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Myrna G. Baskin
University of Michigan Law School

Laura M. Thomas

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SCHOOL METAL DETECTOR SEARCHES AND THE FOURTH AMENDMENT: AN EMPIRICAL STUDY*

Thursday, April 25, 1985, 6:35 a.m.: Fifteen school security officers and seventeen uniformed Detroit police officers arrive at Redford High School and prepare two walk-through metal detectors and twenty-two hand-held metal detectors.

7:45 a.m.: Students enter the building and are lined up to await inspection. One-by-one the students empty their bags, purses, and pockets. Some students are frisked by officers using hand-held metal detectors. Others proceed through stationary metal detectors. The halls are clogged; classes are delayed.

11:00 a.m.: The sweep operation concludes. Result: Three thousand students searched. Eight knives, one boxcutter, one handgun, three marijuana cigarettes, and twenty-nine white pills are confiscated. Eleven students are detained or arrested and later conveyed to the Special Crime Section base of the Detroit police department.¹

The search at Redford High School is not unique. In the Detroit public school system, seventeen searches involving sixteen schools occurred during the 1984-1985 academic year. In the 1985-1986 academic year, nine searches of nine schools took place.²

This Note is an empirical study of the weapons searches in the Detroit public schools.³ Part I traces the history of the Detroit public school searches, describes how the searches were con-

* The authors gratefully acknowledge the advice and assistance of Professor Yale Kamisar in preparing this Note.

1. Interoffice Memorandum from Sergeant Christopher Buck, Detroit Special Crime Section, to Detroit Chief of Police William L. Hart (Apr. 25, 1985) (copy on file with U. MICH. J.L. REF.).

2. See appendices I and II.

3. The information reported in this Note was compiled from a series of interviews with principals, school officials, students, and teachers, and from Detroit Board of Education documents and police reports. Unless otherwise indicated, the data were compiled from Detroit Police Department statistics. The names of those interviewed have been withheld, on their request, to preserve their anonymity. Documents and transcripts of interviews are on file with the *Journal of Law Reform*.

ducted, and explains the procedure implemented when a student was arrested or detained. Part II addresses the constitutionality of the search policy and concludes that the current sweep procedure violates the fourth amendment. Part III suggests a number of constitutional, and more effective, methods to decrease the number of weapons and the amount of violence in the Detroit high schools.

I. ANATOMY OF THE SEARCHES⁴

A "typical" school weapons search is difficult to describe. The searches began without any uniform guidelines or rules, and therefore the early searches varied from school to school. Although this Part will draw a general outline of the search procedure, it is important to bear in mind the haphazard manner in which the searches were conducted.

A. *History of the Searches*

No one within the Detroit public schools was willing to take credit for the sponsorship of the searches.⁵ When the searches began, the Detroit Board of Education (Board) did not adopt any guidelines or protocol, nor did it consider any problems that might arise as a result of the searches.⁶

4. The searches discussed in this Note were conducted between December 11, 1984 and November 27, 1985.

5. For example, in response to American Civil Liberties Union (ACLU) attorney Deborah Gordon's question, "It was not your recommendation to begin those searches?," Detroit public schools Security Chief Frank Blount replied, "No, it was not." Blount said no single incident prompted the weapons sweeps that began in December 1984. *School Security Chief: Searches Not My Idea*, Det. Free Press, Dec. 10, 1985, at 12A, col. 1 [hereinafter cited as *Searches Not My Idea*]. Similarly, at a December 9, 1985 hearing in connection with an ACLU lawsuit, see *infra* note 11, Detroit public schools Superintendent Arthur Jefferson testified: "I don't want to take authorship of the idea . . . It was something I approved." *Weapons Sweeps' Origin Is a Puzzle, Court Finds*, Det. Free Press, Dec. 12, 1985, at 3A, col. 2 [hereinafter cited as *Weapons Sweeps' Origin Is a Puzzle*]. Deputy School Security Chief Charles Mitchell and Detroit Police Chief Richard Dungey also were unable to answer the question of who originated the idea of conducting unannounced weapons sweeps. *Id.*

When asked whether Mayor Young was responsible, Jefferson said that he and Mayor Young discussed the idea of starting weapons searches "to assure the full co-operation" of the police department, but he did not recall whether Young actually suggested the idea. *Id.*

6. At a December 9, 1985 hearing in connection with an ACLU lawsuit, see *infra* note 11, school Superintendent Arthur Jefferson testified that the weapons searches were in-

The searches began without forethought as a panicked response to a spate of teenage shootings in the Detroit area.⁷ Pressure from Mayor Young⁸ and from the media⁹ to find a quick

stituted without any written guidelines for security personnel, without formal approval by the Board, and without any formal written review by the legal staffs of the school system or the city. *Weapons Sweeps' Origin Is a Puzzle*, *supra* note 5, at 3A, col. 2. Furthermore, a review of the Board minutes from December 12, 1984 to September 24, 1985 revealed that the Board never considered any guidelines nor discussed any possible consequences.

