YMCA New Mexico
Youth & Government
2024 Judicial Court Case Documents

APPEALS COURT OVERVIEW

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2024 State YMCA of New Mexico Judicial Program Case File

I. Introduction to Pinkman v YAG High School

Hello, Counselors!

Below is the 2024 Judicial Problem. You will find the facts of the case, a procedural history, the issues on appeal, and attached case law. This is a closed universe, which means that you should only reference the cases provided to you for your brief and in your arguments.

II. Facts

Jane Pinkman is a sixteen-year-old junior at YAG High School located in Albuquerque, New Mexico. One Sunday night, while she was at home and procrastinating on homework, Jane began to scroll through TikTok. She scrolled for hours when she started to notice a new trend of videos all with the hashtag #bombsaway. Interested in seeing more videos, she clicked the hashtag and saw thousands of TikToks that featured high school students like her doing a dance and saying, "bombs away!" before cutting to show the student at their school pouring glitter everywhere. Some videos showed students had gotten spring loaded glitter bombs to spread the glitter even further. The aftermath was the same in every video, glitter as far as anyone could see–covering the school and requiring lots of clean up and even damage to school property at times.

On Monday morning, before first period had begun, Jane was talking to a group of her friends at their lockers while they waited for the bell to ring. Jane remembered the TikToks she had seen and mentioned it to her friends who had not seen the trend yet. After explaining, Jane got out her phone to show them some of the #bombsaway videos she had seen the night before. The group laughed at the TikToks and thought it was funny how much glitter was all over those schools. Soon they began talking about what it would be like if that happened at YAG High School.

> "Principal Horanburg would be so upset!"
> "Who cares it's just some glitter!"
> "I wonder how much those spring-loaded ones are?"
> "We would be legends at the school if we did this."
> "Jane, I'd do it if you do it!"

"Oh, for sure let's do it later this week!" Jane said. The bell rang and the group all walked to class.

What Jane and her friends didn't realize was that another student, Jimmy Goodman, was getting books from his locker right and could hear everything the girls were saying. As Jimmy walked to his first period class, he began to get nervous. He had also seen the TikToks and was worried that if anyone at the school participated the entire student body might get in trouble for it. Jimmy thought about marching down to Principal Horanburg's office immediately but stopped himself. Because the hallway had been so noisy, he couldn't quite hear who said what, but he knew for sure that he had heard Jane Pinkman say she would be doing the trend later that week. Jimmy was also sure that the girls knew he could hear what they were saying, and he didn't want them to be upset with him if he told Principal Horanburg about their plans.

Jimmy thought about it all through class before an idea came to him. He could write an anonymous note and drop it off at Principal Horanburg's office telling him what he had heard that morning!

Jimmy got out a piece of paper and wrote:

> Principal Horanburg, this morning I heard Jane Pinkman and her friends talking about the #bombsaway trend on TikTok. Jane showed her friends the videos and they all talked about doing the trend. Jane said she wants to do it later this week! I think you should know what she is planning to do.

At lunch, Jimmy walked to the administrative office and left the note for Principal Horanburg to read without anyone noticing him. Principal Horanburg was in a meeting that day and didn't return to his office until after the final bell had rung, letting school out for the day. He noticed a piece of paper on his desk that hadn't been there before and read the note. He asked the office staff if they saw who had placed it on his desk, but no one in the office had seen who left the note or knew when it had been placed there.

Unsure of what the #bombsaway trend was, Principal Horanburg got out his phone and looked for the hashtag on TikTok. After seeing video after video of students disrupting the learning process and damaging school property, he knew that Jane would have to be stopped before these shenanigans happened at YAG High School. Principal Horanburg called up Student Resource Officer Schrader and told him about the note and explained the trend. A school resource officer is a sworn law-enforcement officer with arrest powers who works, either full or part time, in a school setting. The two of them decided to give the group of girls the benefit of the doubt, but to keep an eye out on the girls the next day.

The next morning, Jane once again met up with her friends and talked before classes began. Right as the bell rang one of Jane's friends said "Oh Jane! I brought the book you left at my house last weekend." She opened her backpack and handed Jane the book. Jane grabbed the book, quickly flipped through the pages, and shoved it into her backpack, the group turned and walked to class as fast as they could, worried they would be late.

SRO Schrader had been waiting in the hallway to see if anything suspicious happened with the group of girls. There had been many students in the hallways that had partially blocked his view, and Jane had her back to him, but he had seen Jane throw the object she had gotten from her friend into her backpack and then walk away quickly with her head down. Based on what he saw, SRO Schrader thought they had acted suspicious, but did not know exactly what the girls had.

As SRO Schrader walked back to his office, he passed by the teacher's lounge and started to notice something shimmering. He walked inside the lounge and saw glitter on the carpets and table. SRO Schrader immediately called Principal Horanburg and told him about the glitter in the lounge and Jane's actions that morning.

Later that morning, Principal Horanburg called Jane out of class and walked her to his office. When they got there, Jane saw that SRO Schrader was already in the principal's office waiting. Neither Principal Horanburg or SRO Schrader said anything but closed the door, shutting all three in the office.

Principal Horanburg began by asking Jane how she was doing that morning.
Jane responded, "I'm doing well, but what's going on?"
"We think you know what's going on, Jane." Said SRO Schrader
"I have no idea what you're talking about." Jane told the pair.

After a few seconds passed in silence, Principal Horanburg asked SRO Schrader to search Jane's bag. SRO Schrader grabbed Jane's backpack off her shoulders and dumped it out on the desk. Jane's planner, folders, textbooks, and some pens fell out of her bag–but no glitter.

At that moment there was a knock on the door, the school secretary opened the door to ask Principal Horanburg a question. The two spoke for a couple minutes while Jane tried to wrack her brains about what Principal Horanburg and SRO Schrader could possibly be looking for. Eventually, the secretary left but she did not close the door behind her. Jane could see others in the office, a mix of some administrators and students.

Worried that Jane may have put the hidden in her pocket or hid it somewhere in her clothes, Principal Horanburg said out loud "Jane, where are you hiding it?"
Jane, confused, responded "Hiding what?"
Principal Horanburg said, "Jane, we know you have glitter, and you were planning on pouring it all over school. We know you came to school and talked to your friends and have been planning this for days, and SRO Schrader saw you getting a bag of glitter from your friend just this morning. There could be enough damage in the teacher's lounge to charge you with a crime."

Suddenly Jane understood what was happening. Principal Horanburg and SRO Schrader thought that she had really planned on doing the #bombsaway trend! Jane said "I don't have anything, I swear. I was never actually going to bring anything."

Principal Horanburg, not believing Jane, turned to SRO Schrader and asked him to pat down Jane to see if the glitter was on her. SRO Schrader did a pat down and found nothing. Principal Horanburg then said "Is there more glitter in your locker? Jane, if you tell me now, you won't be in as much trouble, I just want to make sure no other areas of the school get damaged."

Jane said "I promise that I never had anything, and I never planned on bringing a glitter bomb, I just thought the videos were funny! I know I showed my friends the videos and said that I would do it later this week, but I was never going to actually do the prank! I haven't done anything, and I don't even know what happened in the teacher's lounge! I want my mom!"

After hearing that Jane had indeed shown her friends the videos and talked about doing the glitter prank, Principal Horanburg determined that Jane had been the one that had poured glitter at the teacher's lounge. He decided that he needed to punish her so that other students wouldn't recreate the prank. Principal Horanburg stopped questioning Jane, and called her mother to tell her that Jane would be suspended for a month. He also reached out to the District Attorney of Albuquerque to tell them about what had happened, and the statements Jane had made in the office to allow them to investigate further if they wished.

Three weeks into Jane's suspension, Principal Horanburg was walking by the teacher's lounge when he overheard a conversation with Ms. White, the art teacher, and Ms. Wexler, a math teacher.

> "Hey, did you finally get new glitter for the art room?"
> "Oh yes, I can't believe I dropped that entire bottle! And right before class so I couldn't even clean it up right away. I hope it didn't get on anyone."

Principal Horanburg realized that Jane hadn't been the one to pour glitter in the teacher's lounge and called her parents right away. He notified them that it had all been a misunderstanding and Jane would be allowed back at school right away.

Upset at the way their daughter had been treated, Jane's parents sued YAG High School.

III. **Procedural History**

Jane Pinkman and her parents sued YAG High School on two grounds: that the search of Jane's backpack and the pat down violated her Fourth Amendment rights, and that the statements she made to Principal Horanburg and School Resource Officer Schrader that were used to suspend her from school violated her Fifth Amendment rights.

At trial, the Second Judicial District Court found that both the search and pat down of Jane, as well as the statements she made while being questioned by Principal Horanburg and School Resource Officer Schrader were constitutional. Jane and her parents appealed to the New Mexico Court of Appeals who affirmed the trial court's decision. Jane and her parents then appealed again to the New Mexico Supreme Court.

IV. **Issues on Appeal**

1. Whether the search of Jane's backpack and then pat down of her person by Principal Horanburg and SRO Schrader violated her Fourth Amendment rights
2. Whether Jane's Fifth Amendment rights were violated when she made statements to Principal Horanburg and SRO Schrader without being read her Miranda Rights.

Case Law

I. Safford Unified School District #1 v. Redding
II. New Jersey v T.L.O.
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Safford Unified School District No. 1 v. Redding

557 U.S. 364 (2009)

Justice SOUTER delivered the opinion of the Court.

The issue here is whether a 13–year–old student's Fourth Amendment right was violated when she was subjected to a search of her bra and underpants by school officials acting on reasonable suspicion that she had brought forbidden prescription and over-the-counter drugs to school. Because there were no reasons to suspect the drugs presented a danger or were concealed in her underwear, we hold that the search did violate the Constitution.

I

The events immediately prior to the search in question began in 13–year–old Savana Redding's math class at Safford Middle School one October day in 2003. The assistant principal of the school, Kerry Wilson, came into the room and asked Savana to go to his office. There, he showed her a day planner, unzipped and open flat on his desk, in which there were several knives, lighters, a permanent marker, and a cigarette. Wilson asked Savana whether the planner was hers; she said it was, but that a few days before she had lent it to her friend, Marissa Glines. Savana stated that none of the items in the planner belonged to her.

Wilson then showed Savana four white prescription-strength ibuprofen 400–mg pills, and one over-the-counter blue naproxen 200–mg pill, all used for pain and inflammation but banned under school rules without advance permission. He asked Savana if she knew anything about the pills. Savana answered that she did not. Wilson then told Savana that he had received a report that she was giving these pills to fellow students; Savana denied it and agreed to let Wilson search her belongings. Helen Romero, an administrative assistant, came into the office, and together with Wilson they searched Savana's backpack, finding nothing.

At that point, Wilson instructed Romero to take Savana to the school nurse's office to search her clothes for pills. Romero and the nurse, Peggy Schwallier, asked Savana to remove her jacket, socks, and shoes, leaving her in stretch pants and a T-shirt (both without pockets), which she was then asked to remove. Finally, Savana was told to pull her bra out and to the side and shake it, and to pull out the elastic on her underpants, thus exposing her breasts and pelvic area to some degree. No pills were found.

Savana's mother filed suit against Safford Unified School District # 1, Wilson, Romero, and Schwallier for conducting a strip search in violation of Savana's Fourth Amendment rights. The individuals (hereinafter petitioners) moved for summary judgment, raising a defense of qualified immunity. The District Court for the District of Arizona granted the motion on the ground that there was no Fourth Amendment violation, and a panel of the Ninth Circuit affirmed. 504 F.3d 828 (2007).

A closely divided Circuit sitting en banc, however, reversed. Following the two-step protocol for evaluating claims of qualified immunity, see *Saucier v. Katz,* 533 U.S. 194, 200, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001), the Ninth Circuit held that the strip search was unjustified under the

Fourth Amendment test for searches of children by school officials set out in *New Jersey v. T.L.O.,* 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985). 531 F.3d 1071, 1081–1087 (2008).

II

The Fourth Amendment "right of the people to be secure in their persons ... against unreasonable searches and seizures" generally requires a law enforcement officer to have probable cause for conducting a search. "Probable cause exists where 'the facts and circumstances within [an officer's] knowledge and of which [he] had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed," *Brinegar v. United States,* 338 U.S. 160, 175–176, 69 S.Ct. 1302, 93 L.Ed. 1879 (1949) (quoting *Carroll v. United States,* 267 U.S. 132, 162, 45 S.Ct. 280, 69 L.Ed. 543 (1925)), and that evidence bearing on that offense will be found in the place to be searched.

In *T.L.O.,* we recognized that the school setting "requires some modification of the level of suspicion of illicit activity needed to justify a search," 469 U.S., at 340, 105 S.Ct. 733, and held that for searches by school officials "a careful balancing of governmental and private interests suggests that the public interest is best served by a Fourth Amendment standard of reasonableness that stops short of probable cause," *id.,* at 341, 105 S.Ct. 733. We have thus applied a standard of reasonable suspicion to determine the legality of a school administrator's search of a student, *id.,* at 342, 345, 105 S.Ct. 733, and have held that a school 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," *id.,* at 342, 105 S.Ct. 733.

A number of our cases on probable cause have an implicit bearing on the reliable knowledge element of reasonable suspicion, as we have attempted to flesh out the knowledge component by looking to the degree to which known facts imply prohibited conduct, see, *e.g., Adams v. Williams,* 407 U.S. 143, 148, 92 S.Ct. 1921, 32 L.Ed.2d 612 (1972); *id.,* at 160, n. 9, 92 S.Ct. 1921 (Marshall, J., dissenting), the specificity of the information received, see, *e.g., Spinelli v. United States,* 393 U.S. 410, 416–417, 89 S.Ct. 584, 21 L.Ed.2d 637 (1969), and the reliability of its source, see, *e.g., Aguilar v. Texas,* 378 U.S. 108, 114, 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964). At the end of the day, however, we have realized that these factors cannot rigidly control, *Illinois v. Gates,* 462 U.S. 213, 230, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983), and we have come back to saying that the standards are "fluid concepts that take their substantive content from the particular contexts" in which they are being assessed. *Ornelas v. United States,* 517 U.S. 690, 696, 116 S.Ct. 1657, 134 L.Ed.2d 911 (1996).

Perhaps the best that can be said generally about the required knowledge component of probable cause for a law enforcement officer's evidence search is that it raise a "fair probability," *Gates,* 462 U.S., at 238, 103 S.Ct. 2317, or a "substantial chance," *id.,* at 244, n. 13, 103 S.Ct. 2317, of discovering evidence of criminal activity. The lesser standard for school searches could as readily be described as a moderate chance of finding evidence of wrongdoing.

III

A

In this case, the school's policies strictly prohibit the nonmedical use, possession, or sale of any drug on school grounds, including " '[a]ny prescription or overthe- counter drug, except those for which permission to use in school has been granted pursuant to Board policy.' " App. to Pet. for Cert. 128a. 1 A week before Savana was searched, another student, Jordan Romero (no relation of the school's administrative assistant), told the principal and Assistant Principal Wilson that "certain students were bringing drugs and weapons on campus," and that he had been sick after taking some pills that "he got from a classmate." App. 8a. On the morning of October 8, the same boy handed Wilson a white pill that he said Marissa Glines had given him. He told Wilson that students were planning to take the pills at lunch.

Wilson learned from Peggy Schwallier, the school nurse, that the pill was Ibuprofen 400 mg, available only by prescription. Wilson then called Marissa out of class. Outside the classroom, Marissa's teacher handed Wilson the day planner, found within Marissa's reach, containing various contraband items. Wilson escorted Marissa back to his office.

In the presence of Helen Romero, Wilson requested Marissa to turn out her pockets and open her wallet. Marissa produced a blue pill, several white ones, and a razor blade. Wilson asked where the blue pill came from, and Marissa answered, " 'I guess it slipped in when *she* gave me the IBU 400s.' " *Id.,* at 13a. When Wilson asked whom she meant, Marissa replied, " 'Savana Redding.' " *Ibid.* Wilson then enquired about the day planner and its contents; Marissa denied knowing anything about them. Wilson did not ask Marissa any followup questions to determine whether there was any likelihood that Savana presently had pills: neither asking when Marissa received the pills from Savana nor where Savana might be hiding them.

Schwallier did not immediately recognize the blue pill, but information provided through a poison control hotline 2 indicated that the pill was a 200–mg dose of an antiinflammatory drug, generically called naproxen, available over the counter. At Wilson's direction, Marissa was then subjected to a search of her bra and underpants by Romero and Schwallier, as Savana was later on. The search revealed no additional pills.

It was at this juncture that Wilson called Savana into his office and showed her the day planner. Their conversation established that Savana and Marissa were on friendly terms: while she denied knowledge of the contraband, Savana admitted that the day planner was hers and that she had lent it to Marissa. Wilson had other reports of their friendship from staff members, who had identified Savana and Marissa as part of an unusually rowdy group at the school's opening dance in August, during which alcohol and cigarettes were found in the girls' bathroom. Wilson had reason to connect the girls with this contraband, for Wilson knew that Jordan Romero had told the principal that before the dance, he had been at a party at Savana's house where alcohol was

served. Marissa's statement that the pills came from Savana was thus sufficiently plausible to warrant suspicion that Savana was involved in pill distribution.

