because (a) the initial search for cigarettes was reasonable--the student was seen smoking and the search for cigarettes would constitute "mere evidence" of violation of the "no smoking" rule, and (b) the later discovery of the rolling papers gave rise to a reasonable suspicion that T.L.O. was carrying marijuana as well as cigarettes in her purse and this suspicion justified the continued exploration which turned up more evidence of drug-related activities.

NOTES:

The court has somewhat relaxed the standard for school officials but still maintains that they are governed by the Fourth Amendment. A number of issues were left unresolved, such as whether the exclusionary rule would apply to evidence unconstitutionally seized (reasonable grounds for suspecting) or what the standard would be if the school was working with police.

It would seem that the court will not relax the standards set for the police merely because you are "working with" the school. You should, absent constitutional or exigent circumstances, apply for a search warrant if you are assisting the school or if they are acting as your agent.

Review D.R.C. v. State, Legal Bulletin No. 58, where our court said school officials are not law-enforcement officers but are subject to constitutional constraints.