7. A number of teenage shooting incidents in Detroit prompted extensive media attention and increased public support for the searches. For instance, the following shootings occurred during the fall of 1985:

October 11, 1985: Eleven school age youths were shot by a 17-year-old at the McDonald's near Cody High School.

October 12, 1985: A 16-year-old Detroit youth was killed and two others wounded at a Southfield, Michigan party.

October 16, 1985: In a drug-related shooting on Detroit's northeast side, two Detroit teenagers were killed and one was critically wounded.

October 18, 1985: Six people were injured when a gunman fired shotgun pellets into the grandstand at a high school football game.

October 18, 1985: A 16-year-old was shot at a recreation hall.

October 25, 1985: A 15-year-old Cody High School freshman was shot near Lessenger Middle School.

November 4, 1985: A 15-year-old was shot one block from Finney High School.

November 19, 1985: An 18-year-old student was shot outside Finney High School after a fight with two other teenagers.

Between January 1, 1986 and February 22, 1986, 29 youngsters under age 17 had been shot in Detroit—five fatally. In 1985, 237 youths under age 17 were shot—29 fatally. *New Group Seeks Handgun Freeze*, Det. Free Press, Feb. 22, 1986, at 3A, col. 4.

8. In November 1984, Mayor Young called civic leaders to a summit to discuss solutions to crime problems, including shootings in or near city schools. At the summit, Superintendent Jefferson and Mayor Young announced plans to crack down on school violence, saying that four "mobile sweep teams" of security guards and police would search students and lockers, without notice, for guns. Deputy Police Chief Dungy testified at a December 9, 1985 hearing in connection with a federal court suit brought by the ACLU, *see infra* note 11, that the police became involved at the direction of Police Chief William Hart, who was entrusted with "carrying out the mayor's mandate" to assist schools in curbing violence. *Weapons Sweeps' Origin Is a Puzzle*, *supra* note 5, at 3A, col. 2.

9. When asked about the decision to start the searches, Frank Blount testified at the December 9 hearing in connection with an ACLU suit, *see infra* note 11, that he thought "the media had a lot to do with it." *Searches Not My Idea*, *supra* note 5, at 12A, col. 1.

At least 50 articles concerning the shootings, searches, and other related issues appeared in the *Detroit Free Press*, one of the city's two major daily newspapers, between September 1985 and December 1985. The media repeatedly emphasized the number of weapons seized and the shootings occurring in Detroit. *See, e.g., Student Shot Near School*, Det. Free Press, Nov. 20, 1985, at 2A, col. 5; *Kids and Guns: Enough Is Enough*, Det. Free Press, Oct. 28, 1985, at 10A, col. 3; *One Shot—A Teenager's Dreams Are Shattered*, Det. Free Press, Oct. 27, 1985, at 3A, col. 3; *Weapons Sweeps Net an Arsenal*, Det. News, Oct. 26, 1985, at 1A, col. 1; *Cody High Freshman Fatally Shot*, Det. Free Press, Oct. 26, 1985, at 1A, col. 5; *A Gun, an Accident, and Girl Is Dead*, Det. Free Press, Oct. 20, 1985, at 11A, col. 2; *Getting a Gun Is No Problem for Too Many Young People*, Det. Free Press, Oct. 20, 1985, at 11A, col. 2 [hereinafter cited as *Getting a Gun Is No Problem*]; *Toll Mounts in Spate of Shootings*, Det. Free Press, Oct. 20, 1985, at 1A, col. 1; *Six Injured by Gunfire at Prep Football Game*, Det. Free Press, Oct. 19, 1985, at 1A, col. 3; *Shooting Puts a Chill on Cody's Homecoming Fever*, Det. Free Press, Oct.

solution to youth violence compelled the Board to begin metal detector searches before guidelines, policy, or responsibility could be established.