This suspicion of Wilson's was enough to justify a search of Savana's backpack and outer clothing. If a student is reasonably suspected of giving out contraband pills, she is reasonably suspected of carrying them on her person and in the carryall that has become an item of student uniform in most places today. If Wilson's reasonable suspicion of pill distribution were not understood to support searches of outer clothes and backpack, it would not justify any search worth making. And the look into Savana's bag, in her presence and in the relative privacy of Wilson's office, was not excessively intrusive, any more than Romero's subsequent search of her outer clothing.

B

Here it is that the parties part company, with Savana's claim that extending the search at Wilson's behest to the point of making her pull out her underwear was constitutionally unreasonable. The exact label for this final step in the intrusion is not important, though strip search is a fair way to speak of it. Romero and Schwallier directed Savana to remove her clothes down to her underwear, and then "pull out" her bra and the elastic band on her underpants. *Id*., at 23a. Although Romero and Schwallier stated that they did not see anything when Savana followed their instructions, App. to Pet. for Cert. 135a, we would not define strip search and its Fourth Amendment consequences in a way that would guarantee litigation about who was looking and how much was seen. The very fact of Savana's pulling her underwear away from her body in the presence of the two officials who were able to see her necessarily exposed her breasts and pelvic area to some degree, and both subjective and reasonable societal expectations of personal privacy support the treatment of such a search as categorically distinct, requiring distinct elements of justification on the part of school authorities for going beyond a search of outer clothing and belongings.

Savana's subjective expectation of privacy against such a search is inherent in her account of it as embarrassing, frightening, and humiliating. The reasonableness of her expectation (required by the Fourth Amendment standard) is indicated by the consistent experiences of other young people similarly searched, whose adolescent vulnerability intensifies the patent intrusiveness of the exposure. See Brief for National Association of Social Workers et al. as *Amici Curiae* 6–14; Hyman & Perone, The Other Side of School Violence: Educator Policies and Practices that may Contribute to Student Misbehavior, 36 J. School Psychology 7, 13 (1998) (strip search can "result in serious emotional damage"). The common reaction of these adolescents simply registers the obviously different meaning of a search exposing the body from the experience of nakedness or near undress in other school circumstances. Changing for gym is getting ready for play; exposing for a search is responding to an accusation reserved for suspected wrongdoers and fairly understood as so degrading that a number of communities have decided that strip searches in schools are never reasonable and have banned them no matter what the facts may be, see, *e.g.,* New York City Dept. of Education, Reg. No. A–432, p. 2 (2005), online at

http://docs.nycenet.edu/ docushare/dsweb/Get/Document–21/A–432.pdf ("Under no circumstances shall a strip-search of a student be conducted").

The indignity of the search does not, of course, outlaw it, but it does implicate the rule of reasonableness as stated in *T.L.O.,* that "the search as actually conducted [be] reasonably related in scope to the circumstances which justified the interference in the first place." 469 U.S., at 341, 105 S.Ct. 733 (internal quotation marks omitted). The scope will be permissible, that is, when it is "not excessively intrusive in light of the age and sex of the student and the nature of the infraction." *Id.,* at 342, 105 S.Ct. 733.

Here, the content of the suspicion failed to match the degree of intrusion. Wilson knew beforehand that the pills were prescription-strength ibuprofen and over-the-counter naproxen, common pain relievers equivalent to two Advil, or one Aleve. 4 He must have been aware of the nature and limited threat of the specific drugs he was searching for, and while just about anything can be taken in quantities that will do real harm, Wilson had no reason to suspect that large amounts of the drugs were being passed around, or that individual students were receiving great numbers of pills.

Nor could Wilson have suspected that Savana was hiding common painkillers in her underwear. Petitioners suggest, as a truth universally acknowledged, that "students ... hid[e] contraband in or under their clothing," Reply Brief for Petitioners 8, and cite a smattering of cases of students with contraband in their underwear, *id.,* at 8–9. But when the categorically extreme intrusiveness of a search down to the body of an adolescent requires some justification in suspected facts, general background possibilities fall short; a reasonable search that extensive calls for suspicion that it will pay off. But nondangerous school contraband does not raise the specter of stashes in intimate places, and there is no evidence in the record of any general practice among Safford Middle School students of hiding that sort of thing in underwear; neither Jordan nor Marissa suggested to Wilson that Savana was doing that, and the preceding search of Marissa that Wilson ordered yielded nothing. Wilson never even determined when Marissa had received the pills from Savana; if it had been a few days before, that would weigh heavily against any reasonable conclusion that Savana presently had the pills on her person, much less in her underwear.

In sum, what was missing from the suspected facts that pointed to Savana was any indication of danger to the students from the power of the drugs or their quantity, and any reason to suppose that Savana was carrying pills in her underwear. We think that the combination of these deficiencies was fatal to finding the search reasonable.

In so holding, we mean to cast no ill reflection on the assistant principal, for the record raises no doubt that his motive throughout was to eliminate drugs from his school and protect students from what Jordan Romero had gone through. Parents are known to overreact to protect their children from danger, and a school official with responsibility for safety may tend to do the same. The difference is that the Fourth Amendment places limits on the official, even with the high degree of deference that courts must pay to the educator's professional judgment.

We do mean, though, to make it clear that the *T.L.O.* concern to limit a school search to reasonable scope requires the support of reasonable suspicion of danger or of resort to underwear for hiding evidence of wrongdoing before a search can reasonably make the quantum leap from outer clothes and backpacks to exposure of intimate parts. The meaning of such a search, and the degradation its subject may reasonably feel, place a search that intrusive in a category of its own demanding its own specific suspicions.

V

The strip search of Savana Redding was unreasonable and a violation of the Fourth Amendment, but petitioners Wilson, Romero, and Schwallier are nevertheless protected from liability through qualified immunity. Our conclusions here do not resolve, however, the question of the liability of petitioner Safford Unified School District # 1 under *Monell v. New York City Dept. of Social Servs.,* 436 U.S. 658, 694, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978), a claim the Ninth Circuit did not address. The judgment of the Ninth Circuit is therefore affirmed in part and reversed in part, and this case is remanded for consideration of the *Monell* claim.

It is so ordered.

New Jersey v. T.L.O.

469 U.S. 325 (1985)

Justice WHITE delivered the opinion of the Court.

We granted certiorari in this case to examine the appropriateness of the exclusionary rule as a remedy for searches carried out in violation of the Fourth Amendment by public school authorities. Our consideration of the proper application of the Fourth Amendment to the public schools, however, has led us to conclude that the search that gave rise to the case now before us did not violate the Fourth Amendment. Accordingly, we here address only the questions of the proper standard for assessing the legality of searches conducted by public school officials and the application of that standard to the facts of this case.

I

On March 7, 1980, a teacher at Piscataway High School in Middlesex County, N.J., discovered two girls smoking in a lavatory. One of the two girls was the respondent T.L.O., who at that time was a 14-year-old high school freshman. Because smoking in the lavatory was a violation of a school rule, the teacher took the two girls to the Principal's office, where they met with Assistant Vice Principal Theodore Choplick. In response to questioning by Mr. Choplick, T.L.O.'s companion admitted that she had violated the rule. T.L.O., however, denied that she had been smoking in the lavatory and claimed that she did not smoke at all.

Mr. Choplick asked T.L.O. to come into his private office and demanded to see her purse. Opening the purse, he found a pack of cigarettes, which he removed from the purse and held before T.L.O. as he accused her of having lied to him. As he reached into the purse for the cigarettes, Mr. Choplick also noticed a package of cigarette rolling papers. In his experience, possession of rolling papers by high school students was closely associated with the use of marihuana. Suspecting that a closer examination of the purse might yield further evidence of drug use, Mr. Choplick proceeded to search the purse thoroughly. The search revealed a small amount of marihuana, a pipe, a number of empty plastic bags, a substantial quantity of money in one-dollar bills, an index card that appeared to be a list of students who owed T.L.O. money, and two letters that implicated T.L.O. in marihuana dealing.

Mr. Choplick notified T.L.O.'s mother and the police, and turned the evidence of drug dealing over to the police. At the request of the police, T.L.O.'s mother took her daughter to police headquarters, where T.L.O. confessed that she had been selling marihuana at the high school. On the basis of the confession and the evidence seized by Mr. Choplick, the State brought delinquency charges against T.L.O. in the Juvenile and Domestic Relations Court of Middlesex County. Contending that Mr. Choplick's search of her purse violated the Fourth Amendment, T.L.O. moved to suppress the evidence found in her purse as well as her confession, which, she argued, was tainted by the allegedly unlawful search. The Juvenile Court denied the motion to suppress. *State ex rel. T.L.O.,* 178 N.J.Super. 329, 428 A.2d 1327 (1980). Although the court concluded that the Fourth Amendment did apply to searches carried out by school officials, it held that "a school official may properly conduct a search of a student's person if the official has a reasonable suspicion that a crime has been or is in the process of being committed, *or*

reasonable cause to believe that the search is necessary to maintain school discipline or enforce school policies." *Id.,* 178 N.J.Super., at 341, 428 A.2d, at 1333 (emphasis in original).

Applying this standard, the court concluded that the search conducted by Mr. Choplick was a reasonable one. The initial decision to open the purse was justified by Mr. Choplick's well-founded suspicion that T.L.O. had violated the rule forbidding smoking in the lavatory. Once the purse was open, evidence of marihuana violations was in plain view, and Mr. Choplick was entitled to conduct a thorough search to determine the nature and extent of T.L.O.'s drug-related activities. *Id.,* 178 N.J.Super., at 343, 428 A.2d, at 1334. Having denied the motion to suppress, the court on March 23, 1981, found T.L.O. to be a delinquent and on January 8, 1982, sentenced her to a year's probation.

On appeal from the final judgment of the Juvenile Court, a divided Appellate Division affirmed the trial court's finding that there had been no Fourth Amendment violation, but vacated the adjudication of delinquency and remanded for a determination whether T.L.O. had knowingly and voluntarily waived her Fifth Amendment rights before confessing. *State ex rel. T.L.O.,* 185 N.J.Super. 279, 448 A.2d 493 (1982). T.L.O. appealed the Fourth Amendment ruling, and the Supreme Court of New Jersey reversed the judgment of the Appellate Division and ordered the suppression of the evidence found in T.L.O.'s purse. *State ex rel. T.L.O.,* 94 N.J. 331, 463 A.2d 934 (1983).

The New Jersey Supreme Court agreed with the lower courts that the Fourth Amendment applies to searches conducted by school officials. The court also rejected the State of New Jersey's argument that the exclusionary rule should not be employed to prevent the use in juvenile proceedings of evidence unlawfully seized by school officials. Declining to consider whether applying the rule to the fruits of searches by school officials would have any deterrent value, the court held simply that the precedents of this Court establish that "if an official search violates constitutional rights, the evidence is not admissible in criminal proceedings." *Id.,* 94 N.J., at 341, 463 A.2d, at 939 (footnote omitted).

With respect to the question of the legality of the search before it, the court agreed with the Juvenile Court that a warrantless search by a school official does not violate the Fourth Amendment so long as the official "has reasonable grounds to believe that a student possesses evidence of illegal activity or activity that would interfere with school discipline and order." *Id.,* 94 N.J., at 346, 463 A.2d, at 941– 942. However, the court, with two justices dissenting, sharply disagreed with the Juvenile Court's conclusion that the search of the purse was reasonable. According to the majority, the contents of T.L.O.'s purse had no bearing on the accusation against T.L.O., for possession of cigarettes (as opposed to smoking them in the lavatory) did not violate school rules, and a mere desire for evidence that would impeach T.L.O.'s claim that she did not smoke cigarettes could not justify the search. Moreover, even if a reasonable suspicion that T.L.O. had cigarettes in her purse would justify a search, Mr. Choplick had no such suspicion, as no one had furnished him with any specific information that there were cigarettes in

the purse. Finally, leaving aside the question whether Mr. Choplick was justified in opening the purse, the court held that the evidence of drug use that he saw inside did not justify the extensive "rummaging" through T.L.O.'s papers and effects that followed. *Id.,* 94 N.J., at 347, 463 A.2d, at 942–943.

We granted the State of New Jersey's petition for certiorari. 464 U.S. 991, 104 S.Ct. 480, 78 L.Ed.2d 678 (1983). Although the State had argued in the Supreme Court of New Jersey that the search of T.L.O.'s purse did not violate the Fourth Amendment, the petition for certiorari raised only the question whether the exclusionary rule should operate to bar consideration in juvenile delinquency proceedings of evidence unlawfully seized by a school official without the involvement of law enforcement officers. When this case was first argued last Term, the State conceded for the purpose of argument that the standard devised by the New Jersey Supreme Court for determining the legality of school searches was appropriate and that the court had correctly applied that standard; the State contended only that the remedial purposes of the exclusionary rule were not well served by applying it to searches conducted by public authorities not primarily engaged in law enforcement.

Although we originally granted certiorari to decide the issue of the appropriate remedy in juvenile court proceedings for unlawful school searches, our doubts regarding the wisdom of deciding that question in isolation from the broader question of what limits, if any, the Fourth Amendment places on the activities of school authorities prompted us to order reargument on that question. Having heard argument on the legality of the search of T.L.O.'s purse, we are satisfied that the search did not violate the Fourth Amendment.

II

In determining whether the search at issue in this case violated the Fourth Amendment, we are faced initially with the question whether that Amendment's prohibition on unreasonable searches and seizures applies to searches conducted by public school officials. We hold that it does.

It is now beyond dispute that "the Federal Constitution, by virtue of the Fourteenth Amendment, prohibits unreasonable searches and seizures by state officers." *Elkins v. United States,* 364 U.S. 206, 213, 80 S.Ct. 1437, 1442, 4 L.Ed.2d 1669 (1960); accord, *Mapp v. Ohio,* 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961); *Wolf v. Colorado,* 338 U.S. 25, 69 S.Ct. 1359, 93 L.Ed. 1782 (1949). Equally indisputable is the proposition that the Fourteenth Amendment protects the rights of students against encroachment by public school officials:

"The Fourteenth Amendment, as now applied to the States, protects the citizen against the State itself and all of its creatures—Boards of Education not excepted. These have, of course, important, delicate, and highly discretionary functions, but none that they may not perform within the limits of the Bill of Rights. That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as

mere platitudes." *West Virginia State Bd. of Ed. v. Barnette,* 319 U.S. 624, 637, 63 S.Ct. 1178, 1185, 87 L.Ed. 1628 (1943).

These two propositions—that the Fourth Amendment applies to the States through the Fourteenth Amendment, and that the actions of public school officials are subject to the limits placed on state action by the Fourteenth Amendment—might appear sufficient to answer the suggestion that the Fourth Amendment does not proscribe unreasonable searches by school officials. On reargument, however, the State of New Jersey has argued that the history of the Fourth Amendment indicates that the Amendment was intended to regulate only searches and seizures carried out by law enforcement officers; accordingly, although public school officials are concededly state agents for purposes of the Fourteenth Amendment, the Fourth Amendment creates no rights enforceable against them.

It may well be true that the evil toward which the Fourth Amendment was primarily directed was the resurrection of the pre-Revolutionary practice of using general warrants or "writs of assistance" to authorize searches for contraband by officers of the Crown. See *United States v. Chadwick,* 433 U.S. 1, 7–8, 97 S.Ct. 2476, 2481, 53 L.Ed.2d 538 (1977); *Boyd v. United States,* 116 U.S. 616, 624–629, 6 S.Ct. 524, 528–531, 29 L.Ed. 746 (1886). But this Court has never limited the Amendment's prohibition on unreasonable searches and seizures to operations conducted by the police. Rather, the Court has long spoken of the Fourth Amendment's strictures as restraints imposed upon "governmental action"—that is, "upon the activities of sovereign authority." *Burdeau v. McDowell,* 256 U.S. 465, 475, 41 S.Ct. 574, 576, 65 L.Ed. 1048 (1921). Accordingly, we have held the Fourth Amendment applicable to the activities of civil as well as criminal authorities: building inspectors, see *Camara v. Municipal Court,* 387 U.S. 523, 528, 87 S.Ct. 1727, 1730, 18 L.Ed.2d 930 (1967), Occupational Safety and Health Act inspectors, see *Marshall v. Barlow's Inc.,* 436 U.S. 307, 312–313, 98 S.Ct. 1816, 1820, 56 L.Ed.2d 305 (1978), and even firemen entering privately owned premises to battle a fire, see *Michigan v. Tyler,* 436 U.S. 499, 506, 98 S.Ct. 1942, 1948, 56 L.Ed.2d 486 (1978), are all subject to the restraints imposed by the Fourth Amendment. As we observed in *Camara v. Municipal Court, supra,* "[t]he basic purpose of this Amendment, as recognized in countless decisions of this Court, is to safeguard the privacy and security of individuals against arbitrary invasions by governmental officials." 387 U.S., at 528, 87 S.Ct., at 1730. Because the individual's interest in privacy and personal security "suffers whether the government's motivation is to investigate violations of criminal laws or breaches of other statutory or regulatory standards," *Marshall v. Barlow's, Inc., supra,* 436 U.S., at 312–313, 98 S.Ct., at 1820, it would be "anomalous to say that the individual and his private property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior." *Camara v. Municipal Court, supra,* 387 U.S., at 530, 87 S.Ct., at 1732.

