

School Violence: America's Newest Nonexistent Public Health Threat

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The issue of school safety has advanced to the forefront of American educational policy. Recent school shootings have aroused intense feelings of fear and insecurity in the majority of American people. “The public, largely fed by media images and political rhetoric, is erroneously learning to see serious school violence as pervasive, if not epidemic” (Schwartz, Weiner, White, & Joe, 2000, Lexis). To address this new “epidemic,” the government has stepped in to address the public health problem of school violence (Szasz, 2001). The government’s remedy has had detrimental effects on both the rights of students and the learning environment in public schools.

Many supporters of school security measures contend that there are no rights violations involved when students walk through metal detectors or open their backpacks upon request for searches. They point out that people have to go through these procedures in airports and that all these procedures are for the benefit of public safety. However, airports and schools are not analogous. Passengers elect to buy plane tickets. Students “do not elect to attend school ... Thus, there is a critical difference between one who, as a condition of freely elected choice, consents to be searched, and one who is forced to be searched as a condition to something not freely chosen” (Ferraraccio, 1999, Lexis). The compulsory nature of public school attendance establishes a unique environment for analyzing rights.

The justification for the new security measures in schools is based on a false premise. The government, and much of the American public, assumes that a problem of epic proportions exists. This is hardly the case. Unfortunately, the current political environment does not warmly welcome arguments against increased restrictions in public schools. This one sided dialogue, however, does not negate the empirical evidence that proves public schools are safe places.

The combined school crime rate for violent and nonviolent crimes shrunk from 164 per 1000 students in 1993 to about 128 per 1000 students in 1996, for a twenty-two percent drop... Not only do students now engage in fewer school related crimes, they are less often victims of violent crimes while in and around schools. In fact, America's children and youth are safer while in school than while they are out of school (Schwartz, Weiner, White, & Joe, 2000, Lexis).

It becomes apparent that new security measures are not only unjust but are also unjustified. Rights should not be preemptively limited; they should only be restricted on an individual basis as a punishment after a transgression has occurred.

With additional rights restrictions in place, public schools have become bastions of tyranny. Contrary to popular belief, schools do not operate *in loco parentis*. Supreme Court Justice White, in the majority opinion of *New Jersey v. T.L.O.*, helped to dispel this myth. He argued that "school officials act as representatives of the State, not merely as surrogates for the parents..." (White, 1985, Lexis). The fact that these new security measures are being carried out by agents of the state makes them all the more inappropriate and dangerous to the maintenance of rights in this country.

The most significant problems associated with the new rights restrictions are the lack of objective and consistent criteria in both theory and execution. This is the case in a few areas. First, the level of probable cause needed to search students or property is

different than in the status quo. Second, faculty and staff are often responsible for executing searches of students. Third, it is often the case that restrictions are assigned to students arbitrarily.

In the status quo, a rather clear interpretation of the Fourth Amendment exists. Citizens are free from search and seizure unless probable cause is demonstrated. In most cases, a judge, working through traditional channels of due process, determines whether probable cause has been met. If the judge determines that it has, then a warrant is issued, and a search is executed. The standard that is employed in public schools to determine whether a search is permissible is neither as clear nor as objective.

In public schools, a “reasonableness” standard is used to determine the permissibility of searches. “Determining the reasonableness of any search involves a twofold inquiry: first, one must consider ‘whether the action [the search] was justified at its inception’ ... Second, one must determine whether the search as actually conducted ‘was reasonably related in scope to the circumstance which justified the interference in the first place ... ’” (White, 1985, Lexis). The Court’s circular definition provides no objective clarity for determining when a search is justified, leaving students completely vulnerable to “reasonable” deprivations of liberty.

If the definition of reasonableness itself does not pose enough danger to students’ rights, then the destruction of student liberties is assured by the fact that searches are often executed by school faculty or staff. These individuals must decide if a search is reasonable, regardless of the fact that they usually have no training in matters pertaining to search and seizure. Teachers are agents of the states. Why is it the case that these agents of the state should not have to follow the same standards as other agents of the

states, i.e. the police? According to Supreme Court interpretation, “a search not based on probable cause is allowed ‘when special needs, beyond the normal need for law enforcement, make the warrant and probable cause requirement impracticable.’ It has been held that this idea of ‘special needs’ ... exists in the public-school context” (Lush, 2000, Lexis).

New security policies in schools have essentially deputized school employees, alienating students from teachers. Students should feel comfortable talking to their teachers; they should not view them as authoritarian tyrants who are meant to be feared. Proponents of increased school security will contend that this sort of claim is an exaggeration and that the restrictions are in place to protect children, not harm them.

The response to this claim is posed by an example of what happens when a school official is given the power to conduct a “reasonable” search. The case of *Doe v. Renfrow* (1980) revolved around the conduct of two school administrators, who conducted a nude search of a thirteen year old student. The court ruled that the behavior was clearly unconstitutional, but this fact does not eliminate the underlying problem. When staff members at public schools are armed with a standard that only requires reasonable suspicions, abuses like these can occur with greater frequency.