Furthermore, the Detroit Board of Education Code of Student Conduct (Code) that was in effect when all sixteen of the 1984-1985 sweeps were conducted, and for the first four of seven sweeps conducted in the 1985-1986 school year, did not contain any language that would authorize the weapons sweeps.¹⁰ Not until the Board meeting on October 22, 1985—ten months after the searches began—did Superintendent Jefferson present a written search policy and proposed procedural guidelines. Twenty searches were performed before any written guidelines were introduced. The guidelines were a direct response to two American Civil Liberties Union (ACLU) suits challenging the legality of the searches.¹¹ At an informal status conference in connection with the ACLU suit, U.S. District Court Judge Avern Cohn noted that nothing in the original Code supported the searches and that, in fact, the Code was “directly contrary” to the searches. Judge Cohn suggested that the Board amend the Code to authorize the searches expressly.¹² The Board’s attor-

12, 1985, at 7A, col. 1; *Teenager Shoots Ten at McDonald’s*, Det. Free Press, Oct. 12, 1985, at 1A, col. 1; *Mumford Sweep Nabs 18 Students*, Det. News, May 11, 1985, at 7B, col. 3; *Fifteen Are Caught in School Sweep*, Det. News, May 3, 1985, at 15A, col. 1; *Armed Students Receive Light Punishments*, Det. News, Apr. 17, 1985, at 3A, col. 1; *School Weapons Sweep Nets 7 Knives, Razor*, Det. News, Mar. 14, 1985, at 3A, col. 2.

10. The Code permitted search of a student’s possessions only when there was reasonable cause to believe that the student was in possession of contraband or when there was a clearly defined emergency, such as a belief that weapons were on the premises. The Code did not permit surprise searches and, indeed, expressly required that students be notified of any emergency situation. See appendix III(A).

11. A February 20, 1985 search at Western High School resulted in two ACLU law suits, one filed in federal court and one filed in state court, on behalf of two different plaintiffs. The ACLU filed the federal suit on September 17, 1985 on behalf of an unnamed female student whose purse was searched, in full view of other students, when she activated the metal detector. The student was then sent to a different room in the school where she was subjected to a pat-down frisk by a plainclothes male police officer. *School Arms Searches Halted Pending Hearing*, Det. Free Press, Oct. 16, 1985, at 3A, col. 2 [hereinafter cited as *School Arms Searches Halted*]; Brief in Support of Plaintiff’s Motion for Preliminary Injunction at 1-2, *Doe v. City of Detroit*, C.A. No. 85-CV-74256-DT (E.D. Mich. filed 1985).

The second ACLU suit arising from the Western High School search was filed in state court on behalf of Donna Romero and her children, Anthony and Chantall, who refused to be searched and were detained in the high school office. According to Anthony, “A hall [security] guard grabbed Chantall by the arm and a plainclothes cop grabbed me and said we had to go to the office where we couldn’t use the phone.” After about 20 minutes, Chantall snuck out of the office and called her mother. *Suit to Test Searches of Students*, Det. News, Feb. 27, 1985, at 3A, col. 2, 12A, col. 1.

12. Interview with U.S. District Court Judge Avern Cohn in Ann Arbor, Michigan (Oct. 20, 1985).

neys informally agreed to halt the searches and to give Judge Cohn at least seven days' notice before resuming them.¹³

The guidelines that Jefferson presented in October 1985 codified the responsibilities of the administration, teachers, security officers, and police.¹⁴ After presenting these guidelines, Superintendent Jefferson asked the Board members to modify article III, paragraph 4 of the Code to allow the use of metal detectors, and to change the standard of search from "reasonable cause to believe" to "reasonable suspicion to believe."¹⁵

After much discussion, in which one Board member expressed concern over the meaning of "reasonable suspicion,"¹⁶ and in which many Board members expressed their reluctance and regret at having to adopt this measure, the Board passed the resolution. The Board members, in passing the amendment, indicated that they were responding to community pressure and looking for a quick solution.¹⁷ As a further step, Board President Harold Murdock appointed a special commission on school violence.¹⁸

In March 1986, the Board proposed an amendment to the Code that would authorize the use of metal detectors and suggested new rules and regulations to govern the searches. The amendment authorized metal detector searches by school officials, without any police involvement, when (1) there is reasonable suspicion to believe weapons are in the possession of unidentified students, (2) there has been a pattern of weapon discoveries in the school, or (3) violence involving weapons has occurred at the school.¹⁹ The suggested changes in the search

13. See *Weapons Searches May Resume*, Det. Free Press, Oct. 18, 1985, at 18A, col. 3; *School Arms Searches Halted*, *supra* note 11, at 3A, col. 2.

14. Detroit Bd. of Educ. Minutes of Meeting at 8-11 (Oct. 22, 1985) [hereinafter cited as Board Minutes] (copy on file with U. MICH. J.L. REF.).

15. See appendix III(B).

16. For example, one Board member asked Jefferson what constituted "reasonable suspicion." Jefferson responded, "A positive response from a metal detector or similar device." Jefferson did not indicate what *else* might constitute reasonable suspicion and did not respond when the Board member asked if "reasonable suspicion" might also be inferred, for example, from the way a student looks. Comments of members at Detroit Bd. of Educ. Meeting (Oct. 22, 1985) (notes on file with U. MICH. J.L. REF.).