Notwithstanding the general applicability of the Fourth Amendment to the activities of civil authorities, a few courts have concluded that school officials are exempt from the dictates of the Fourth Amendment by virtue of the special nature of their authority over schoolchildren. See,

e.g., R.C.M. v. State, 660 S.W.2d 552 (Tex.App.1983). Teachers and school administrators, it is said, act *in loco parentis* in their dealings with students: their authority is that of the parent, not the State, and is therefore not subject to the limits of the Fourth Amendment. *Ibid.*

Such reasoning is in tension with contemporary reality and the teachings of this Court. We have held school officials subject to the commands of the First Amendment, see *Tinker v. Des Moines Independent Community School District,* 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969), and the Due Process Clause of the Fourteenth Amendment, see *Goss v. Lopez,* 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975). If school authorities are state actors for purposes of the constitutional guarantees of freedom of expression and due process, it is difficult to understand why they should be deemed to be exercising parental rather than public authority when conducting searches of their students. More generally, the Court has recognized that "the concept of parental delegation" as a source of school authority is not entirely "consonant with compulsory education laws." *Ingraham v. Wright,* 430 U.S. 651, 662, 97 S.Ct. 1401, 1407, 51 L.Ed.2d 711 (1977). Today's public school officials do not merely exercise authority voluntarily conferred on them by individual parents; rather, they act in furtherance of publicly mandated educational and disciplinary policies. See, *e.g.,* the opinion in *State ex rel. T.L.O.,* 94 N.J., at 343, 463 A.2d, at 934, 940, describing the New Jersey statutes regulating school disciplinary policies and establishing the authority of school officials over their students. In carrying out searches and other disciplinary functions pursuant to such policies, school officials act as representatives of the State, not merely as surrogates for the parents, and they cannot claim the parents' immunity from the strictures of the Fourth Amendment.

III

To hold that the Fourth Amendment applies to searches conducted by school authorities is only to begin the inquiry into the standards governing such searches. Although the underlying command of the Fourth Amendment is always that searches and seizures be reasonable, what is reasonable depends on the context within which a search takes place. The determination of the standard of reasonableness governing any specific class of searches requires "balancing the need to search against the invasion which the search entails." *Camara v. Municipal Court, supra,* 387 U.S., at 536–537, 87 S.Ct., at 1735. On one side of the balance are arrayed the individual's legitimate expectations of privacy and personal security; on the other, the government's need for effective methods to deal with breaches of public order. We have recognized that even a limited search of the person is a substantial invasion of privacy. *Terry v. Ohio,* 392 U.S. 1, 24–25, 88 S.Ct. 1868, 1881–1882, 20 L.Ed.2d 889 (1967).

We have also recognized that searches of closed items of personal luggage are intrusions on protected privacy interests, for "the Fourth Amendment provides protection to the owner of every container that conceals its contents from plain view." *United States v. Ross,* 456 U.S. 798, 822–823, 102 S.Ct. 2157, 2171, 72 L.Ed.2d 572 (1982). A search of a child's person or of a

closed purse or other bag carried on her person, no less than a similar search carried out on an adult, is undoubtedly a severe violation of subjective expectations of privacy.

Of course, the Fourth Amendment does not protect subjective expectations of privacy that are unreasonable or otherwise "illegitimate." See, *e.g., Hudson v. Palmer,* 468 U.S. 517, 104 S.Ct. 3194, 82 L.Ed.2d 393 (1984); *Rawlings v. Kentucky,* 448 U.S. 98, 100 S.Ct. 2556, 65 L.Ed.2d 633 (1980). To receive the protection of the Fourth Amendment, an expectation of privacy must be one that society is "prepared to recognize as legitimate." *Hudson v. Palmer, supra,* 468 U.S., at 526, 104 S.Ct., at 3200. The State of New Jersey has argued that because of the pervasive supervision to which children in the schools are necessarily subject, a child has virtually no legitimate expectation of privacy in articles of personal property "unnecessarily" carried into a school. This argument has two factual premises: (1) the fundamental incompatibility of expectations of privacy with the maintenance of a sound educational environment; and (2) the minimal interest of the child in bringing any items of personal property into the school. Both premises are severely flawed.

Although this Court may take notice of the difficulty of maintaining discipline in the public schools today, the situation is not so dire that students in the schools may claim no legitimate expectations of privacy. We have recently recognized that the need to maintain order in a prison is such that prisoners retain no legitimate expectations of privacy in their cells, but it goes almost without saying that "[t]he prisoner and the schoolchild stand in wholly different circumstances, separated by the harsh facts of criminal conviction and incarceration." *Ingraham v. Wright, supra,* 430 U.S., at 669, 97 S.Ct., at 1411. We are not yet ready to hold that the schools and the prisons need be equated for purposes of the Fourth Amendment.

Nor does the State's suggestion that children have no legitimate need to bring personal property into the schools seem well anchored in reality. Students at a minimum must bring to school not only the supplies needed for their studies, but also keys, money, and the necessaries of personal hygiene and grooming. In addition, students may carry on their persons or in purses or wallets such nondisruptive yet highly personal items as photographs, letters, and diaries. Finally, students may have perfectly legitimate reasons to carry with them articles of property needed in connection with extracurricular or recreational activities. In short, schoolchildren may find it necessary to carry with them a variety of legitimate, noncontraband items, and there is no reason to conclude that they have necessarily waived all rights to privacy in such items merely by bringing them onto school grounds. Against the child's interest in privacy must be set the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds. Maintaining order in the classroom has never been easy, but in recent years, school disorder has often taken particularly ugly forms: drug use and violent crime in the schools have become major social problems. See generally 1 NIE, U.S. Dept. of Health, Education and Welfare, Violent Schools—Safe Schools: The Safe School Study Report to the Congress (1978). Even in schools that have been spared the most severe disciplinary problems, the preservation of order and a proper educational environment requires close supervision of schoolchildren, as well

as the enforcement of rules against conduct that would be perfectly permissible if undertaken by an adult. "Events calling for discipline are frequent occurrences and sometimes require immediate, effective action." *Goss v. Lopez,* 419 U.S., at 580, 95 S.Ct., at 739. Accordingly, we have recognized that maintaining security and order in the schools requires a certain degree of flexibility in school disciplinary procedures, and we have respected the value of preserving the informality of the student-teacher relationship. See *id.,* at 582–583, 95 S.Ct., at 740; *Ingraham v. Wright,* 430 U.S., at 680–682, 97 S.Ct., at 1417–1418.

How, then, should we strike the balance between the schoolchild's legitimate expectations of privacy and the school's equally legitimate need to maintain an environment in which learning can take place? It is evident that the school setting requires some easing of the restrictions to which searches by public authorities are ordinarily subject. The warrant requirement, in particular, is unsuited to the school environment: requiring a teacher to obtain a warrant before searching a child suspected of an infraction of school rules (or of the criminal law) would unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools. Just as we have in other cases dispensed with the warrant requirement when "the burden of obtaining a warrant is likely to frustrate the governmental purpose behind the search," *Camara v. Municipal Court,* 387 U.S., at 532– 533, 87 S.Ct., at 1733, we hold today that school officials need not obtain a warrant before searching a student who is under their authority.

The school setting also requires some modification of the level of suspicion of illicit activity needed to justify a search. Ordinarily, a search—even one that may permissibly be carried out without a warrant—must be based upon "probable cause" to believe that a violation of the law has occurred. See, *e.g., Almeida-Sanchez v. United States,* 413 U.S. 266, 273, 93 S.Ct. 2535, 2540, 37 L.Ed.2d 596 (1973); *Sibron v. New York,* 392 U.S. 40, 62–66, 88 S.Ct. 1889, 1902–1904, 20 L.Ed.2d 917 (1968). However, "probable cause" is not an irreducible requirement of a valid search. The fundamental command of the Fourth Amendment is that searches and seizures be reasonable, and although "both the concept of probable cause and the requirement of a warrant bear on the reasonableness of a search, ... in certain limited circumstances neither is required." *Almeida-Sanchez v. United States, supra,* 413 U.S., at 277, 93 S.Ct., at 2541 (POWELL, J., concurring). Thus, we have in a number of cases recognized the legality of searches and seizures based on suspicions that, although "reasonable," do not rise to the level of probable cause. See, *e.g., Terry v. Ohio,* 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968); *United States v. Brignoni-Ponce,* 422 U.S. 873, 881, 95 S.Ct. 2574, 2580, 45 L.Ed.2d 607 (1975); *Delaware v. Prouse,* 440 U.S. 648, 654–655, 99 S.Ct. 1391, 1396, 59 L.Ed.2d 660 (1979); *United States v. Martinez-Fuerte,* 428 U.S. 543, 96 S.Ct. 3074, 49 L.Ed.2d 1116 (1976); cf. *Camara v. Municipal Court, supra,* 387 U.S., at 534–539, 87 S.Ct., at 1733–1736. Where a careful balancing of governmental and private interests suggests that the public interest is best served by a Fourth Amendment standard of reasonableness that stops short of probable cause, we have not hesitated to adopt such a standard.

We join the majority of courts that have examined this issue in concluding that the accommodation of the privacy interests of schoolchildren with the substantial need of teachers and administrators for freedom to maintain order in the schools does not require strict adherence to the requirement that searches be based on probable cause to believe that the subject of the search has violated or is violating the law. Rather, the legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search. Determining the reasonableness of any search involves a twofold inquiry: first, one must consider "whether the ... action was justified at its inception," *Terry v. Ohio,* 392 U.S., at 20, 88 S.Ct., at 1879; 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," *ibid.* Under ordinary circumstances, a search of a student by a teacher or other school official will be "justified at its inception" when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. 8 Such 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.

This standard will, we trust, neither unduly burden the efforts of school authorities to maintain order in their schools nor authorize unrestrained intrusions upon the privacy of schoolchildren. By focusing attention on the question of reasonableness, the standard will spare teachers and school administrators the necessity of schooling themselves in the niceties of probable cause and permit them to regulate their conduct according to the dictates of reason and common sense. At the same time, the reasonableness standard should ensure that the interests of students will be invaded no more than is necessary to achieve the legitimate end of preserving order in the schools.

IV

There remains the question of the legality of the search in this case. We recognize that the "reasonable grounds" standard applied by the New Jersey Supreme Court in its consideration of this question is not substantially different from the standard that we have adopted today. Nonetheless, we believe that the New Jersey court's application of that standard to strike down the search of T.L.O.'s purse reflects a somewhat crabbed notion of reasonableness. Our review of the facts surrounding the search leads us to conclude that the search was in no sense unreasonable for Fourth Amendment purposes.

The incident that gave rise to this case actually involved two separate searches, with the first—the search for cigarettes— providing the suspicion that gave rise to the second the search for marihuana. Although it is the fruits of the second search that are at issue here, the validity of the search for marihuana must depend on the reasonableness of the initial search for cigarettes, as there would have been no reason to suspect that T.L.O. possessed marihuana had the first search not taken place. Accordingly, it is to the search for cigarettes that we first turn our attention.

The New Jersey Supreme Court pointed to two grounds for its holding that the search for cigarettes was unreasonable. First, the court observed that possession of cigarettes was not in itself illegal or a violation of school rules. Because the contents of T.L.O.'s purse would therefore have "no direct bearing on the infraction" of which she was accused (smoking in a lavatory where smoking was prohibited), there was no reason to search her purse. Second, even assuming that a search of T.L.O.'s purse might under some circumstances be reasonable in light of the accusation made against T.L.O., the New Jersey court concluded that Mr. Choplick in this particular case had no reasonable grounds to suspect that *345 T.L.O. had cigarettes in her purse. At best, according to the court, Mr. Choplick had "a good hunch." 94 N.J., at 347, 463 A.2d, at 942.

Both these conclusions are implausible. T.L.O. had been accused of smoking, and had denied the accusation in the strongest possible terms when she stated that she did not smoke at all. Surely it cannot be said that under these circumstances, T.L.O.'s possession of cigarettes would be irrelevant to the charges against her or to her response to those charges. T.L.O.'s possession of cigarettes, once it was discovered, would both corroborate the report that she had been smoking and undermine the credibility of her defense to the charge of smoking. To be sure, the discovery of the cigarettes would not prove that T.L.O. had been smoking in the lavatory; nor would it, strictly speaking, necessarily be inconsistent with her claim that she did not smoke at all. But it is universally recognized that evidence, to be relevant to an inquiry, need not conclusively prove the ultimate fact in issue, but only have "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Fed.Rule Evid. 401. The relevance of T.L.O.'s possession of cigarettes to the question whether she had been smoking and to the credibility of her denial that she smoked supplied the necessary "nexus" between the item searched for and the infraction under investigation. See *Warden v. Hayden,* 387 U.S. 294, 306–307, 87 S.Ct. 1642, 1649–1650, 18 L.Ed.2d 782 (1967). Thus, if Mr. Choplick in fact had a reasonable suspicion that T.L.O. had cigarettes in her purse, the search was justified despite the fact that the cigarettes, if found, would constitute "mere evidence" of a violation. *Ibid.*

Of course, the New Jersey Supreme Court also held that Mr. Choplick had no reasonable suspicion that the purse would contain cigarettes. This conclusion is puzzling. A teacher had reported that T.L.O. was smoking in the lavatory. Certainly this report gave Mr. Choplick reason to suspect that T.L.O. was carrying cigarettes with her; and if she did have cigarettes, her purse was the obvious place in which to find them. Mr. Choplick's suspicion that there were cigarettes in the purse was not an "inchoate and unparticularized suspicion or 'hunch,' " *Terry v. Ohio,* 392 U.S., at 27, 88 S.Ct., at 1883; rather, it was the sort of "common-sense conclusio[n] about human behavior" upon which "practical people"— including government officials—are entitled to rely. *United States v. Cortez,* 449 U.S. 411, 418, 101 S.Ct. 690, 695, 66 L.Ed.2d 621 (1981). Of course, even if the teacher's report were true, T.L.O. *might* not have had a pack of cigarettes with her; she might have borrowed a cigarette from someone else or have been sharing a cigarette

with another student. But the requirement of reasonable suspicion is not a requirement of absolute certainty: "sufficient probability, not certainty, is the touchstone of reasonableness under the Fourth Amendment ...." *Hill v. California,* 401 U.S. 797, 804, 91 S.Ct. 1106, 1111, 28 L.Ed.2d 484 (1971). Because the hypothesis that T.L.O. was carrying cigarettes in her purse was itself not unreasonable, it is irrelevant that other hypotheses were also consistent with the teacher's accusation. Accordingly, it cannot be said that Mr. Choplick acted unreasonably when he examined T.L.O.'s purse to see if it contained cigarettes.

Our conclusion that Mr. Choplick's decision to open T.L.O.'s purse was reasonable brings us to the question of the further search for marihuana once the pack of cigarettes was located. The suspicion upon which the search for marihuana was founded was provided when Mr. Choplick observed a package of rolling papers in the purse as he removed the pack of cigarettes. Although T.L.O. does not dispute the reasonableness of Mr. Choplick's belief that the rolling papers indicated the presence of marihuana, she does contend that the scope of the search Mr. Choplick conducted exceeded permissible bounds when he seized and read certain letters that implicated T.L.O. in drug dealing. This argument, too, is unpersuasive. The discovery of the rolling papers concededly gave rise to a reasonable suspicion that T.L.O. was carrying marihuana as well as cigarettes in her purse. This suspicion justified further exploration of T.L.O.'s purse, which turned up more evidence of drugrelated activities: a pipe, a number of plastic bags of the type commonly used to store marihuana, a small quantity of marihuana, and a fairly substantial amount of money. Under these circumstances, it was not unreasonable to extend the search to a separate zippered compartment of the purse; and when a search of that compartment revealed an index card containing a list of "people who owe me money" as well as two letters, the inference that T.L.O. was involved in marihuana trafficking was substantial enough to justify Mr. Choplick in examining the letters to determine whether they contained any further evidence. In short, we cannot conclude that the search for marihuana was unreasonable in any respect.

Because the search resulting in the discovery of the evidence of marihuana dealing by T.L.O. was reasonable, the New Jersey Supreme Court's decision to exclude that evidence from T.L.O.'s juvenile delinquency proceedings on Fourth Amendment grounds was erroneous. Accordingly, the judgment of the Supreme Court of New Jersey is

Reversed.

Justice SOTOMAYOR delivered the opinion of the Court.

This case presents the question whether the age of a child subjected to police questioning is relevant to the custody analysis of *Miranda v. Arizona,* 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). It is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave. Seeing no reason for police officers or courts to blind themselves to that commonsense reality, we hold that a child's age properly informs the *Miranda* custody analysis.

