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# Matters

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## A Return to Reason: Balancing School Safety and Student Rights

*Many schools are revising their zero tolerance policies to protect students' rights under the Fourth Amendment of the Constitution.*

Julie Reagan

A decade ago, one of the worst incidents of school violence in U.S. history occurred in Columbine, Colorado. Although most official statistics at the time showed that school violence had been decreasing steadily since 1993, the Columbine incident prompted a new wave of legislation and funding to protect schools from similar catastrophes. School resource officers (SROs) began popping up in every town across America, new security devices were installed, and zero tolerance became the norm in public schools.

What difference has this made? Are the nation's schools safer, and if so, at what expense to student rights?

### Unintended Consequences of Zero Tolerance

Some of the outcomes of the past decade's zero tolerance policies appear to be higher dropout rates, an increase in truancy, an overburdened justice system, and higher taxes required to offset the costs of new security programs. At the bottom of the list seems to be the protection of students' rights.

In 2002, the U.S. Secret Service's Safe School Initiative examined school shootings as far back as 1974. It found, among other things, that there was no established "profile" of a school shooter. Yet, school districts across the country have continued to administer harsh reactionary discipline to students in an effort to "send a message" and promote safety. For example:

- In York, Pennsylvania, a 6-year-old student was suspended when a weapon fell out of his book bag. The "weapon" was a set of nail clippers.
- In January 2004, a Spokane, Washington, school suspended three elementary school students for bringing G.I. Joe guns—which were about two inches long—to school.

- An 11-year-old girl in Georgia was suspended for bringing a Tweety Bird key ring with a 10-inch chain to class.

Then there was the well-publicized case of Ben Ratner, a middle school student from Loudoun County, Virginia. He was suspended after receiving a note in class from a friend. In the note, the girl said she had brought a knife to school in her binder and was going to kill herself. Ratner knew that the girl had been hospitalized for psychiatric problems. He took the binder from her and locked it in his locker, intending to take the knife home and confide in his mother.

But school officials found out about the knife and, although they believed Ratner's explanation, proceeded to suspend him for 10 days. The suspension was quickly amended to be indefinite, pending review by the school board, which decided the boy should remain out of school for four months.

In the resulting lawsuit, the school district prevailed, although one Court of Appeals judge filed a separate opinion in which he said that Ratner was a victim of "good intentions run amuck" and issued the following caution to public school authorities seeking to impose zero tolerance policies:

*The panic over school violence and the intent to stop it has caused school officials to jettison the common sense idea that a person's punishment should fit his crime in favor of a single harsh punishment, namely, mandatory school suspension. Such a policy has stripped away judgment and discretion on the part of those administering it; refuting the well-established precept that judgment is the better part of wisdom. The facts do not offer even the hint of a suggestion that Ratner ever intended to personally possess the knife or harm anyone with it.*

## Rethinking an Ineffective Policy

Although the school district typically prevails in these kinds of cases, there seems to be a trend in recent years toward favoring the rights of students. Zero tolerance policies and the publicity they create, coupled with the rise in dropout rates and truancy levels, have caused some administrators to rethink their discipline policies and security programs.

In February 2007, in rural northern New York, a seventh-grade boy was strip-searched for allegedly stealing a small art flip-book, valued at less than \$2. When it turned out that the student did not have the item, the district suspended the teacher involved and did not renew the SRO's contract the following year. The SRO was not involved in that particular incident, but had previously been involved with the arrest of a student during school hours for an incident at a drinking party the previous weekend. The charges were later dropped.

SROs can be a vital and important component of a district's safety program. Unfortunately, many of the nation's school systems have implemented SRO programs with little training and scant understanding of the SRO's proper role. In fact, abuse and violations of students' rights increased in some districts after they employed an SRO or school safety agent. In New York City, a coalition of City Council members, activists, and students demonstrated in November 2008 on the steps of City Hall in support of a newly introduced bill that seeks increased oversight of school safety agents and the release of statistics on arrests and suspensions in schools.

The Student Safety Act, if passed, would require New York City's Department of Education and Police Department to make quarterly reports on disciplinary issues in schools. These reports would focus on arrests and suspensions, provide raw data for analysis of trends involving race and gender, and make the process for reporting alleged school safety agent misconduct easier. City Councilman John C. Liu noted that students getting in trouble "is part of what growing up is all about ... but handcuffs ... should not be the norm."

Damon Hewitt of the NAACP Legal Defense and Education Fund reinforced this point by saying that school safety agents were "criminalizing students for what is essentially age-appropriate conduct." He was referring to students fighting in the playground, arriving late to class, or writing on their desks—actions for which students have been arrested.

## A Proactive Approach to Safety

New York City is not alone in responding to a decade of reactionary school safety practices. The good news is that new measures and legislation passed in 2008 have the potential to establish a more holistic approach to school safety. For example, in May 2008 Colorado enacted two school safety bills, one

of which creates the Colorado School Safety Resource Center within the Department of Public Safety. The resource center will bring together experts from education, law enforcement, mental health, and other disciplines, and will serve as a clearinghouse of best practices and information, allowing schools and communities to collaborate in establishing safety plans. The resource center will work with up to five pilot communities in the first year. Colorado joins about 20 other states with similar school safety centers.

In Florida, House Bill 669—the Jeffrey Johnston Stand Up for All Students Act—prohibits bullying and harassment of any student or employee of a public K-12 educational institution. Other states are introducing similar legislation against bullying and harassment, which also can prevent isolated violence, since studies find that many victims of bullying turn hostile at some point.

Zero tolerance attitudes are beginning to be replaced by proactive measures such as these, coupled with an emphasis on relationship building between troubled students and faculty—changes that are well overdue.

Many schools also are revising their search and seizure policies to conform to student rights under the Fourth Amendment of the Constitution. Because public schools are government entities, policies involving mandatory drug testing, video surveillance, and the search of lockers must be carefully reviewed to ensure that the constitutional

rights of students are being observed.

Balancing school safety with the rights of students is not a new challenge. However, a decade after Columbine, zero tolerance should no longer be the mantra of school safety. It appears that the nation's policymakers are beginning to take notice.

## For More Information

For educators seeking more information, these are some useful Web sites:

- The Rutherford Institute: [www.rutherford.org](http://www.rutherford.org)
- The American Civil Liberties Union: [www.aclu.org](http://www.aclu.org)
- The National Association of School Resource Officers: [www.nasro.org](http://www.nasro.org)
- U.S. Secret Service National Threat Assessment Center Safe School Initiative: [www.ustreas.gov/usss/ntac\\_ssi.shtml](http://www.ustreas.gov/usss/ntac_ssi.shtml)

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