17. For example, Board member George Vaughn stated to the press: "Whatever it takes, we're going to have to do it. We'll have to take the chances in court . . . Our backs are against the wall." *Cody High Freshman Fatally Shot*, *supra* note 9, at 7A, col. 2.

18. The President requested that the chairman report back to the Board on its progress and make recommendations in a timely fashion. Board Minutes, *supra* note 14, at 4-5.

19. See appendix III(C). In its opinion approving the proposals, the federal district court noted parenthetically that the third reason is probably too vague: "To the extent

procedure included notifying the students of the search over the loudspeaker, posting signs to notify students on the day of the search,²⁰ conducting the searches by school personnel only, allowing the students to remove metal objects from their own pockets, and resorting to a "pat-down" body search only after the third activation of the metal detector. Finally, bags would be inspected only if the bag activated the metal detector and only if the bag could conceal weapons.²¹

Judge Cohn approved the amendment and the new rules as facially constitutional, but warned that there is a difference between the constitutionality of rules as written and as applied: "Whether or not any *particular* search will pass constitutional muster is a different order."²² The State Superintendent of Public Instruction, in his capacity as the court's monitor, also expressed doubt about the practical wisdom of the searches: "[T]he Detroit Board's approach . . . is not well thought out, likely to be difficult to implement, unlikely to achieve more in the way of securing safe schools than less complicated approaches, and certainly not something [I] would recommend. . . . [I]t is a very poor idea."²³

B. Search Procedure

The searches were random and unannounced. Neither the police nor the principals knew when or at which school a sweep would occur. The area superintendent for the Detroit high schools decided which schools would be the targets of weapons sweeps.²⁴ None of the principals who were interviewed requested the searches.²⁵

that a search may be conducted solely because of a prior violent incident, where the search does not reasonably appear likely to produce weapons, the Detroit Board's third justification may fall short of the Supreme Court's ruling in *T.L.O.*" Bradley v. Milliken, No. 70-35257, slip op. at 5 n.3 (E.D. Mich. Apr. 10, 1986). The Supreme Court's ruling in *New Jersey v. T.L.O.*, 105 S. Ct. 733 (1985), is discussed *infra* notes 75-85 and accompanying text.

20. The court expressed concern that the vagueness of this notice requirement may vest undue discretion in administrators at each school as to how students are notified. Bradley v. Milliken, No. 70-35257, slip op. at 5 n.4 (E.D. Mich. Apr. 10, 1986).

21. See appendix IV.

22. Bradley v. Milliken, No. 70-35257, slip op. at 6 (E.D. Mich. Apr. 10, 1986) (emphasis added).

23. *Id.* at 2.

24. *Searches Not My Idea*, *supra* note 5, at 12A, col. 1 (testimony of Frank Blount, Chief of School Security at a hearing on Dec. 9, 1985).

25. Moreover, a few principals indicated that they would have preferred that the

The area superintendent usually called the principal of a targeted school the night before a search.²⁶ The principal then contacted the administrators in his school, who helped to establish an operational plan detailing which doors should be used and how the inspection points should be staffed. The school superintendent contacted the police to notify them of a school search early in the morning on the day of the search. Both the police and the principals stated that the randomness and secrecy of the searches made them effective.²⁷

The weapons "sweep teams" consisted of both Detroit police²⁸ and school security personnel.²⁹ As initially conceived, the role of the police was limited to providing back-up security and making any arrests.³⁰ The police would be divided into two teams: the interior school security team and the exterior perimeter school security team. The interior team, composed of ten uniformed police officers, would assist in the searching when backlogs developed and would watch for students attempting to discard weapons prior to inspection. The police were also responsible for making arrests and detentions³¹ and conveying ar-

searches not be done, but none of the principals felt that they could refuse to allow a search to be conducted at their school. Interviews with principals at School C (Oct. 15, 1985) and School D (Oct. 14, 1985). When asked the reason why their school had been chosen for a search, all of the principals responded that the superintendent's decision was a random selection rather than a response to a particular problem in the school.

Every principal agreed that no particular violent incident or series of incidents within the school precipitated the search. Interviews with principals at School A (Oct. 16, 1985), School B (Oct. 16, 1985), School C (Oct. 15, 1985), School D (Oct. 14, 1985), School E (Oct. 14, 1985), and School F (Oct. 28, 1985). One principal whose school was the target of one of the first searches felt that his school was selected because it had a reputation for being well-organized and would be a good place to try a search. Interview with principal at School A (Oct. 16, 1985).

26. Interview with principal at School E (Oct. 14, 1985).

27. Interview with Lieutenant Julius Higdon of the Detroit Police Department (Nov. 11, 1985) [hereinafter cited as Higdon Interview]. Despite efforts to maintain secrecy, news of the searches sometimes leaked out. See *infra* note 133 and accompanying text.