A

Petitioner J.D.B. was a 13–year–old, seventh-grade student attending class at Smith Middle School in Chapel Hill, North Carolina when he was removed from his classroom by a uniformed police officer, escorted to a closed-door conference room, and questioned by police for at least half an hour.

This was the second time that police questioned J.D.B. in the span of a week. Five days earlier, two home break-ins occurred, and various items were stolen. Police stopped and questioned J.D.B. after he was seen behind a residence in the neighborhood where the crimes occurred. That same day, police also spoke to J.D.B.'s grandmother—his legal guardian —as well as his aunt.

Police later learned that a digital camera matching the description of one of the stolen items had been found at J.D.B.'s middle school and seen in J.D.B.'s possession. Investigator DiCostanzo, the juvenile investigator with the local police force who had been assigned to the case, went to the school to question J.D.B. Upon arrival, DiCostanzo informed the uniformed police officer on detail to the school (a so-called school resource officer), the assistant principal, and an administrative intern that he was there to question J.D.B. about the break-ins. Although DiCostanzo asked the school administrators to verify J.D.B.'s date of birth, address, and parent contact information from school records, neither the police officers nor the school administrators contacted J.D.B.'s grandmother.

The uniformed officer interrupted J.D.B.'s afternoon social studies class, removed J.D.B. from the classroom, and escorted him to a school conference room. 1 There, J.D.B. was met by DiCostanzo, the assistant principal, and the administrative intern. The door to the conference room was closed. With the two police officers and the two administrators present, J.D.B. was questioned for the next 30 to 45 minutes. Prior to the commencement of questioning, J.D.B. was given neither *Miranda* warnings nor the opportunity to speak to his grandmother. Nor was he informed that he was free to leave the room.

Questioning began with small talk—discussion of sports and J.D.B.'s family life. DiCostanzo asked, and J.D.B. agreed, to discuss the events of the prior weekend. Denying any wrongdoing, J.D.B. explained that he had been in the neighborhood where the crimes occurred because he was seeking work mowing lawns. DiCostanzo pressed J.D.B. for additional detail about his efforts to

obtain work; asked J.D.B. to explain a prior incident, when one of the victims returned home to find J.D.B. behind her house; and confronted J.D.B. with the stolen camera. The assistant principal urged J.D.B. to "do the right thing," warning J.D.B. that "the truth always comes out in the end." App. 99a, 112a.

Eventually, J.D.B. asked whether he would "still be in trouble" if he returned the "stuff." *Ibid*. In response, DiCostanzo explained that return of the stolen items would be helpful, but "this thing is going to court" regardless. *Id.,* at 112a; *ibid.* ("[W]hat's done is done[;] now you need to help yourself by making it right"); see also *id.,* at 99a. DiCostanzo then warned that he may need to seek a secure custody order if he believed that J.D.B. would continue to break into other homes. When J.D.B. asked what a secure custody order was, DiCostanzo explained that "it's where you get sent to juvenile detention before court." *Id.,* at 112a.

After learning of the prospect of juvenile detention, J.D.B. confessed that he and a friend were responsible for the breakins. DiCostanzo only then informed J.D.B. that he could refuse to answer the investigator's questions and that he was free to leave. Asked whether he understood, J.D.B. nodded and provided further detail, including information about the location of the stolen items. Eventually J.D.B. wrote a statement, at DiCostanzo's request. When the bell rang indicating the end of the schoolday, J.D.B. was allowed to leave to catch the bus home.

B

Two juvenile petitions were filed against J.D.B., each alleging one count of breaking and entering and one count of larceny. J.D.B.'s public defender moved to suppress his statements and the evidence derived therefrom, arguing that suppression was necessary because J.D.B. had been "interrogated by police in a custodial setting without being afforded *Miranda* warning[s]," App. 89a, and because his statements were involuntary under the totality of the circumstances test, *id.,* at 142a; see *Schneckloth v. Bustamonte,* 412 U.S. 218, 226, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973) (due process precludes admission of a confession where "a defendant's will was overborne" by the circumstances of the interrogation). After a suppression hearing at which DiCostanzo and J.D.B. testified, the trial court denied the motion, deciding that J.D.B. was not in custody at the time of the schoolhouse interrogation and that his statements were voluntary. As a result, J.D.B. entered a transcript of admission to all four counts, renewing his objection to the denial of his motion to suppress, and the court adjudicated J.D.B. delinquent.

A divided panel of the North Carolina Court of Appeals affirmed. *In re J.D.B.,* 196 N.C.App. 234, 674 S.E.2d 795 (2009). The North Carolina Supreme Court held, over two dissents, that J.D.B. was not in custody when he confessed, "declin[ing] to extend the test for custody to include consideration of the age ... of an individual subjected to questioning by police." *In re J.D.B.,* 363 N.C. 664, 672, 686 S.E.2d 135, 140 (2009).

We granted certiorari to determine whether the *Miranda* custody analysis includes consideration of a juvenile suspect's age. 562 U.S. 1001, 131 S.Ct. 502, 178 L.Ed.2d 368 (2010).

II

A

Any police interview of an individual suspected of a crime has "coercive aspects to it." *Oregon v. Mathiason,* 429 U.S. 492, 495, 97 S.Ct. 711, 50 L.Ed.2d 714 (1977) *(per curiam)*. Only those interrogations that occur while a suspect is in police custody, however, "heighte[n] the risk" that statements obtained are not the *269 product of the suspect's free choice. *Dickerson v. United States,* 530 U.S. 428, 435, 120 S.Ct. 2326, 147 L.Ed.2d 405 (2000).

By its very nature, custodial police interrogation entails "inherently compelling pressures." *Miranda,* 384 U.S., at 467, 86 S.Ct. 1602. Even for an adult, the physical and psychological isolation of custodial interrogation can "undermine the individual's will to resist and ... compel him to speak where he would not otherwise do so freely." *Ibid*. Indeed, the pressure of custodial interrogation is so immense that it "can induce a frighteningly high percentage of people to confess to crimes they never committed." *Corley v. United States,* 556 U.S. 303, 321, 129 S.Ct. 1558, 1570, 173 L.Ed.2d 443 (2009) (citing Drizin & Leo, The Problem of False Confessions in the Post–DNA World, 82 N.C.L.Rev. 891, 906–907 (2004)); see also *Miranda,* 384 U.S., at 455, n. 23, 86 S.Ct. 1602. That risk is all the more troubling—and recent studies suggest, all the more acute—when the subject of custodial interrogation is a juvenile. See Brief for Center on Wrongful Convictions of Youth et al. as *Amici Curiae* 21– 22 (collecting empirical studies that "illustrate the heightened risk of false confessions from youth").

Recognizing that the inherently coercive nature of custodial interrogation "blurs the line between voluntary and involuntary statements," *Dickerson,* 530 U.S., at 435, 120 S.Ct. 2326, this Court in *Miranda* adopted a set of prophylactic measures designed to safeguard the constitutional guarantee against self-incrimination. Prior to questioning, a suspect "must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed." 384 U.S., at 444, 86 S.Ct. 1602; see also *Florida v. Powell,* 559 U.S. 50, 60, 130 S.Ct. 1195, 1204, 175 L.Ed.2d 1009 (2010) ("The four warnings *Miranda* requires are invariable, but this Court has not dictated the words in which the essential information must be conveyed"). And, if a suspect makes a statement during custodial interrogation, the burden is on the Government to show, as a "prerequisit[e]" to the statement's admissibility as evidence *270 in the Government's case in chief, that the defendant "voluntarily, knowingly and intelligently" waived his rights. 4 *Miranda,* 384 U.S., at 444, 475–476, 86 S.Ct. 1602; *Dickerson,* 530 U.S., at 443–444, 120 S.Ct. 2326.

Because these measures protect the individual against the coercive nature of custodial interrogation, they are required " 'only where there has been such a restriction on a person's freedom as to render him "in custody." ' " *Stansbury v. California,* 511 U.S. 318, 322, 114 S.Ct. 1526, 128 L.Ed.2d 293 (1994) *(per curiam)* (quoting *Oregon v. Mathiason,* 429 U.S. 492, 495, 97 S.Ct. 711, 50 L.Ed.2d 714 (1977) *(per curiam)*). As we have repeatedly emphasized, whether a suspect is "in custody" is an objective inquiry.

"Two discrete inquiries are essential to the determination: first, what were the circumstances surrounding the interrogation; and second, given those circumstances, would a reasonable person have felt he or she was at liberty to terminate the interrogation and leave. Once the scene is set and the players' lines and actions are reconstructed, the court must apply an objective test to resolve the ultimate inquiry: was there a formal arrest or restraint on freedom of movement of the degree associated with formal arrest." *Thompson v. Keohane,* 516 U.S. 99, 112, 116 S.Ct. 457, 133 L.Ed.2d 383 (1995) (internal quotation marks, alteration, and footnote omitted).

See also *Yarborough v. Alvarado,* 541 U.S. 652, 662–663, 124 S.Ct. 2140, 158 L.Ed.2d 938 (2004); *Stansbury,* 511 U.S., at 323, 114 S.Ct. 1526; *Berkemer v. McCarty,* 468 U.S. 420, 442, and n. 35, 104 S.Ct. 3138, 82 L.Ed.2d 317 (1984). Rather than demarcate a limited set of relevant circumstances, we have required police officers and courts to "examine all of the circumstances surrounding the interrogation," *Stansbury,* 511 U.S., at 322, 114 S.Ct. 1526, including any circumstance that "would have affected how a reasonable person" in the suspect's position "would perceive his or her freedom to leave," *id.,* at 325, 114 S.Ct. 1526. On the other hand, the "subjective views harbored by either the interrogating officers or the person being questioned" are irrelevant. *Id.,* at 323, 114 S.Ct. 1526. The test, in other words, involves no consideration of the "actual mindset" of the particular suspect subjected to police questioning. *Alvarado,* 541 U.S., at 667, 124 S.Ct. 2140; see also *California v. Beheler,* 463 U.S. 1121, 1125, n. 3, 103 S.Ct. 3517, 77 L.Ed.2d 1275 (1983) *(per curiam)*.

The benefit of the objective custody analysis is that it is "designed to give clear guidance to the police." *Alvarado,* 541 U.S., at 668, 124 S.Ct. 2140. But see *Berkemer,* 468 U.S., at 441, 104 S.Ct. 3138 (recognizing the "occasiona[l] ... difficulty" that police and courts nonetheless have in "deciding exactly when a suspect has been taken into custody"). Police must make in-the-moment judgments as to when to administer *Miranda* warnings. By limiting analysis to the objective circumstances of the interrogation, and asking how a reasonable person in the suspect's position would understand his freedom to terminate questioning and leave, the objective test avoids burdening police with the task of anticipating the idiosyncrasies of every individual suspect and divining how those particular traits affect each person's subjective state of mind. See *id.,* at 430–431, 104 S.Ct. 3138 (officers are not required to "make guesses" as to circumstances "unknowable" to them at the time); *Alvarado,* 541 U.S., at 668, 124 S.Ct. 2140 (officers are under no duty "to consider ... contingent psychological factors when deciding when suspects should be advised of their *Miranda* rights").

B

The State and its *amici* contend that a child's age has no place in the custody analysis, no matter how young the child subjected to police questioning. We cannot agree. In some circumstances, a child's age "would have affected how a reasonable person" in the suspect's position "would perceive his or her freedom to leave." *Stansbury,* 511 U.S., at 325, 114 S.Ct. 1526. That is, a reasonable child subjected to police questioning will sometimes feel pressured to submit when a

reasonable adult would feel free to go. We think it clear that courts can account for that reality without doing any damage to the objective nature of the custody analysis.

A child's age is far "more than a chronological fact." *Eddings v. Oklahoma,* 455 U.S. 104, 115, 102 S.Ct. 869, 71 L.Ed.2d 1 (1982); accord, *Gall v. United States,* 552 U.S. 38, 58, 128 S.Ct. 586, 169 L.Ed.2d 445 (2007); *Roper v. Simmons,* 543 U.S. 551, 569, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005); *Johnson v. Texas,* 509 U.S. 350, 367, 113 S.Ct. 2658, 125 L.Ed.2d 290 (1993). It is a fact that "generates commonsense conclusions about behavior and perception." *Alvarado,* 541 U.S., at 674, 124 S.Ct. 2140 (BREYER, J., dissenting). Such conclusions apply broadly to children as a class. And, they are self-evident to anyone who was a child once himself, including any police officer or judge.

Time and again, this Court has drawn these commonsense conclusions for itself. We have observed that children "generally are less mature and responsible than adults," *Eddings,* 455 U.S., at 115–116, 102 S.Ct. 869; that they "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them," *Bellotti v. Baird,* 443 U.S. 622, 635, 99 S.Ct. 3035, 61 L.Ed.2d 797 (1979) (plurality opinion); that they "are more vulnerable or susceptible to ... outside pressures" than adults, *Roper,* 543 U.S., at 569, 125 S.Ct. 1183; and so on. See *Graham v. Florida,* 560 U.S. 48, 68, 130 S.Ct. 2011, 2026, 176 L.Ed.2d 825 (2010) (finding no reason to "reconsider" these observations about the common "nature of juveniles"). Addressing the specific context of police interrogation, we have observed that events that "would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens." *Haley v. Ohio,* 332 U.S. 596, 599, 68 S.Ct. 302, 92 L.Ed. 224 (1948) (plurality opinion); see also *Gallegos v. Colorado,* 370 U.S. 49, 54, 82 S.Ct. 1209, 8 L.Ed.2d 325 (1962) ("[N]o matter how sophisticated," a juvenile subject of police interrogation "cannot be compared" to an adult subject). Describing no one child in particular, these observations restate what "any parent knows"—indeed, what any person knows—about children generally. *Roper,* 543 U.S., at 569, 125 S.Ct. 1183.

Our various statements to this effect are far from unique. The law has historically reflected the same assumption that children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them. See, *e.g.,* 1 W. Blackstone, Commentaries on the Laws of England (hereinafter Blackstone) (explaining that limits on children's legal capacity under the common law "secure them from hurting themselves by their own improvident acts"). Like this Court's own generalizations, the legal disqualifications placed on children as a class—*e.g.,* limitations on their ability to alienate property, enter a binding contract enforceable against them, and marry without parental consent—exhibit the settled understanding that the differentiating characteristics of youth are universal.

Indeed, even where a "reasonable person" standard otherwise applies, the common law has reflected the reality that children are not adults. In negligence suits, for instance, where liability turns on what an objectively reasonable person would do in the circumstances, "[a]ll American jurisdictions accept the idea that a person's childhood is a relevant circumstance" to be

considered. Restatement (Third) of Torts § 10, Comment *b,* p. 117 (2005); see also *id.,* Reporters' Note, pp. 121–122 (collecting cases); Restatement (Second) of Torts § 283A, Comment *b,* p. 15 (1963–1964) ("[T]here is a wide basis of community experience upon which it is possible, as a practical matter, to determine what is to be expected of [children]").

As this discussion establishes, "[o]ur history is replete with laws and judicial recognition" that children cannot be viewed simply as miniature adults. *Eddings,* 455 U.S., at 115–116, 102 S.Ct. 869. We see no justification for taking a different course here. So long as the child's age was known to the officer at the time of the interview, or would have been objectively apparent to any reasonable officer, including age as part of the custody analysis requires officers neither to consider circumstances "unknowable" to them, *Berkemer,* 468 U.S., at 430, 104 S.Ct. 3138, nor to "anticipat[e] the frailties or idiosyncrasies" of the particular suspect whom they question, *Alvarado,* 541 U.S., at 662, 124 S.Ct. 2140 (internal quotation marks omitted). The same "wide basis of community experience" that makes it possible, as an objective matter, "to determine what is to be expected" of children in other contexts, Restatement (Second) of Torts § 283A, at 15; see *supra,* at 2403, and n. 6, likewise makes it possible to know what to expect of children subjected to police questioning.

In other words, a child's age differs from other personal characteristics that, even when known to police, have no objectively discernible relationship to a reasonable person's understanding of his freedom of action. *Alvarado,* holds, for instance, that a suspect's prior interrogation history with law enforcement has no role to play in the custody analysis because such experience could just as easily lead a reasonable person to feel free to walk away as to feel compelled to stay in place. 541 U.S., at 668, 124 S.Ct. 2140. Because the effect in any given case would be "contingent [on the] psycholog[y]" of the individual suspect, the Court explained, such experience cannot be considered without compromising the objective nature of the custody analysis. *Ibid.* A child's age, however, is different. Precisely because childhood yields objective conclusions like those we have drawn ourselves—among others, that children are "most susceptible to influence," *Eddings,* 455 U.S., at 115, 102 S.Ct. 869, and "outside pressures," *Roper,* 543 U.S., at 569, 125 S.Ct. 1183—considering age in the custody analysis in no way involves a determination of how youth "subjectively affect[s] the mindset" of any particular child, Brief for Respondent 14.