Some students are suffering more than others at the hands of new school security policies. The arbitrary application of many policies has lead to the targeting of some students. This arbitrary application of the policy stems from its unclear standard. Individuals who engage in any activity that runs contrary to the list of normal or accepted activities, terms defined by the administrative ranks, are now subject to sanctions. The

number of complaints filed with the American Civil Liberties Union has skyrocketed since the implementation of new security standards in schools.

The dangerous offspring of the arbitrary application of new security policies is profiling in public schools. Nadine Strossen (2000), president of the American Civil Liberties Union, elaborates, “More schools are moving toward ‘profiling’ their students, in yet another chilling parallel to a tactic that comes from the criminal justice field and has been justly condemned as discriminatory and ineffective even in that context” (Lexis). Individuals should be able to express themselves without any fear of retaliation, especially in a place where self-expression is of the utmost importance. The examples of administrative crackdown are shocking.

Children have been suspended or expelled for such ‘dangerous’ behavior as dyeing their hair blue, having body piercings or tatoos, wearing the Star of David on a necklace (supposedly it is some sort of “gang symbol”), or wearing a T-Shirt bearing the name of that other notorious gang, the “Vegans.” Worse yet, some students have been punished merely for daring to criticize their schools for punishing classmates who have worn such “threatening” items (Strossen, 1999, ¶ 5).

All of these punishments have been handed out in the name of protecting the public good and safety. How does the Star of David threaten either?

The unjust deprivation of students’ liberties has not only harmed the students; it has harmed the education environment in public schools as a whole. The restrictions that are in place have served to create fear in schools, decreasing the ability of students to focus on learning. “The installation of metal detectors can likely lead a student to believe that the school is a dangerous place, and that fellow students are dangerous persons...”(Ferrarcio, 1999, Lexis). If students are living in fear while they are in school, then it is reasonable to expect that learning will be harmed. “It is difficult for a

student, worried about his or her well-being, to simultaneously concentrate on trigonometry and to stay safe” (Lush, 2000, Lexis). Consequently, schools are being counterproductive when they enact new security measures. They are trying to solve a problem that does not really exist, and they are damaging the learning environment, which is critical to effective education.

A day in the life of today’s public school student is difficult to discern from the daily routine of an incarcerated criminal. Criminals and students both enter their respective buildings by first passing through metal detectors. Guards rigidly monitor the schedules and movements of inmates and schoolchildren. In the case of the prison, the guards are correction officers; in the case of the school, the guards are teachers who, for all intent and purposes, have been deputized. Prisoners have their liberties restricted; students have their liberties restricted. There are differences, however, between the two populations. Prisoners choose to be incarcerated by accepting the risks and punishments associated with committing a crime. Students have not made such a choice; they are legally compelled to attend school. Children are being treated like criminals although they have committed no crime.

Where does this leave schools? Should they have any security measures in place to protect students? Can the problem be solved? These are the questions that face America’s education policy makers today. The answer is not to be found in fortifying schools with barbed wire and gun turrets. The solution to the “epidemic” of school violence is to be found in reason, balance, and moderation.

Limiting the rights of students in public schools in order to stop violence is not the answer, because this does not solve the root of the problem. Band-Aid approaches

will do nothing for our nation's schools in the end. Addressing the social problems that underlie youth violence and crime is the first step to a long-term solution. By opening lines of communication between students and faculty, students are made to feel like they are part of a community that is built on trust, not fear.

There must be better communication across the board: among students and teachers, students and administrators, students and other students, parents and school officials and teachers. Students must feel they are not being regarded as potential troublemakers, but as young people who can contribute to the running of the school ... In short, problems should be openly addressed, and not swept under the carpet or pushed out the door — which is exactly what is happening in schools in the post-Columbine climate (Murray, 2000, Lexis).

This dialogue is critical to identifying the causes of and solutions to violence in schools. Teachers should become more involved with their students on a personal level. This involvement can not be forced; trust must be earned, and this can only occur when teachers and students are equal in the realm of rights.

Many contend that the formation of personal relationships between teachers and students is both impossible and inappropriate. It is certainly possible to create these types of relationships, but there will have to be systematic changes. Classes will need to get smaller, and parents will need to get more involved. In general, more people will have to take more responsibility for the education of America's youth. Moreover, these types of relationships are appropriate and beneficial for both the teacher and the student, positively affecting both the teaching and the learning environment.

Schools already assume a position of elevated authority in society. It would be harmful to amplify this authority by giving schools the power to unjustly deprive students' liberties. John Stuart Mill (1986) once noted that "a general state education is a

mere contrivance for moulding people to be exactly like one another: and as the mould in which it casts them is that which pleases the predominant power in government ... in proportion as it is efficient and successful, it established a despotism over the mind..."

(p.119). This vision will be validated if schools continue to provide students a diminished canon of rights. Schools are responsible for educating the future citizens of a democracy; therefore, it is imperative that rights be respected in schools as they are respected in everyday life, so that the future citizens of the democracy will not be marched down the road to serfdom (Hayek, 1994).

If we are too teach students about constitutional guarantees, then it is only fair that we also ensure these same students that such guarantees apply to them. Affording students these protections in relation to ... searches in schools would go far in teaching a students and ourselves, as educators and scholars, a most valuable lesson about the importance of both rights and responsibilities in a democracy (Stefkovich, & Miller, 1999).

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