28. The police on the sweep teams included members of the Detroit Police Youth Crime Unit and police officers assigned to each school on a permanent basis.

29. The school security guards on the sweep teams were often deployed from other Detroit schools. Thus, while all of the schools had a regular staff of three or four security officers assigned there on a permanent basis, a guard from one school would leave to become a part of the sweep team at another school on the day of a sweep. A few of the principals felt that this significantly decreased the amount of security in the school where the officer was usually assigned.

30. Detroit Police Dep't-Detroit Bd. of Educ. Sweep Operation, Standard Operating Procedures 2-4 (Dec. 19, 1984) [hereinafter cited as Standard Operating Procedures]; Higdon Interview, *supra* note 27.

31. Adults were arrested and juveniles were detained. A juvenile is any person under 17 years of age. MICH. COMP. LAWS § 712A.2a (1979).

rested or detained persons to the Special Crime Section base for processing.³²

The exterior perimeter sweep team, composed of seven plain-clothes police officers, would patrol the exterior of the school and the surrounding area. They would apprehend students who were either attempting to leave the school area to avoid inspection or attempting to conceal weapons or other contraband in surrounding buildings, lots, or shrubs. Like the interior team, they were to convey arrested or detained persons to the Special Crime Section base for processing.³³

In practice, however, the role of the police and the security guards varied significantly from school to school. In some schools, school security conducted the search with the police as back-ups.³⁴ In other schools, the police actually did the searching and school security were back-ups.³⁵ In still other schools, both the police and school security officers searched the students.³⁶

On the morning of the search, the police and security officer sweep teams met for roll call and would then load and transport the security equipment to the target school. The sweep teams usually arrived at the school by 6:45 a.m. to set up the search equipment and receive their assignments.

Most of the students arrived at school between 7:15 and 7:45 a.m. The students were allowed to enter only through the single door leading to the inspection area.³⁷ At most schools, the inspection point was set up in the halls near the school entrance and the students lined up in the corridors to await the search.³⁸ At a few schools, however, students were gathered and screened in one room, such as the gymnasium or auditorium.³⁹ The in-

32. Standard Operating Procedures, *supra* note 30, at 2-4.

33. *Id.* at 4-5.

34. *E.g.*, search at King High School (Mar. 21, 1985).

35. *E.g.*, search at Denby High School (Apr. 3, 1985); search at Pershing High School (Apr. 19, 1985).

36. *E.g.*, search at Western High School (Feb. 20, 1985).

37. The searches at Cody High School (Dec. 11, 1984) and Central High School (Feb. 6, 1985) utilized only one door for entrance to the school on the day of a search. The searches at Murray Wright High School (May 2, 1985) and Central High School (Sept. 13, 1985), however, utilized two doors. Interoffice Memorandum from Charles Mitchell, Assistant Chief of Security, to Frank A. Blount, Chief of Security, at 1 (May 2, 1985) [hereinafter cited as Mitchell Memorandum—May 2, 1985]; Interviews with school officials (Oct. 16, 1985).

38. Interview with school security official (May 14, 1986).

39. *E.g.*, search at Northern High School (Mar. 29, 1985); see Interoffice Memorandum from Charles Mitchell, Assistant Chief of Security, to Frank A. Blount, Chief of Security, at 1 (Mar. 29, 1985).

spection point was usually staffed with approximately sixteen security officers and twenty police,⁴⁰ although the number of police ranged from three to thirty-four, and the number of security officers ranged from four to twenty.⁴¹

At the search area, students were first required to empty the contents of their bags, purses, and pockets in full view of the other students.⁴² The students were then required to walk through a stationary metal detector or were frisked by officers using hand-held metal detectors. If a student activated one of the metal detectors, he was taken to a "holding room" for a pat-down search and further scanning with a hand-held metal detector. While some schools established two separate holding rooms so that male security officers searched male students and female security officers searched female students,⁴³ other schools set up only one holding room so that students might be searched by police and/or security officers of the opposite sex.⁴⁴ The police and security officers were instructed not to "frisk" students except in the special frisking rooms; at some schools, however, students were frisked *before* they were sent to the separate room.⁴⁵

When drugs or other contraband⁴⁶ were found, these items were confiscated and the student was charged with possession of the item. Students who did not activate the metal detector were usually sent on to their classes,⁴⁷ although in some schools the entire student body was detained in the gymnasium or auditorium until the sweep operation was completed.⁴⁸ The search pro-

40. Deposition of Charles Mitchell (Nov. 20, 1985), *Doe v. City of Detroit*, C.A. No. 85-CV-74256-DT (E.D. Mich. filed 1985) [hereinafter cited as Mitchell Deposition]; see also appendices I and II.