In fact, in many cases involving juvenile suspects, the custody analysis would be nonsensical absent some consideration of the suspect's age. This case is a prime example. Were the court precluded from taking J.D.B.'s youth into account, it would be forced to evaluate the circumstances present here through the eyes of a reasonable person of average years. In other words, how would a reasonable adult understand his situation, after being removed from a seventh-grade social studies class by a uniformed school resource officer; being encouraged by his assistant principal to "do the right thing"; and being warned by a police investigator of the prospect of juvenile detention and separation from his guardian and primary caretaker? To describe such an inquiry is to demonstrate its absurdity. Neither officers nor courts can reasonably evaluate the effect of objective circumstances that, by their nature, are specific to children without accounting for the age of the child subjected to those circumstances.

Indeed, although the dissent suggests that concerns "regarding the application of the *Miranda* custody rule to minors can be accommodated by considering the unique circumstances present when minors are questioned in school," *post,* at 2417 (opinion of ALITO, J.), the effect of the schoolhouse setting cannot be disentangled from the identity of the person questioned. A student—whose presence at school is compulsory and whose disobedience at school is cause for disciplinary action—is in a far different position than, say, a parent volunteer on school grounds to chaperone an event, or an adult from the community on school grounds to attend a basketball game. Without asking whether the person "questioned in school" is a "minor," *ibid.,* the coercive effect of the schoolhouse setting is unknowable.

Our prior decision in *Alvarado* in no way undermines these conclusions. In that case, we held that a state-court decision that failed to mention a 17–year–old's age as part of the *Miranda* custody analysis was not objectively unreasonable under the deferential standard of review set forth by the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), 110 Stat. 1214. Like the North Carolina Supreme Court here, see 363 N.C., at 672, 686 S.E.2d, at 140, we observed that accounting for a juvenile's age in the *Miranda* custody analysis "could be viewed as creating a subjective inquiry," 541 U.S., at 668, 124 S.Ct. 2140. We said nothing, however, of whether such a view would be correct under the law. Cf. *Renico v. Lett,* 559 U.S. 766, 778, n. 3, 130 S.Ct. 1855, 1865 n. 3, 176 L.Ed.2d 678 (2010) ("[W]hether the [state court] was right or wrong is not the pertinent question under AEDPA"). To the contrary, Justice O'Connor's concurring opinion explained that a suspect's age may indeed "be relevant to the 'custody' inquiry." *Alvarado,* 541 U.S., at 669, 124 S.Ct. 2140.

Reviewing the question *de novo* today, we hold that so long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test. 8 This is not to say that a child's age will be a determinative, or even a significant, factor in every case. Cf. *ibid.* (O'Connor, J., concurring) (explaining that a statecourt decision omitting any mention of the defendant's age was not unreasonable under AEDPA's deferential standard of review where the defendant "was almost 18 years old at the time of his interview"); *post,* at 2417 (suggesting that "teenagers nearing the age of majority" are likely to react to an interrogation as would a "typical 18–year–old in similar circumstances"). It is, however, a reality that courts cannot simply ignore.

III

The State and its *amici* offer numerous reasons that courts must blind themselves to a juvenile defendant's age. None is persuasive. To start, the State contends that a child's age must be excluded from the custody inquiry because age is a personal characteristic specific to the suspect himself rather than an "external" circumstance of the interrogation. Brief for Respondent 21; see also *id.,* at 18–19 (distinguishing "personal characteristics" from "objective facts related to the interrogation itself" such as the location and duration of the interrogation). Despite the supposed significance of this distinction, however, at oral argument counsel for the State suggested

without hesitation that at least some undeniably personal characteristics—for instance, whether the individual being questioned is blind—are circumstances relevant to the custody analysis. See Tr. of Oral Arg. 41. Thus, the State's quarrel cannot be that age is a personal characteristic, without more.

The State further argues that age is irrelevant to the custody analysis because it "go[es] to how a suspect may internalize and perceive the circumstances of an interrogation." Brief for Respondent 12; see also Brief for United States as *Amicus Curiae* 21 (hereinafter U.S. Brief) (arguing that a child's age has no place in the custody analysis because it goes to whether a suspect is "particularly susceptible" to the external circumstances of the interrogation (some internal quotation marks omitted)). But the same can be said of every objective circumstance that the State agrees is relevant to the custody analysis: Each circumstance goes to how a reasonable person would "internalize and perceive" every other. See, *e.g., Stansbury,* 511 U.S., at 325, 114 S.Ct. 1526. Indeed, this is the very reason that we ask whether the objective circumstances "add up to custody," *Keohane,* 516 U.S., at 113, 116 S.Ct. 457, instead of evaluating the circumstances one by one.

In the same vein, the State and its *amici* protest that the "effect of ... age on [the] perception of custody is internal," Brief for Respondent 20, or "psychological," U.S. Brief 21. But the whole point of the custody analysis is to determine whether, given the circumstances, "a reasonable person [would] have felt he or she was ... at liberty to terminate the interrogation and leave." *Keohane,* 516 U.S., at 112, 116 S.Ct. 457. Because the *Miranda* custody inquiry turns on the mindset of a reasonable person in the suspect's position, it cannot be the case that a circumstance is subjective simply because it has an "internal" or "psychological" impact on perception. Were that so, there would be no objective circumstances to consider at all.

Relying on our statements that the objective custody test is "designed to give clear guidance to the police," *Alvarado,* 541 U.S., at 668, 124 S.Ct. 2140, the State next argues that a child's age must be excluded from the analysis in order to preserve clarity. Similarly, the dissent insists that the clarity of the custody analysis will be destroyed unless a "one-size-fits-all reasonable-person test" applies. *Post,* at 2415. In reality, however, ignoring a juvenile defendant's age will often make the inquiry more artificial, see *supra,* at 2404 – 2405, and thus only add confusion. And in any event, a child's age, when known or apparent, is hardly an obscure factor to assess. Though the State and the dissent worry about gradations among children of different ages, that concern cannot justify ignoring a child's age altogether. Just as police officers are competent to account for other objective circumstances that are a matter of degree such as the length of questioning or the number of officers present, so too are they competent to evaluate the effect of relative age. Indeed, they are competent to do so even though an interrogation room lacks the "reflective atmosphere of a [jury] deliberation room," *post,* at 2416. The same is true of judges, including those whose childhoods have long since passed, see *post,* at 2416. In short, officers and judges need no imaginative powers, knowledge of developmental psychology, training in cognitive science, or expertise in social and cultural anthropology to account for a child's age. They simply need the common sense to know that a 7–year–old is not a 13–year– old and neither is an adult.

There is, however, an even more fundamental flaw with the State's plea for clarity and the dissent's singular focus on simplifying the analysis: Not once have we excluded from the custody analysis a circumstance that we determined was relevant and objective, simply to make the fault line between custodial and noncustodial "brighter." Indeed, were the guiding concern clarity and nothing else, the custody test would presumably ask only whether the suspect had been placed under formal arrest. *Berkemer,* 468 U.S., at 441, 104 S.Ct. 3138; see *ibid.* (acknowledging the "occasiona[l] ... difficulty" police officers confront in determining when a suspect has been taken into custody). But we have rejected that "more easily administered line," recognizing that it would simply "enable the police to circumvent the constraints on custodial interrogations established by *Miranda*." *Ibid.*; see also *ibid.,* n. 33.

Finally, the State and the dissent suggest that excluding age from the custody analysis comes at no cost to juveniles' constitutional rights because the due process voluntariness test independently accounts for a child's youth. To be sure, that test permits consideration of a child's age, and it erects its own barrier to admission of a defendant's inculpatory statements at trial. See *Gallegos,* 370 U.S., at 53– 55, 82 S.Ct. 1209; *Haley,* 332 U.S., at 599–601, 68 S.Ct. 302; see also *post,* *281 at 2418 ("[C]ourts should be instructed to take particular care to ensure that [young children's] incriminating statements were not obtained involuntarily"). But *Miranda* 's procedural safeguards exist precisely because the voluntariness test is an inadequate barrier when custodial interrogation is at stake. See 384 U.S., at 458, 86 S.Ct. 1602 ("Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice"); *Dickerson,* 530 U.S., at 442, 120 S.Ct. 2326 ("[R]eliance on the traditional totalityof- the-circumstances test raise[s] a risk of overlooking an involuntary custodial confession"); see also *supra,* at 2400 – 2401. To hold, as the State requests, that a child's age is never relevant to whether a suspect has been taken into custody— and thus to ignore the very real differences between children and adults—would be to deny children the full scope of the procedural safeguards that *Miranda* guarantees to adults.

The question remains whether J.D.B. was in custody when police interrogated him. We remand for the state courts to address that question, this time taking account of all of the relevant circumstances of the interrogation, including J.D.B.'s age at the time. The judgment of the North Carolina Supreme Court is reversed, and the case is remanded for proceedings not inconsistent with this opinion.

It is so ordered.

State v. Pablo R.

2006-NMCA-072

139. N.M. 744

VIGIL, Judge.

The State appeals the district court's order granting Child's motion to suppress evidence. Child and his jacket were searched by two campus service aides in the school security office because he was walking down a school hallway without a pass after classes had begun and he appeared nervous and fidgety when he was initially confronted. Following an evidentiary hearing, the district court ruled that the search was not supported by reasonable suspicion. We affirm.

BACKGROUND

At the relevant time, Child was a junior at Rio Grande High School. On December 15, 2003, at approximately 12:35 p.m., Child was walking down the school hallway during class time and Elvis Delaney, a campus service aide, stopped him. Campus service aides are employed by Albuquerque Public Schools to assist school officials in security matters, including patrolling the campus and ensuring that students are in class. Rio Grande High School has a history of problems on campus, including fighting, truancy, graffiti, gang activity, and weapons. When a campus service aide finds a student who is not in class, he first determines whether the student has a pass authorizing him or her to be out of class. If the student has a pass, the campus service aide makes sure the student is headed to the authorized destination. If the student has no pass, he determines why the student is out of class and escorts the student to the school security office to determine whether any disciplinary action is required.

Delaney testified that he had three or four prior contacts with Child, and on those occasions, Child was also either late to class or out of class. On those occasions, he simply instructed Child to get to class. However, on this occasion, for the first time, Child was acting “a little nervous” and fidgety so he directed Child to the security office because he thought “something was wrong” and he had become concerned that Child might have a weapon or marijuana on him. Delaney admitted he did not suspect Child of any criminal activity, did not smell marijuana on him, and had no information concerning any other wrongdoing by Child that day. Furthermore, Delaney's written incident report makes no mention of Child's nervousness, and it only states that Child “was caught wandering campus” and brought to the security office for a pat-down.

Delaney could not recall whether Child offered any explanation about where he was going. Delaney also did not initially recall whether he asked Child any questions before directing him to the security office; however, he subsequently testified that he did ask Child whether he had a pass, and Child did not have a pass or agenda. Delaney explained that, while on campus, students are typically required to carry with them an agenda containing any signed passes authorizing them to be out of class. However, he also acknowledged that sometimes a student may legitimately be out of class without a pass, such as when a teacher instructs the student to obtain a pass from the administration office.

Child testified that after the lunch period, he walked his girlfriend to her class and then went to his class, but was not allowed into the classroom by his teacher because he was late. His teacher instructed him to go to the administration office to obtain a late pass. On his way to the administration office, Child walked by the security office and he was stopped by Delaney who ordered him inside. Before the search, Delaney had asked Child where he was going and Child testified he responded he was going to the administration office to get a pass. When asked whether he was nervous when confronted by Delaney, Child responded that he was not given the chance to be nervous.

In the security office, Delaney instructed Child to take his jacket off, place it on a table, empty his pockets, and Child complied. While patting down Child, Delaney found a pipe containing what appeared to be marijuana residue, a black magic marker, and a lighter with the initials "BST" etched on it. "BST" stands for "Bud Smoking Thugs," a known group on campus. Another campus service aide, Vincent Gallegos, assisted in the search because of the policy to have two campus service aides conduct searches: one to search the student's person and the other to search his or her belongings. Thus, while Delaney patted down Child, Gallegos searched the jacket, finding brass knuckles inside it. On cross-examination, Gallegos acknowledged he had no independent reason for searching Child. Further, he was not concerned about his safety and had no history of trouble with Child.

The district court judge questioned both Delaney and Gallegos about their reasons for searching Child. In response to the judge's questions, Delaney said he initially stopped Child because he was not in class and he did not have a pass authorizing him to be out of class, and that he searched Child because he appeared nervous and was fidgeting. When asked if the school had a policy of searching any student who was out of class without a pass, Delaney said there was no such policy, but that a student could be searched if he or she appeared to be "hiding something." Gallegos, on the other hand, claimed that any student who is caught out of class without a pass is subject to a search for weapons or contraband. He said that students who are out of class without permission are usually doing something they should not be doing. He also said that being out of class without a pass is a violation of the school rules, and the school handbook, which is distributed to every student, authorizes a search when a student violates school rules.

The district court judge asked for a copy of the school handbook, directed the parties to submit briefs in support of their respective positions, and took the matter under advisement. The district court subsequently granted Child's motion to suppress. Although the court did not enter findings of fact in the written order granting the motion, it gave the following oral ruling in open court. First of all, the school handbook provided no basis for searching Child. Furthermore, the district court found, Child was in the hallway without a pass because he was late returning from lunch and he had been directed by his teacher to obtain a pass from the administration office. Thus, the

court concluded, there was no reasonable suspicion that Child had violated the law or a school rule, and the search of Child was unlawful.

The State appeals.

APPLICABLE LAW

"It is well established that school officials do not need a search warrant or even probable cause to search a student's belongings for contraband." *State v. Crystal B.*, 2001–NMCA–010, ¶ 14, 130 N.M. 336, 24 P.3d 771. Because school officials have a need to maintain order and discipline on school grounds, searches conducted by school officials in the school setting are subject to a less stringent standard. Id. However, students "do not shed their constitutional rights at the schoolhouse gate" and they maintain a legitimate expectation of privacy in their persons and in the personal belongings they bring to school. *State v. Tywayne H.*, 1997–NMCA–015, ¶ 7, 123 N.M. 42, 933 P.2d 251. Therefore, while probable cause is not required, the search of a student must still be reasonable under the circumstances in order to withstand constitutional scrutiny. *Crystal B.*, 2001–NMCA– 010, ¶ 14, 130 N.M. 336, 24 P.3d 771.

In *New Jersey v. T.L.O.*, 469 U.S. 325, 341–43, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985), the United States Supreme Court formulated a two-prong test to determine whether the search of a student conducted by public school officials is reasonable. We adhere to this formulation. *State v. Michael G.*, 106 N.M. 644, 646, 748 P.2d 17, 19 (Ct.App.1987); *In re Josue T.*, 1999–NMCA–115, ¶¶ 15–21, 128 N.M. 56, 989 P.2d 431. First, the court must determine whether the search was justified at its inception. *T.L.O.*, 469 U.S. at 341, 105 S.Ct. 733. A search of a student by a school official is justified at its inception when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated, or is violating, either the law or the rules of the school. *Id.* at 341–42, 105 S.Ct. 733. Second, the court must determine whether the search, as conducted, was reasonably related in scope to the circumstances which justified the search in the first place. *Id.* at 341, 105 S.Ct. 733. A search is permissible in its scope when the measures adopted and used are reasonably related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the alleged infraction. *Id.* at 342, 105 S.Ct. 733.

ANALYSIS

A school official must have reasonable grounds to suspect that a student has violated the law or a school rule and that a search will uncover evidence of that violation in order for the search to be constitutionally justified at its inception. *T.L.O.*, 469 U.S. at 341–42, 105 S.Ct. 733; *Tywayne H.*, 1997–NMCA–015, ¶ 8, 123 N.M. 42, 933 P.2d 251. Thus, there must be a nexus or a connection between the item searched for and the suspected violation. *T.L.O.*, 469 U.S. at 345, 105 S.Ct. 733. "A correlation between the wrongful behavior of the student and the intended findings of the search is essential for a valid search of the student under the Fourth Amendment." *In re Lisa*

G., 125 Cal.App.4th 801, 23 Cal.Rptr.3d 163, 166 (2005). The essential nexus between Child's infraction and the object of the search is missing in this case.

The California Supreme Court discussed the significance of a connection between the search and the proscribed activity of a child in the case of *In re William G*., 40 Cal.3d 550, 221 Cal.Rptr. 118, 709 P.2d 1287 (1985) (in bank). There, an assistant principal encountered three students who were late for class. *Id*. 221 Cal.Rptr. 118, 709 P.2d at 1289. When he asked the students where they were heading and why they were late for class, one student, William, made furtive gestures in attempting to hide his calculator case, which had an odd-looking bulge. *Id*. When asked what he had in his hand, William replied, "Nothing." *Id.* He also said "You can't search me," and then, "You need a warrant for this." *Id*. After several unsuccessful efforts to convince William to hand over the case, the assistant principal forcefully took the case and unzipped it, finding evidence of marijuana use and dealing. *Id*. The court concluded that the search was not supported by reasonable suspicion because the assistant principal "articulated no facts to support a reasonable suspicion that William was engaged in a proscribed activity justifying a search." *Id*. 221 Cal.Rptr. 118, 709 P.2d at 1297. The court also noted that the record did not reflect any prior knowledge or information on the part of the assistant principal linking William to the possession, use, or sale of illegal drugs or other contraband. *Id*. Thus, the court concluded, the assistant principal's "suspicion that William was tardy or truant from class provided no reasonable basis for conducting a search of any kind." *Id*.