41. See appendices I and II.

42. According to Lieutenant Higdon, "There is *always* an inspection of bags in addition to the metal detector, whether or not the detector is activated." Higdon Interview, *supra* note 27; see also Interview with an administrator at Central High School (Oct. 16, 1985); Interviews with principals at School C (Oct. 15, 1985) and School D (Oct. 14, 1985); Interview with student at Osborn High (Oct. 28, 1985). Moreover, according to the school search procedures adopted at the October 22, 1985 Board meeting: "Bags and purses are passed to the security officers *before* students pass through the detector. If the detector alarm sounds the student is then scanned with a handheld metal detector by the security officer." Board Minutes, *supra* note 14, at 15 (emphasis in original).

43. *E.g.*, search at Central High School (Feb. 6, 1985); search at Denby High School (Apr. 3, 1985).

44. *E.g.*, search at Western High School (Feb. 20, 1985).

45. *E.g.*, search at Denby High School (Apr. 3, 1985).

46. For example, school rules prohibit beepers, radios, and tape players.

47. Interview with school security official (May 14, 1986).

48. *E.g.*, search at Cody High School (Dec. 11, 1984), see Interoffice Memorandum from Lieutenant Julius Higdon, Youth Crime Unit, Lieutenant Arnold Ketels, DOT Surveillance Unit, and Inspector David L. Simmons, Commanding Officer, Special Crime Section, to Detroit Chief of Police William L. Hart at 1 (Dec. 11, 1984) [hereinafter cited

cedure usually lasted about two hours, but a skeleton crew of security officers often remained with metal detectors until 11:00 a.m. or 12:00 p.m.⁴⁹

C. *Aftermath: Student Arrests and Detentions*

A student arrested or detained for possession of a weapon was subject to two different procedures: criminal charges and school disciplinary action.

1. *Criminal charges*— One of the express roles of the police was to arrest or detain⁵⁰ students for violations of city and state laws.⁵¹ The students were usually charged with violating one of the Detroit city ordinances, such as the knife ordinance,⁵² fire-arm ordinance,⁵³ marijuana ordinance,⁵⁴ or curfew ordinance,⁵⁵ or with the commission of a felony such as possession of a dangerous weapon⁵⁶ or carrying a concealed weapon.⁵⁷

as Higdon Memorandum—Dec. 11, 1984]; search at Southeastern High School (Dec. 11, 1984), *see id.*; search at Western High School (Feb. 20, 1985), *see* Interoffice Memorandum from Lieutenant Julius Higdon, Youth Crime Unit, to Chief of Police William L. Hart at 1 (Feb. 20, 1985); search at Pershing High School (Apr. 19, 1985), *see* Interoffice Memorandum from Charles Mitchell, Assistant Chief of Security, to Frank A. Blount, Chief of Security, at 1 (Apr. 19, 1985); search at Murray Wright High School (May 2, 1985), *see* Mitchell Memorandum—May 2, 1985, *supra* note 37, at 1.

49. Mitchell Deposition, *supra* note 40; *see also* Interoffice Memorandum from Ben Crain, Leon Lewis, and Patricia Moore, Field Supervisors, to Charles Mitchell, Assistant Chief of Security, at 1 (Feb. 14, 1985); Interoffice Memorandum from Ben Crain, Leon Lewis, Patricia Moore, and Annabelle Leonard, Field Supervisors, to Charles Mitchell, Assistant Chief of Security, at 1 (Mar. 13, 1985); appendices I and II. A "skeleton crew" consisted of a few security officers who remained with hand-held metal detectors to search students who arrived later in the morning. Interview with school security official (May 14, 1986).

50. *See supra* note 31.

51. Standard Operating Procedures, *supra* note 30, at 4-5, 7.

52. DETROIT, MICH., CODE § 38-10-42 (1985) (making it unlawful to possess a knife with a blade more than three inches long in any Detroit school); *see also id.* § 38-10-43 (making it unlawful for any person under the age of 18 years to possess any knife, dart, or instrument that could be used for cutting or stabbing, in any Detroit school).

53. *Id.* § 38-10-58 (making it unlawful to carry a firearm on any public street or in any public place unless it is unloaded and in a case).

54. *Id.* § 38-11-2.

55. *Id.* § 33-3-4 (making it unlawful for any child under 16 years of age or enrolled in a day school program other than a college or university, to remain in any restaurant, lunchroom, candy store, confectionery, bowling room, ice cream parlor, theater, or other public place unless it is part of an organized school program, during regular school hours).