We find the California court's reasoning in *William G*. pertinent and persuasive. In this case, Child was suspected of a similar type of violation: being out of class without a pass. Delaney admitted he did not suspect Child of engaging in any criminal activity, did not smell marijuana on him, and had no knowledge or information concerning any wrongdoing by Child, other than being out of class without a pass. Gallegos admitted he had no independent reason for searching Child and had no history of trouble with Child. Nonetheless, Child and his belongings were searched for contraband. Because there is no logical connection between the search of Child for contraband and the suspected violation of being out of class without a pass, we conclude that the search in this case was not justified at its inception. When the only infraction under investigation is being out of class without a pass or late to class (which may be violations of school rules), we conclude that a search of the student's person and belongings is not justified because the search would not likely reveal evidence of the suspected violation. *See also In re Lisa G*., 23 Cal.Rptr.3d at 166 (determining that student's disruptive behavior in class did not authorize search of student's personal belongings); *State v. B.A.S*., 103 Wash.App. 549, 13 P.3d 244, 246 (2000) (concluding that search was unjustified where "there was no evidence in the record of a correlation between a student's violation of the closed campus policy and a likelihood he or she is bringing contraband onto campus").

Delaney testified that because Child appeared nervous and fidgety, he thought "something was wrong" and became concerned that Child "might have a weapon or anything else like marijuana" on him. However, this was nothing more that a hunch and insufficient as a matter of law to provide reasonable suspicion to conduct the search. *See In re Josue T.*, 1999–NMCA–115, ¶ 23, 128 N.M. 56, 989 P.2d 431 ("A suspicion based on an inchoate and unparticularized suspicion or hunch would not be reasonable." (internal quotation marks and citation omitted)). "Reasonable suspicion must be based on specific articulable facts and the rational inferences that may be drawn from those facts." *State v. Flores*, 1996–NMCA– 059, ¶ 7, 122 N.M. 84, 920 P.2d 1038. At the suppression hearing, the State did not elicit any specific articulable facts to support a reasonable suspicion that Child was carrying a weapon or marijuana or engaging in any prohibited activity to justify a search. Moreover, reasonable suspicion must exist at the inception of the search; the State cannot rely on facts which arise as a result of the search, such as the discovery of the weapon and drug paraphernalia on Child. *Jason L.*, 2000–NMSC–018, ¶ 20, 129 N.M. 119, 2 P.3d 856. Because the campus service aides had no idea what Child might have had in his possession upon searching him, or why the search might have revealed evidence of a violation of the law or school rules, we conclude that they did not have a reasonable suspicion to justify the search of Child at its inception. *See R.S.M. v. State*, 911 So.2d 283, 284–85 (Fla.Dist.Ct.App.2005).

It is also possible the district court simply rejected Delaney's testimony that Child was acting "nervous" and "fidgety" when stopped. As discussed above, the district court did not enter any findings of fact in its order, and its oral ruling did not include any finding concerning whether Child was nervous during the stop. Our review of the record indicates that there was inconsistent evidence adduced on the issue of Child's nervousness. While Delaney testified that Child was nervous and fidgety when confronted, Child testified that he "was not given a chance to be nervous." Moreover, Delaney admitted on cross-examination that his written report omitted any mention of Child's nervous and fidgety demeanor, even though he normally tries to be as accurate and complete as possible in preparing his reports. When the evidence is conflicting, we consider the evidence that supports the district court's ruling, and we will draw all inferences and indulge all presumptions in favor of the district court's ruling. *Jason L.*, 2000–NMSC–018, ¶ 11, 129 N.M. 119, 2 P.3d 856. Thus, in this case, we may presume that the district court believed Child's testimony that he was not nervous.

CONCLUSION

For the foregoing reasons, we conclude that the search of Child was unreasonable and therefore affirm the order granting Child's motion to suppress evidence.

IT IS SO ORDERED.

State v. Josue T.
1999-NMCA-115
128 N.M. 56

APODACA, Judge.

This case presents a question of first impression in New Mexico—Does the Fourth Amendment to the Federal Constitution require probable cause for a full-time, commissioned police officer assigned to a public high school as a resource officer to lawfully search a student during school hours, when the search is conducted at the request of a school official? We answer that question negatively and hold that under the facts present in this appeal, the officer only required reasonable suspicion, the same, lower standard required of school officials.

In *New Jersey v. T.L.O.,* 469 U.S. 325, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985), the United States Supreme Court decided that school officials' special need for flexibility and swiftness in responding to discipline problems makes the warrant and probable cause requirements inappropriate for school officials in the school setting. We believe the rationale underlying the exception to the warrant and probable cause requirements for school officials applies with equal force where, as here, a school resource officer searched a student at the behest of a school official, who we determine later in our discussion had reasonable grounds for the search.

In this appeal, Defendant Josue T. (Student), a child, entered a conditional admission to the delinquent act of carrying a deadly weapon on school premises. He appeals the trial court's denial of his motion to suppress the weapon found on him, arguing that the search and seizure by the school resource officer was unreasonable. Because we conclude that the school resource officer's search of Student was reasonable under the circumstances existing in this appeal, we hold that the search did not violate Student's Fourth Amendment right to be free from unreasonable searches. We thus affirm the judgment and disposition, as well as the trial court's denial of Student's motion to suppress the weapon discovered in the search.

I. FACTUAL AND PROCEDURAL BACKGROUND

On the day in question, Student was driven to his school, Goddard High School in Roswell, New Mexico, in another student's pickup truck. During the morning, the other student was referred to the assistant principal (the school official) because he “smell[ed] heavily of marijuana.” In an effort to determine if any other students were in possession of marijuana on the school premises, the school official contacted several of the students who had ridden to school in the pickup truck. The school official went to Student's classroom with the intention of speaking with him briefly. Before speaking to Student, the school official had spoken to and searched the driver of the pickup truck, had spoken to and searched one other student who had ridden to school in the truck, and had searched the truck. No marijuana was found during those searches.

When the school official opened the door to Student's classroom and requested that he meet her in the hallway, Student immediately appeared evasive, which was not his usual manner. When Student stepped into the hallway, the school official noticed that he too smelled of burnt marijuana. At that point, the school official decided that she would take Student to her office to be searched for marijuana. Officer Reese, a school resource officer, joined the school official and Student and accompanied them to the school official's office. A school resource officer is a

commissioned police officer assigned to a public school by the officer's police department. Officer Reese was employed full-time by the Roswell Police Department but had a permanent office at the high school, where he was assigned to full-time duty. In performing his duties at the school, the officer was armed and wore a police uniform.

During the time Student was being questioned by the school official outside of his classroom and as he walked with the official and Officer Reese down the hallway to be searched in the school official's office, Student kept both hands in the pockets of his baggy pants. While walking to the school official's office, both the school official and the officer noticed that Student had a large object in the right front pocket of his pants. Based on her observation of this bulging object, Student's atypically quiet demeanor, and the fact that Student kept putting his hand further and further into his pocket, the school official became concerned and wondered what Student might be hiding in his pocket.

Once in the school official's office, the school official told Student that he would be searched and that he should empty his pockets on her desk. Student emptied his left pocket, but would neither empty his right pocket nor remove his hand from the pocket, despite repeated requests to do so. Student's refusal to comply increased the school official's concern about what the Student was hiding in his pocket. She testified that she became concerned and that Student's refusal to take his hand from his pocket created a “safety issue” in her mind. For that reason, she asked Officer Reese to search Student. Based on that request, the officer directed Student to remove his hand from his right pocket, which he refused to do. Officer Reese then took Student's hand from his pocket, reached into the pocket himself, and retrieved a .38 caliber handgun.

The State filed a delinquency petition charging Student with the Unlawful Carrying of a Deadly Weapon on School Premises contrary to NMSA 1978, § 30–7–2.1 (1994). Student entered a conditional admission to this charge, but reserved the right to appeal the denial of his motion to suppress evidence of the weapon. After an evidentiary hearing on the motion to suppress, the trial court entered findings of fact, conclusions of law, and an order denying the motion. The court later entered a judgment and disposition, concluding that Student was delinquent based on his admission of carrying a deadly weapon to school. Student appeals from the judgment and the denial of his motion to suppress.

At this juncture, we observe that Student views the facts differently than we have outlined them above. He notes that, prior to his removal from the classroom, his behavior had not aroused any attention. Student emphasizes that the driver evidently smelled of marijuana. Although the school official suspected that the students were smoking at the school, no one reported seeing Student or the driver smoking there. Student also points out that the driver did not implicate Student with possession or use of marijuana. Neither the search of the driver nor the search of another student who had been in the truck turned up evidence of marijuana.

Additionally, Student notes that Officer Reese did not testify that Student smelled of marijuana. Student states that he was cooperative as they walked down the hall. The school official testified that, at that time, she did not see anything protruding from his pockets. Student did not say

anything or make threats concerning a gun. The school official testified that Student had always been respectful to her in the past. Based on this evidence, Student argues that nothing in the school official's testimony indicates her suspicion that Student was carrying a weapon. Finally, Student notes that Officer Reese did not believe he had probable cause to search Student for drugs.

Because of our standard of review, however, which we note below, Student's rendition of the facts are not determinative of the issue raised on appeal. Our review of this appeal must necessarily defer to the findings entered by the trial court, as long as those findings are supported by substantial evidence.

II. DISCUSSION

In particular, Student argues that the school search exception, which allows school officials to search students based on reasonable grounds without a warrant, *see T.L.O.,* 469 U.S. at 340, 341, 105 S.Ct. 733, does not apply to the search of a student by a school resource officer. Student additionally argues that, even if this exception applies in this case, the officer here did not have reasonable grounds to support the search. Student also contends that: (1) the search cannot be justified as a search incident to a valid arrest because the officer did not have probable cause to arrest; (2) the officer did not have probable cause and exigent circumstances did not exist; and (3) the officer did not have reasonable suspicion to justify an investigatory stop, and even if an investigatory stop was permissible, a pat-down search was not. Because we determine that the school-search exception applies to the facts of this case

The *T.L.O.* Standard for Reasonableness Satisfies the Fourth Amendment's Reasonableness Requirement

The Fourth and Fourteenth Amendments protect individuals from unreasonable searches by state actors, including public school officials, whenever those individuals have a legitimate expectation of privacy. *See T.L.O.,* 469 U.S. at 334, 338, 105 S.Ct. 733. The reasonableness of a particular search is usually gauged by whether the state actor had probable cause and a search warrant. *See Horton v. California,* 496 U.S. 128, 133, 110 S.Ct. 2301, 110 L.Ed.2d 112 (1990). The United States Supreme Court, however, has recognized that probable cause and a warrant are not invariably required to render a search reasonable. *See Vernonia Sch. Dist. 47J v. Acton,* 515 U.S. 646, 653, 115 S.Ct. 2386, 132 L.Ed.2d 564 (1995). Rather, in some cases, “special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable,” *Griffin v. Wisconsin,* 483 U.S. 868, 873, 107 S.Ct. 3164, 97 L.Ed.2d 709 (1987) (internal quotation marks omitted). For instance, school officials do not need a warrant before searching an individual student at school who is suspected of violating either the law or school policy. *See T.L.O.,* 469 U.S. at 340, 105 S.Ct. 733. *T.L.O.* noted that the warrant requirement “would unduly interfere with the maintenance of the swift and informal disciplinary procedures” needed to create a safe and orderly environment for learning. *Id.* The Supreme Court also decided that “‘strict adherence to the requirement that searches be based on probable cause’ would undercut ‘the substantial need of teachers and administrators for freedom to maintain

order in the schools.' " *Vernonia,* 515 U.S. at 653, 115 S.Ct. 2386 (quoting *T.L.O,* 469 U .S. at 340, 341, 105 S.Ct. 733). Instead, in deciding whether a student search by a school official was lawful, the Supreme Court in *T.L.O.* considered whether the search was reasonable under all the circumstances. *See T.L.O.,* 469 U.S. at 341, 105 S.Ct. 733.

Here, the State argued, and the trial court agreed, that the reasonableness standard established in *T.L.O.* applied to student searches conducted by school resource officers at the request of school officials. Student counters that *T.L.O.* does not apply and that law enforcement officers should be held to the traditional and more stringent Fourth Amendment standard of reasonableness (warrant and probable cause) because they are not school officials and because they pursue different purposes when conducting a search than school officials.

Whether the *T.L.O.* reasonableness standard applies to searches by school resource officers conducted at the request of a school official was not answered in *T.L.O.* Indeed, the Court there expressly limited its holding to searches conducted by school authorities acting independently and on their own authority as custodians and educators of our youth and declined to address "the appropriate standard for assessing the legality of searches conducted by school officials in conjunction with or at the behest of law enforcement agencies." 469 U.S. at 341 n. 7, 105 S.Ct. 733. We thus must decide whether it is appropriate under the Federal Constitution to adopt the lower standard of reasonableness established in *T.L.O.,* when a school resource officer searches a student at school after being requested to do so by a school official.

Courts in other jurisdictions have decided whether to apply the *T.L.O.* standard by considering the role of the law enforcement agent, as well as the nature and extent of the officer's participation in the investigation and search of the student. The discussions and analysis by these courts appear to fall into three categories. First, the *T.L.O.* standard has been applied in cases in which a school official initiates the search or in which the police involvement is minimal. *See, e.g., Cason v. Cook,* 810 F.2d 188, 191– 92 (8th Cir.1987); *J.A.R. v. State,* 689 So.2d 1242, 1243 (Fla.Dist.Ct.App.1997); *In re Interest of Angelia D.B.,* 211 Wis.2d 140, 564 N.W.2d 682, 688 (1997). Second, the "reasonable under the circumstances" standard established in *T.L.O.* also has been applied where a school resource officer, on his or her own initiative and authority, searches a student during school hours on school grounds, in furtherance of the school's education-related goals. *See, e.g., People v. Dilworth,* 169 Ill.2d 195, 214 Ill.Dec. 456, 661 N.E.2d 310, 317 (1996); *In re S.F.,* 414 Pa.Super. 529, 607 A.2d 793, 794 (1992). Third, some courts have held that probable cause applies in cases in which "outside" police officers initiate a student search as part of their own investigation, or in which school officials act at the behest of "outside" police officers. *See, e.g., Tywayne H.,* 1997–NMCA–015 ¶ 10, 123 N.M. 42, 933 P.2d 251; *F.P. v. State,* 528 So.2d 1253, 1254–55 (Fla.Dist.Ct.App.1988).

We believe the facts in this appeal fall into the first category. To begin with, we note that the circumstances here are significantly different from those in *Tywayne H.* Although language in *Tywayne H.* might suggest that a child's expectation of privacy is lessened in school only as to school officials, but not as to police officers, this Court's analysis in *Tywayne H.* must be

understood in its factual context. In that case, four police officers searched a student at an evening dance held at the school. The police searched the student after conducting their own investigation of the student. No school official participated in or even requested the investigation or the search. The police did not interact with, let alone cooperate with, the school administration in the search. Because the officers were collecting evidence to be used to enforce the law and were not furthering any educational goal, this Court concluded that the student's expectation of privacy was not lessened as to these police officers, even though the student was in the school building during a dance at the time of the search. *See Tywayne H.,* 1997–NMCA–015, ¶ 12, 123 N.M. 42, 933 P.2d 251. We thus concluded in *Tywayne H.* that the nature of the student's privacy interest suggested a probable cause standard rather than a reasonable-suspicion or reasonableness-under-the-circumstances standard. *See id.*

Here, however, Officer Reese merely assisted the school official, during the school day, at the school official's request, to protect student welfare and the educational milieu. As this court noted in *Tywayne H.:* [T]here is a sharp distinction between the purpose of a search by a school official and a search by a police officer. The nature of a *T.L.O.* search by a school authority is to maintain order and discipline in the school. The nature of a search by a police officer is to obtain evidence for criminal prosecutions. *Id.* ¶ 13 (citation omitted). The Wisconsin Supreme Court addressed a similar situation and concluded that, "when school officials, who are responsible for the welfare and education of all of the students within the campus, initiate an investigation and conduct it on school grounds in conjunction with police, the school has brought the police into the schoolstudent relationship." *Angelia D.B.,* 564 N.W.2d at 688. A school resource officer serves multiple purposes, including the prevention of crime, law enforcement, and assisting the school administration in creating and sustaining a safe environment conducive to learning. *See id.* at 690. The school resource officer here did not initiate the investigation of Student. Rather, the school official initiated and conducted the entire investigation. Only when the school official became concerned that she was dealing with a "safety issue" did she request that the officer become actively involved—up until that point, the officer had been present but had not participated in the questioning. The officer thus searched Student only when the school official directly asked him to do so. In effect, the officer was the arm of the school official. We therefore conclude that the officer searched Student "in conjunction with school officials and in furtherance of the school's objective to maintain a safe and proper educational environment." *Id.* These factors lead us to conclude that the character of the search here suggests that the lower standard we have determined should apply here is appropriate.