56. MICH. COMP. LAWS § 750.226 (1979) (making possession of a pistol or other firearm or dagger, dirk, razor, stilltetto, or knife having a blade over three inches in length, or any other dangerous or deadly weapon or instrument a felony, punishable by imprisonment for not more than five years or by a fine of not more than \$2500).

57. *Id.* § 750.227.

Both juvenile and adult student offenders were brought to the local precinct for processing. The juvenile division of probate court retains jurisdiction for juvenile violations of both city ordinances and state felony laws.⁵⁸ Juveniles who violated a city ordinance were detained and then "released to appear," which means that they were released to a parent and a petition was filed for a hearing. Juveniles detained for a felony violation were immediately taken to the Wayne County Youth Home and a hearing was set for the following day in juvenile court.⁵⁹

Adult students who violated a city ordinance or committed other misdemeanors received a ticket and were sent to the traffic division of the Detroit Recorder's Court.⁶⁰ To adult students charged with a felony, the police issued a felony warrant and scheduled arraignment in the 36th District Court on the following day.⁶¹ The police merely issued the warrants, which were only recommendations for action. It was in the prosecutor's discretion, and later at the judge's discretion, to act on a warrant. According to one juvenile prosecutor, all of the weapons cases involving guns went to court while violations of the knife ordinance may or may not have been prosecuted.⁶² Circumstances such as whether the juvenile was a repeat offender, his or her performance in school, and the parents' wishes, often entered into the decision of whether or not to press charges. The Intake Department of the Wayne County Juvenile Court usually held an informal conversation with the parents and if the decision was made not to prosecute, the case was dismissed or the child was placed on informal probation.⁶³

During the seventeen sweeps conducted from December 11, 1984 to June 6, 1985, 171 students were arrested.⁶⁴ During the

58. *Id.* § 712A.2a(1) (juvenile division of probate court shall have exclusive original jurisdiction superior to and regardless of any other court in proceedings concerning any child under 17 years of age who has violated any municipal ordinance or law of the state).

59. Higdon Interview, *supra* note 27.

60. MICH. COMP. LAWS § 117.29 (1979) (the traffic and ordinance division of the Recorder's Court of the City of Detroit may hear, try and determine actions and prosecutions for the recovery and enforcement of fines, penalties and forfeitures imposed by the charter and ordinances of the city, and may punish offenders for the violation of the charter and ordinances, as is prescribed and directed in the charter or ordinances).

61. *Id.* § 600.8313.

62. Telephone interview with Ron Schigur, Assistant Prosecuting Attorney, Deputy Chief, Wayne County Juvenile Court Division (Apr. 1986).

63. Telephone interview with Ron Schigur and Sarah Ligon, Court Executive, Intake Department, Wayne County Juvenile Court (Apr. 1986).

64. In the statistics discussed in the text accompanying notes 64-67, "arrested" includes both adults arrested and juveniles detained. Of the 171 arrests, nine were adult felony arrests, 76 were adult misdemeanor arrests, and 86 were juvenile detentions.

seven sweeps conducted between September 5, 1985 and November 7, 1985, eighty-two students were arrested.⁶⁵ The figures reveal that less than one percent of the students searched were arrested;⁶⁶ the majority of these arrests were for violations of the knife ordinance.⁶⁷

2. *School disciplinary action*— In addition to criminal and juvenile court punishment, students arrested during a weapons sweep were also subject to school disciplinary action. According to the Code of Student Conduct, a student found guilty of carrying a gun, knife, or other weapon *must* be suspended for up to sixty days and may be expelled.⁶⁸ Interviews with principals, teachers, students, and security guards, however, indicated that school administrators did not always follow the procedures outlined in the Code. Disciplinary rules were applied inconsistently from school to school, particularly in terms of the discretion each principal exercised. Some principals began disciplinary proceedings automatically for *any* weapon violation without looking at either the nature of the weapon seized or the student's background. Other principals distinguished between guns and knives. Still others distinguished between large and small knives. In addition, some principals took the student's academic performance, attendance, previous record, and other relevant circumstances into account; others did not give any weight at all to personal situations.⁶⁹

65. Of the 82 arrests, one was an adult felony, 23 were adult misdemeanors, and 58 were juvenile detentions.

66. See *infra* notes 144-45 and accompanying text.

67. In 1984-1985, 13% of the arrests were for carrying a concealed weapon and possession of a dangerous weapon, while 70% of the arrests were for knife ordinance violations. Eleven percent of the arrests were for violations of the marijuana ordinance and 6% were for violations of miscellaneous city and school ordinances. Examples of miscellaneous school ordinance violations are unauthorized presence on school grounds, disorderly conduct, possession of alcohol, and failure to comply with the curfew.