Any other conclusion, such as requiring probable cause of school resource officers when school officials only need reasonable grounds to search, 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.... [I]t could be hazardous to discourage school officials from requesting the assistance of available trained police resources.... The proper standard for the constitutional reasonableness of searches

conducted on public school grounds by school officials, or by police working at the request of and in conjunction with school officials, should not promote unreasonable risk-taking. *Id.* (citations omitted). The Wisconsin Supreme Court in *Angelia D.B.* concluded that school officials who reasonably suspect that a student is in possession of a dangerous weapon on school grounds may request the assistance of a school resource officer to conduct a search. *See id.* The Wisconsin court's reasoning is both thoughtful and realistic, and we adopt it here. In doing so, we are mindful of the testimony of the school official and the school resource officer that they actually did not know what Student was hiding in his pocket. Nonetheless, both became concerned that the bulge in the pocket presented them with an unsafe situation that should be addressed in the interests of security. C. Reasonable Grounds Existed for the Search in This Case

Having determined that the *T.L.O.* standard requiring reasonableness under the circumstances applies to searches by school resource officers when undertaken at the request or direction of a school official, we now turn to whether reasonable grounds existed for the search in this case. In making such an assessment, the United States Supreme Court considered " 'whether the [search] was justified at its inception,' [and] whether the search as actually conducted 'was reasonably related in scope to the circumstances [that] justified the interference in the first place.' " *T.L.O.,* 469 U.S. at 341, 105 S.Ct. 733 (quoting *Terry,* 392 U.S. at 20, 88 S.Ct. 1868). For the reasons that follow, we hold that reasonable grounds existed for the search in this case.

The Search Was Justified at Its Inception

A search is justified at its inception if the school resource officer had reasonable suspicion to believe that Student had violated a law or a school policy and that "the search would uncover evidence of the violation." *Tywayne H.,* 1997–NMCA–015, ¶ 8, 123 N.M. 42, 933 P.2d 251. Here, the school official and the officer initially suspected that Student might be in possession of marijuana on school grounds, in violation of the law and school policy. For this suspicion to be reasonable, it had to be based on specific, reasonable inferences drawn from the facts and based on experience. *See Terry,* 392 U.S. at 27, 88 S.Ct. 1868. A suspicion based on an "inchoate and unparticularized suspicion or 'hunch' " would not be reasonable. *Id.* In this case, the officer and the school official observed (1) Student acting in an unusually quiet and evasive manner, (2) Student refusing to empty the pocket in question, (3) Student refusing to remove his hand from the same pocket, and (4) Student's pocket bulging with an obviously heavy object. The officer testified that his professional experience informed him that Student was hiding something and that the object might be dangerous.

As noted previously, we must view the facts in the State's favor. *See In re Paul T.,* 1997–NMCA–071, ¶ 8, 123 N.M. 595, 943 P.2d 1048. "Resolution of factual conflicts, credibility, and weight is the task of the trial court." *State v. Roybal,* 115 N.M. 27, 29, 846 P.2d 333, 335 (Ct.App.1992). Under this standard of review, we hold that the school official's and the officer's suspicions that a law or school policy was being violated were reasonable. Equally important were the facts known to the school official before she decided to talk to Student. Informed that the driver of the pickup truck smelled heavily of marijuana, the school official had reason to

suspect that someone in the truck had smoked marijuana on the way to school. Having such knowledge and making that inference, she could reasonably assume that one of the students possessed marijuana in the truck and still might be possessing it on school premises, not only in violation of the law but of school rules. Because a search of the truck's driver, of another student riding in the truck, and of the truck itself did not produce the illicit drug, the school official had reason to believe that Student might have marijuana in his possession. Since Student appeared to be evasive when confronted, smelled of burnt marijuana, and kept his hands in his pockets, the school official had additional grounds to search Student.

Our holding is consistent with other states' case law providing that the odor of marijuana on or near the defendant along with other factors were "sufficient basis for a search by school officials." Alexander C. Black, Annotation, *Search Conducted by School Official or Teacher as Violation of Fourth Amendment or Equivalent State Constitutional Provision,* 31 A.L.R.5th 229, § 63 (1995); *see also Widener v. Frye,* 809 F.Supp. 35, 38 (D.Ohio 1992) (upholding search of student where he smelled of marijuana and was sluggish); *In re Doe,* 77 Hawai'i 435, 887 P.2d 645, 652–53 (1994) (holding that search of student was reasonable where school officials detected odor of marijuana emanating from "tunnel" that student was in and which was an area where students were known to smoke marijuana); *Nelson v. State,* 319 So.2d 154, 155 (Fla.Dist.Ct.App.1975) (holding that reasonable suspicion of student existed where he was observed smoking and smelled of marijuana).

Additionally, under the second prong of the test, the search of Student's pocket was highly likely to uncover evidence of a violation because the pocket was the very location Student appeared to be hiding an unknown object. The search was therefore justified at its inception.

The Search Was Permissible in Scope

A search is permissible in scope when it is "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." *T.L.O.,* 469 U.S. at 342, 105 S.Ct. 733. The search here satisfies these requirements. The search was limited to the very pocket where the school official and the officer noticed a "bulge" that Student appeared to be attempting to hide. The actual search, then, was neatly tailored to its objective—discovering what Student was trying to hide—as well as the nature of the suspected infraction. Additionally, this limited search was not excessively intrusive in light of the age and sex of the student. Student, a male, was searched by a male officer. Nothing in this search raised concerns related to Student's age. We thus determine that the scope of the search was permissible.

III. CONCLUSION

We conclude that school resource officers may lawfully search a student on school grounds at the behest of a school official as long as the search is reasonable under the circumstances. We thus hold that probable cause to conduct the search was not required under the facts of this case. The search here was reasonable under the circumstances because it was justified at its inception,

did not exceed the scope of its purpose, and was not overly intrusive in light of Student's age and sex. We therefore affirm the trial court's denial of Student's motion to suppress.

IT IS SO ORDERED.

State v. Antonio T

2015-NMSC-019

352 P.3d 1172

CHÁVEZ, Justice.

Having granted the State's motion for rehearing in this case, we withdraw the opinion filed October 23, 2014, and substitute the following in its place.

Antonio, a seventeen-year-old high school student, was taken to Assistant Principal Vanessa Sarna's (Principal Sarna) office because he was suspected of being under the influence of alcohol. Possession of alcohol by a minor is a delinquent act under NMSA 1978, Section 32A–2–3(A)(2) (2009) of the Delinquency Act, NMSA 1978, §§ 32A–2–1 to –33 (1993, as amended through 2009). Principal Sarna questioned Antonio about his possession of alcohol in the presence of Deputy Sheriff Emerson Charley, Jr. (Deputy Charley), whom she had asked to be present, and requested that he bring a breath alcohol test to be administered to Antonio. Antonio admitted that he had brought alcohol to school, where he consumed it. At Principal Sarna's request, Deputy Charley administered the breath test to Antonio, which tested positive for alcohol. After administering the test to Antonio, Deputy Charley advised Antonio of his right to remain silent, and Antonio declined to answer Deputy Charley's questions about his possession of alcohol.

Antonio was charged with the delinquent act of possession of alcohol by a minor. He filed a motion to suppress the statements he made to Principal Sarna because his statements were elicited without a knowing, intelligent, and voluntary waiver of his right to remain silent, citing Section 32A–2–14(D). The district court denied his motion, which was affirmed by the Court of Appeals. *State v. Antonio T.*, 2013–NMCA–035, ¶ 26, 298 P.3d 484. We reverse both the district court and the Court of Appeals. Although a school official may insist that a child answer questions for purposes of school disciplinary proceedings, any statements elicited by the official in the presence of a law enforcement officer may not be used against the child in a delinquency proceeding unless the child made a knowing, intelligent, and voluntary waiver of his or her statutory right to remain silent. Section 32A–2–14(C), (D). Because the State failed to prove that Antonio effectively waived this statutory right, his statements were inadmissible in the delinquency proceeding.

I. BACKGROUND

Two teachers at Kirtland Central High School (KCHS) escorted Antonio to Principal Sarna's office because they suspected he was under the influence of alcohol. Principal Sarna called the student resource officer on duty, Deputy Charley, to administer a portable breath test to Antonio. Deputy Charley is a certified law enforcement officer with the San Juan County Sheriff's Office who spent over eleven years on the police force before being assigned to KCHS as a student resource officer. Deputy Charley wears a full uniform, including his badge and duty belt with a holstered gun, to work in the school. He was wearing his uniform and his sidearm when he entered Principal Sarna's office.

Deputy Charley stood about five feet away from Antonio, preparing the breath test, while Principal Sarna questioned Antonio about drinking alcohol at school. Deputy Charley's normal procedure was to question a student suspected of using alcohol prior to administering a breath alcohol test. However, in this instance, because Principal Sarna was asking questions that were identical to the ones that Deputy Charley would have asked, he merely listened attentively to Principal Sarna's questioning "in case something [did] come up ... further on in the investigation that [he] might have to look back onto." Principal Sarna asked Antonio if he had been drinking, what he had to drink, how much he had consumed, and if anyone else was drinking with him. Principal Sarna testified that she told Antonio that he would receive a lesser term of suspension if he told her the truth. These kinds of questions and bargains were routine for Principal Sarna because her job is to enforce discipline at KCHS, where she often deals with student disciplinary cases "just one right after another." In response to Principal Sarna's questions, Antonio admitted that he had consumed two shots of alcohol, he had brought the alcohol to school in a soda or Gatorade bottle, and he had disposed of the bottle in a bathroom trash can east of the school library.

After Antonio confessed to consuming alcohol, Deputy Charley advised Antonio that he would have to blow into the portable breath test machine, which Antonio did; Antonio tested positive for alcohol, which corroborated his confession. No parent or guardian was present, and Deputy Charley did not provide Antonio with any Miranda warnings prior to administering the breath test because at that time he "was going by what the school was requesting." While Deputy Charley was administering the breath test, Principal Sarna searched Antonio's backpack and located a folding pocketknife.

Principal Sarna then asked Deputy Charley to search for the plastic bottle that Antonio claimed he threw away. Deputy Charley searched three trash cans in the vicinity of the bathroom near the library, but he could not find the bottle. After the search for evidence turned up nothing, Deputy Charley returned to Principal Sarna's office and advised Antonio of his full constitutional rights as announced in *Miranda v. Arizona*, 384 U.S. 436, 478–79, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). Antonio answered Deputy Charley's questions about the knife, but he refused to answer Deputy Charley's questions regarding alcohol consumption. The statements Antonio made during Principal Sarna's questioning were documented in Deputy Charley's police report under the "investigation" heading. Deputy Charley confiscated the pocketknife that Principal Sarna found in Antonio's backpack. The State later charged Antonio only with possession of alcoholic beverages by a minor.

Antonio filed a motion to suppress his statement or confession pursuant to Section 32A–2–14(C) through (E), contending that "the State cannot prove that the statement or confession offered in evidence was elicited after a knowing, intelligent and voluntary waiver of the Child's rights and must be suppressed." Antonio specifically cited Section 32A– 2–14(D), which "requires that the

state ‘shall prove the statement or confession offered in evidence was elicited only after a knowing, intelligent and voluntary waiver of the child's constitutional rights was obtained.’ ” Antonio requested the district court find that he “did not knowingly, intelligently and voluntarily waive constitutional and statutory rights and suppress any statements or confession.”

An evidentiary hearing was held on Antonio's motion to suppress on September 1, 2010. After hearing testimony from Principal Sarna and Deputy Charley, the district court denied the motion. Antonio entered into a conditional plea and disposition agreement, reserving his right to appeal the denial of his motion to suppress. He appealed to the New Mexico Court of Appeals, which affirmed the district court's ruling. *Antonio T.*, 2013–NMCA–035, ¶ 26, 298 P.3d 484.

The Court of Appeals analyzed the suppression as a constitutional issue, discussing the constitutional rights of children during custodial interrogation, id. ¶¶ 8–10, and investigatory detentions, *id*. ¶¶ 12–16. It first concluded that Antonio had been subject to an investigatory detention, not a custodial interrogation. *Id*. ¶¶ 11, 17. The Court of Appeals noted that “Section 32A–2–14 has thus far only been applied in cases where law enforcement has interrogated or detained a child, never in instances of school discipline involving only a school administrator,” *Antonio T.*, 2013–NMCA–035, ¶ 18, 298 P.3d 484, and that “Section 32A–2–14 applies to investigations by or on behalf of law enforcement officials,” *Antonio T.*, 2013–NMCA–035, ¶ 20, 298 P.3d 484. The Court of Appeals then determined that Principal Sarna was acting within the scope of her duties as a school administrator and was not acting as an agent for law enforcement, and accordingly concluded that she was not obligated to issue Miranda warnings to Antonio. Id. ¶¶ 24, 26. The Court of Appeals did not address Antonio's statutory claim that his statement was inadmissible under the plain language of Section 32A–2–14(D), which was the original basis for Antonio's motion to suppress. Both Antonio and the State appealed to this Court.

We granted certiorari on two questions raised in Antonio's appeal: (1) did the Court of Appeals err in affirming the lower court's denial of Antonio's suppression motion, and (2) was the plea invalid because there was insufficient evidence? *State v. Antonio T.*, 2013–NMCERT– 003, 300 P.3d 1181 (No. 33,997, Mar. 1, 2013). We also granted certiorari on one question raised in the State's appeal: did the Court of Appeals err in holding that Antonio was in investigatory detention? *State v. Antonio T.*, 2013–NMCERT– 003, 300 P.3d 1182 (No. 33,999, Mar. 1, 2013). We hold that Deputy Charley's mere presence during Principal Sarna's questioning of Antonio subjected Antonio to an investigatory detention that triggered the statutory protections provided by Section 32A–2–14(C) and (D). Pursuant to Section 32A–2– 14(C), Deputy Charley was required to advise Antonio that he had a right to remain silent, and that if Antonio waived the right, anything he said could be used against him in criminal delinquency proceedings. Because Deputy Charley failed to advise Antonio of this statutory right before Principal Sarna questioned

Antonio in his presence, Antonio's incriminating statements are inadmissible under Section 32A–2–14(D).

II. DISCUSSION

This case requires us to analyze whether a statement made by a child over the age of fifteen is admissible under Section 32A–2–14, when the statement was made in response to questioning by a school principal in the presence of a law enforcement officer. Children who commit an act that would be considered a crime if they were over the age of eighteen are subject to the Delinquency Act and are granted certain basic statutory rights under Section 32A–2– 14.

A. Pursuant to Section 32A–2–14(D), Antonio's statements were inadmissible because he was questioned during an investigatory detention without being first advised of the right to remain silent as required by Section 32A–2–14(C)

In *State v. Javier M.*, 2001–NMSC–030, ¶¶ 32, 42, 131 N.M. 1, 33 P.3d 1, we held that the Legislature intended Section 32A–2–14 to afford children greater statutory protection than what is constitutionally mandated. We evaluated the admissibility of a child's statements made in response to police questioning by first assessing the minimum constitutional guarantees available to the child under the United States Supreme Court's decision in *Miranda*. *Javier M.*, 2001–NMSC–030, ¶ 11, 131 N.M. 1, 33 P.3d 1 (“Only after assessing the minimum constitutional guarantees available to the Child under Miranda can we adequately interpret Section 32A–2–14 and determine what, if any, additional protections are available to the Child under the statute.”).

We recognized that Miranda “imposed a prophylactic protection by requiring that suspects be advised of their rights under the Fifth Amendment [of the United States Constitution] prior to any questioning” during a custodial interrogation. *Javier M.*, 2001–NMSC–030, ¶ 14, 131 N.M. 1, 33 P.3d 1. “Custodial interrogation occurs when [a]n individual [is] swept from familiar surroundings into police custody, surrounded by antagonistic forces, and subjected to the techniques of persuasion ... [so that the individual feels] under compulsion to speak.” *Id*. ¶ 15 (alterations in original) (internal quotation marks and citation omitted). When a suspect is subjected to a custodial interrogation, that person “ ‘must be warned that he [or she] has a right to remain silent, that any statement he [or she] does make may be used as evidence against him [or her], and that he [or she] has a right to the presence of an attorney, either retained or appointed.’ ” *Id*. (quoting *Miranda*, 384 U.S. at 444, 86 S.Ct. 1602). In *Javier M.*, we held that the child was not subjected to a custodial interrogation because the “Child's detention was not overly ‘police dominated,’ ” the child was not swept away from familiar surroundings, and the child was questioned in a public place in the presence of several other suspects. *See id*. ¶¶ 21–23. Accordingly, in *Javier M*. we held that “the officer was not required to ‘Mirandize’ the Child before questioning him.” *Id*. ¶ 23.

Having concluded that the child was not entitled to the constitutional protections guaranteed by Miranda, this Court turned to the Delinquency Act to analyze whether it provided the child with any additional statutory protection. *Javier M*., 2001–NMSC–030, ¶¶ 24–32, 131 N.M. 1, 33 P.3d 1. As a preliminary matter, we acknowledged that "it is completely within the Legislature's authority to provide greater statutory protection than accorded under the federal Constitution." *Id*. ¶ 24 (emphasis added). In interpreting Section 32A–2–14, we focused on three issues: (1) whether the Legislature intended to merely codify Miranda under the statute by requiring that children be subjected to custodial interrogations before statutory protections are triggered, (2) the circumstances under which statutory protections would be triggered if the Legislature did not intend to codify *Miranda*, and (3) the nature of the statutory protections afforded under the statute. *Javier M*., 2001–NMSC–030, ¶ 25, 131 N.M. 1, 33 P.3d 1.

After looking at its plain language, this Court rejected the notion that Section 32A–2–14 was intended to codify the advice of constitutional rights announced in *Miranda*. *Javier M*., 2001–NMSC–030, ¶ 29, 131 N.M. 1, 33 P.3d 1. "Instead of using *Miranda* triggering terms such as 'custody' or 'custodial interrogation,' the Legislature used much broader terms, such as, 'alleged,' 'suspected,' 'interrogated,' and 'questioned.' " *Javier M*., 2001–NMSC–030, ¶ 29, 131 N.M. 1, 33 P.3d 1 (quoting Section 32A–2–14(C)). Accordingly, we held that Section 32A–2–14 did not require a child to be subject to a custodial interrogation in order for the additional statutory protections to apply. *Javier M*., 2001–NMSC–030, ¶ 32, 131 N.M. 1, 33 P.3d 1. {17} After determining that a custodial interrogation was not required, we then turned to the question of what circumstances would trigger the protections of Section 32A– 2–14. In *Javier M*., we stated that " 'alleged' " pertained to the "time period after which a formal petition alleging delinquency has been filed in the Children's Court" and defined " 'suspect' " as meaning " 'to imagine (one) to be guilty or culpable.' " *Id*. ¶ 29 (quoting Webster's Ninth New Collegiate Dictionary 1189 (1985) (second alteration in original)). We reasoned that "an officer's suspicion will almost always cause the encounter with the child to be an investigatory detention," *Javier M*., 2001–NMSC–030, ¶ 35, 131 N.M. 1, 33 P.3d 1, and that "by including the term 'suspected' in Section 32A–2–14(C) to describe when the statute's protections are triggered, the Legislature intended to draw the line at investigatory detentions." *Javier M*., 2001– NMSC–030, ¶ 36, 131 N.M. 1, 33 P.3d 1. We concluded that "when an officer approaches a child to ask the child questions because the officer 'suspects' the child of delinquent behavior, the officer is performing an investigatory detention." *Id*. ¶ 37. "Given a child's possible immaturity and susceptibility to intimidation, a child who is subject to an investigatory detention may feel pressures similar to those experienced by adults during custodial interrogation." *Id*. As a result, we held that "the protections of the statute are triggered in two circumstances: (1) after formal charges have been filed against a child; and (2) when a child is seized pursuant to an investigatory detention and not free to leave." *Id*. ¶ 38.

Finally, in defining the scope of the protections afforded under the statute, we held that the term " 'constitutional rights' " in Section 32A–2–14(C) does not refer to the warnings enumerated in *Miranda* where the child is subject to an investigatory detention and not a custodial interrogation. *Javier M*., 2001–NMSC–030, ¶ 41, 131 N.M. 1, 33 P.3d 1. Instead, we held that "children who are subject to investigatory detentions [have a statutory right] only to be warned of their right to remain silent and that anything they say can be used against them." *Id*. ¶ 41 (emphasis added).

Under the reasoning in *Javier M*., if Antonio was subjected to an investigatory detention, the basic statutory right at issue in this case is the right to remain silent. Because children may not understand either their right to remain silent or that they are entitled to assert this statutory right, the Legislature has detailed which procedural safeguards must be satisfied before any statement made by a child is admitted as evidence in a criminal delinquency proceeding. Under Section 32A–2–14(C), a child who is suspected or alleged of having committed a delinquent act cannot be interrogated or questioned during an investigatory detention unless the child is first advised of his or her statutory right to remain silent and the child knowingly, intelligently, and voluntarily waives his or her rights. When Section 32A–2– 14(C) has been violated, the legislative remedy is to preclude the admission of any statement or confession elicited from the child in court proceedings. Section 32A–2–14(D); *Javier M*., 2001–NMSC–030, ¶¶ 1, 27, 131 N.M. 1, 33 P.3d 1.

To determine whether a child's statement or confession may be introduced into evidence, the State bears the burden of proving that the child knowingly, intelligently, and voluntarily waived the child's statutory right to remain silent. Section 32A–2–14(D). In assessing the validity of an alleged waiver, Section 32A–2–14 requires the court to consider (1) the age of the child, (2) whether the child's statement was elicited or volunteered, (3) whether the child was advised of his or her statutory right to remain silent before the statement was elicited, and (4) the additional criteria listed in Section 32A– 2–14(E).

If the child is less than thirteen years old, under no circumstances may his or her statement be introduced against the child in court proceedings. Section 32A–2–14(F) provides that "[n]otwithstanding any other provision to the contrary, no confessions, statements or admissions may be introduced against a child under the age of thirteen years on the allegations of the petition." In *Jade G*., we held that Section 32A–2–14(F) erects an absolute bar to the admission of any statement made by a child under the age of thirteen —even statements that the child spontaneously volunteers to family members, friends, or others who are not in a position of authority. *See* 2007–NMSC–010, ¶ 16, 141 N.M. 284, 154 P.3d 659. For children who are thirteen or fourteen years old, the Legislature has created a rebuttable presumption that their confessions, statements, or admissions are inadmissible in court proceedings if such statements were made to a person in a position of authority. Section 32A–2–14(F).

If the child is fifteen years old or older, as in this case, his or her statement is admissible if it was made spontaneously by the child without prompting—i.e., if it was not elicited. Section 32A–2–14(D), (F). "[V]olunteered statements of any kind are ... not subject to the protections of Section 32A–2–14 since such statements are generally not in response to any 'questioning' or 'interrogation.' " *Javier M.*, 2001–NMSC–030, ¶ 40, 131 N.M. 1, 33 P.3d 1. However, if the statement or confession was elicited during an investigatory detention, the State must prove that the child was advised of his or her statutory right to remain silent and knowingly, intelligently, and voluntarily waived this right. Id. ¶¶ 40, 44. The question before this Court is whether Antonio was subjected to an investigatory detention triggering the protections of Section 32A–2–14 when Principal Sarna questioned him about delinquent behavior in the presence of a law enforcement officer. Unlike the Court of Appeals, we answer this question in the affirmative. 1. When a child suspected of delinquent behavior is questioned in the presence of a law enforcement officer, that child is subjected to an investigatory detention

The Court of Appeals interpreted Section 32A–2– 14(D) to preclude only statements or confessions elicited by law enforcement officers or their agents. *Antonio T.*, 2013–NMCA–035, ¶ 20, 298 P.3d 484 (holding that all of the basic rights of children enumerated in Section 32A–2–14 only apply "to investigations by or on behalf of law enforcement officials"). The Court of Appeals noted that "Section 32A–2–14 has thus far only been applied in cases where law enforcement has interrogated or detained a child, never in instances of school discipline involving only a school administrator." *Antonio T.*, 2013–NMCA–035, ¶ 18, 298 P.3d 484. Accordingly, the Court of Appeals concluded that Section 32A–2–14 only applies when a law enforcement officer interrogates or detains a child, or when the school official acts as an agent of law enforcement. *Antonio T.*, 2013–NMCA–035, ¶¶ 18–20, 298 P.3d 484. Because the Court of Appeals found that Deputy Charley did not interrogate or detain Antonio, the Court focused solely on whether Principal Sarna acted as an agent of law enforcement beyond the scope of her duties as a school administrator. *Id*. ¶¶ 21–24. Concluding that Principal Sarna was not acting as an agent to law enforcement, the Court of Appeals held that "although this was an investigatory detention, Antonio had no right to Miranda warnings from a school administrator for a school interrogation, despite the presence of a deputy." *Antonio T.*, 2013–NMCA–035, ¶ 26, 298 P.3d 484.

We begin our analysis by first acknowledging that Principal Sarna suspected Antonio of being intoxicated while at school—a school disciplinary violation that would also render him a delinquent child. This suspicion prompted Principal Sarna to conduct an investigation into Antonio's alcohol consumption. We agree with the Court of Appeals that Principal Sarna's suspicion alone did not trigger the protections under Section 32A–2–14(C), because Principal Sarna is neither a law enforcement officer nor was she acting as an agent of law enforcement. *See Antonio T.*, 2013–NMCA–035, ¶ 20, 298 P.3d 484. Questioning a child for school disciplinary matters is distinguishable from questioning a child for suspected criminal

wrongdoing. *See In re Julio L.*, 197 Ariz. 1, 3 P.3d 383, 385 (2000) (en banc) ("[N]ot every violation of public decorum or of school rules gives legal cause for criminal adjudication."). Because "maintaining security and order in ... schools requires a certain degree of flexibility in school disciplinary procedures," we recognize "the value of preserving the informality of the student-teacher relationship." *New Jersey v. T.L.O.*, 469 U.S. 325, 340, 105 S.Ct. 733, 83 L.Ed.2d 720 (1985) (emphasis added). Accordingly, Principal Sarna was entitled to act on her suspicion and compel answers from Antonio for the purposes of school discipline. *See In re Doe*, 1975–NMCA–108, ¶ 29, 88 N.M. 347, 540 P.2d 827 (stating that in-school disciplinary matters, unlike criminal proceedings, do not require Miranda warnings). Absent any agency relationship between school officials and law enforcement authorities, interrogating Antonio alone in her office about school disciplinary matters would not have constituted an investigatory detention. *See State v. Santiago*, 2009–NMSC–045, ¶ 18, 147 N.M. 76, 217 P.3d 89 (providing the test to determine whether someone acts as an agent of law enforcement).

However, the character of Principal Sarna's school disciplinary investigation changed once she requested Deputy Charley to be present when she questioned Antonio about his suspected delinquent behavior. While the State maintains that Deputy Charley's presence in the room was innocuous, Deputy Charley's presence in the room created a coercive and adversarial environment that does not normally exist during interactions between school officials and students. *See T.L.O.*, 469 U.S. at 349–50, 105 S.Ct. 733 (Powell, J., concurring). Unlike school officials, whose primary duties focus on "the education and training of young people[,] ... [l]aw enforcement officers function as adversaries of criminal suspects. These officers have the responsibility to investigate criminal activity, to locate and arrest those who violate our laws, and to facilitate the charging and bringing of such persons to trial." *See id*. (Powell, J., concurring).

Deputy Charley's mere presence during Principal Sarna's questioning of Antonio converted the school disciplinary interrogation into a criminal investigatory detention, and it therefore triggered the protections provided by Section 32A–2–14(C). Before encountering Antonio, Deputy Charley was already on notice that Antonio was suspected of delinquent behavior. Principal Sarna testified that she involved Deputy Charley in the school's investigation so he would know that Antonio was under the influence, and also to test Antonio's breath for alcohol. As Principal Sarna interrogated Antonio about his suspected delinquent behavior, Deputy Charley noticed that Antonio's speech was slurred and slow. During Antonio's interrogation, Deputy Charley stood about five feet away from Antonio preparing a portable breath alcohol test while wearing a full uniform, including his badge and duty belt with a holstered gun. At a minimum, Antonio was not free to leave Principal Sarna's office until Deputy Charley administered the portable breath alcohol test to Antonio.

Deputy Charley's presence in the room not only created a coercive and adversarial environment, it also granted him access to evidence necessary to prosecute criminal delinquent behavior.

Apparently anticipating that Antonio's responses would have bearing on a future criminal investigation and other proceedings, Deputy Charley listened attentively to the interrogation. To this end, he testified that it is important for him to listen to whether a child admits or denies consuming alcohol before administering the portable alcohol test to confirm or deny the child's statements. Deputy Charley simply uses the portable alcohol test as a pseudo lie detector test during his criminal investigation to corroborate any elicited statements or confessions. This is important because Antonio's incriminating statements that he drank alcohol alone would support a school suspension, although the confession alone would not support a criminal conviction under the statutory corpus delicti doctrine. See § 32A–2– 14(G).

The statutory corpus delicti requirement provides that "[a]n extrajudicial admission or confession made by the child out of court is insufficient to support a finding that the child committed the delinquent acts alleged in the petition unless it is corroborated by other evidence." See id. As a result, the State could not have prosecuted Antonio solely on his statement or confession. Id. Deputy Charley's presence in Principal Sarna's office as she questioned Antonio granted the State access to both Antonio's incriminating statements and the results of the portable breath alcohol test, which corroborated Antonio's confession.

We disagree with the State's characterization of Deputy Charley's involvement in Principal Sarna's questioning of Antonio. We acknowledge that Deputy Charley did not escort Antonio to Principal Sarna's office, ask Antonio any questions himself, or tell Principal Sarna which questions to ask Antonio. Nonetheless, Deputy Charley's mere presence in Principal Sarna's office as Principal Sarna questioned Antonio subjected Antonio to an investigatory detention. Pursuant to Section 32A–2–14(C), Deputy Charley was required to advise Antonio that he had a statutory right to remain silent, and if Antonio waived that right, anything he said could be used against him in criminal delinquency proceedings. Deputy Charley must have been aware that Antonio's statements would be inadmissible absent a valid waiver of his right to remain silent, as was evidenced by the fact that Deputy Charley subsequently advised Antonio of his right to remain silent prior to attempting to question him again about his consumption of alcohol.

2. Antonio's statements were inadmissible because he did not waive his right to remain silent as required by Section 32A–2–14(D)

Section 32A–2–14(D) provides that before any incriminating statement "may be introduced at a trial or hearing when a child is alleged to be a delinquent child, the state shall prove that the statement or confession offered in evidence was elicited only after a knowing, intelligent and voluntary waiver of the child's constitutional rights was obtained." A knowing, intelligent, and voluntary waiver cannot be obtained if the child has not first been advised of his or her statutory right to remain silent. Accordingly, Section 32A–2–14(D) provides the legal remedy for violations of Section 32A–2–14(C).

Antonio moved to suppress the incriminating statements he made to Principal Sarna based on the plain language mandate of Section 32A–2–14(D) that for the statements to be admissible against him in a delinquency proceeding, "the state shall prove that the statement or confession offered in evidence was elicited only after a knowing, intelligent and voluntary waiver of the child's constitutional rights was obtained." Because the language of the statute is clear, it is proper to apply it as written. *State v. Jonathan M*., 1990–NMSC–046, ¶ 4, 109 N.M. 789, 791 P.2d 64 ("When a statute contains language which is clear and unambiguous, we must give effect to that language and refrain from further statutory interpretation."). In this case, the district court should have granted Antonio's motion to suppress his statements because Antonio's statements were elicited by Principal Sarna before he was warned and without Antonio having knowingly, intelligently, and voluntarily waived his statutory right to remain silent. It is undisputed that Antonio refused to repeat the statements after Deputy Charley advised him of his right to remain silent. Antonio appeared to have understood that his answers to Principal Sarna's questions would affect his discipline under school rules, but once Deputy Charley questioned him, he then potentially faced criminal charges. Because the State could not prove that the statements were made after warnings and a valid waiver as required by Section 32A–2–14(D), the statements were inadmissible. As a result, the State failed to meet its burden of proof under Section 32A–2–14(D).

We emphasize that our holding in this case should not be construed to require school administrators to advise a child of his or her right to remain silent in order to use incriminating statements elicited from the child against that child in school disciplinary proceedings. We emphasized in *State v. Nick R*. that "[nothing] in this opinion [is] intended to impair the existing authority of school authorities to promulgate and enforce administrative security measures." 2009–NMSC–050, ¶¶ 44–48, 147 N.M. 182, 218 P.3d 868 (affirming school policies prohibiting pocketknives on campus, but holding that a pocketknife was not a "deadly weapon" for purposes of adjudication in Children's Court (quoting with approval *State v. Doe*, 140 Idaho 271, 92 P.3d 521, 525 (2004) ("[P]ublic school officials [have] an effective means of disciplining unruly or disruptive pupils in an administrative fashion." (alterations in original) (internal quotation marks and citation omitted)))); *State v. Tywayne H*., 1997–NMCA–015, ¶ 13, 123 N.M. 42, 933 P.2d 251 ("[T]here is a sharp distinction between the purpose of a search by a school official and a search by a police officer. The nature of a ... search by a school authority is to maintain order and discipline in the school. The nature of a search by a police officer is to obtain evidence for criminal prosecutions." (internal citation omitted)). Similarly, in this case, a plain language reading of Section 32A–2–14(D) demonstrates that it is a bar to the admissibility of children's confessions in delinquency proceedings if the confession was elicited in the presence of a law enforcement officer or a school official who was acting as an agent of law enforcement; in no way does this section prevent children's confessions from being used against them during school disciplinary proceedings.

III. CONCLUSION

We hold that Section 32A–2–14(D) precluded the use of Antonio's self-incriminating statements against him in a delinquency proceeding. Accordingly, we reverse both the district court and the Court of Appeals. We remand to the district court, where Antonio shall be permitted to withdraw his plea if he so chooses.

IT IS SO ORDERED.