In 1985-1986, 9% of the arrests were for carrying a concealed weapon and there were no arrests for possession of a dangerous weapon. Seventy-four percent of arrests were for knife ordinance violations, 10% were for violation of the marijuana ordinance, and 9% were for miscellaneous ordinance violations. The figures do not add up to 100% because some students were arrested for more than one violation. See appendix V.

68. See appendix X.

69. Interviews with principals at School A (Oct. 16, 1985), School B (Oct. 16, 1985), School C (Oct. 15, 1985), School D (Oct. 14, 1985), and School E (Oct. 14, 1985). In contrast to the discretion exercised by the principals, Superintendent Arthur Jefferson took a hard-line stance in favor of mandatory disciplinary action for the carrying of any weapon. Jefferson stated that students caught with guns are automatically put on an expulsion track. Students caught carrying other weapons can also face expulsion from the school system, transfers to other schools, or short-term suspensions. *Weapons Are Tough Test for School Discipline*, Det. Free Press, Oct. 20, 1985, at 11A, col. 2 [hereinaf-

II. THE CONSTITUTIONALITY OF THE SEARCHES⁷⁰

The fourth amendment guarantees the right to be free from unreasonable searches.⁷¹ The metal detector searches conducted in the Detroit public schools fall clearly within the protective reach of the fourth amendment. First, it has long been established that searches by a metal detector are "searches" under the fourth amendment.⁷² Second, the Supreme Court recently has held that the fourth amendment's prohibition against unreasonable searches applies to searches conducted by public school officials.⁷³

The Detroit metal detector searches were conducted on school

ter cited as *Weapons Are Tough Test*]; *City Students Transferred in Weapons Cases*, Det. Free Press, Apr. 19, 1985, at 7D, col. 5.

70. This Part will address the constitutionality of the metal detector search. Within each weapons sweep there were really two different searches at issue: the initial metal detector search to which the entire student body was subjected, and the subsequent frisk in a separate room of those students who activated the detector. The validity of the second search necessarily turns on the legality of the initial search because there would be no reason to frisk a student if the initial metal detector search had not occurred. Therefore, the legality of the entire sweep procedure turns on the legality of the initial use of metal detectors. For a similar analysis, see *New Jersey v. T.L.O.*, 105 S. Ct. 733, 745 (1985) ("Although it is the fruits of the *second* search that are at issue here [marihuana], 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.") (emphasis added).

71.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. CONST. amend. IV.

72. The Supreme Court has held that searches employing electronic means, with no actual physical intrusion, are still "searches" within the fourth amendment. *Katz v. United States*, 389 U.S. 347, 353 (1967) (holding that a phone tap was an electronic search within the fourth amendment: "[T]he reach of that Amendment cannot turn upon the presence or absence of a physical intrusion into any given enclosure."). The lower courts consistently have held that the fourth amendment applies to body searches by airport metal detectors. *United States v. Herzbrun*, 723 F.2d 773 (11th Cir. 1984); *United States v. Albarado*, 495 F.2d 799, 803 (2d Cir. 1974) ("Even the unintrusive magnetometer walk-through is a search in that it searches for and discloses metal items within areas most intimate to the person where there is a normal expectation of privacy."); *United States v. Slocum*, 464 F.2d 1180 (3d Cir. 1972); *United States v. Epperson*, 454 F.2d 769 (4th Cir.), *cert. denied*, 406 U.S. 947 (1972).

73. *New Jersey v. T.L.O.*, 105 S. Ct. 733 (1985) (holding that school officials act as state officers and not *in loco parentis*). The applicability of the fourth amendment to school officials is in accord with a long line of Supreme Court precedent that recognizes the constitutional rights of school children. See, e.g., *Tinker v. Des Moines School Dist.*, 393 U.S. 503, 506 (1969) (establishing students' first amendment right to wear armbands in school: "It can hardly be argued that either students or teachers shed their constitu-

grounds by both the police and school officials. Consequently, a constitutional analysis of these searches must focus on two distinct lines of fourth amendment jurisprudence: (1) the constitutional requirements for a school search, and (2) the constitutional requirements for blanket metal detector searches in other settings, such as airports and courthouses.⁷⁴

A. School Searches by School Officials

In *New Jersey v. T.L.O.*,⁷⁵ the Supreme Court recently addressed the constitutional standard of reasonableness to be applied to searches conducted by school officials. After noting that the fourth amendment extends to searches conducted by school officials,⁷⁶ the Court turned its attention to the particular standard of reasonableness to be applied in the school setting.

Usually, searches conducted without a warrant are per se unreasonable subject only to "a few specifically delineated and well-recognized exceptions."⁷⁷ Furthermore, searches, whether conducted with a warrant or under one of the exceptions, are "reasonable" only upon a showing of probable cause to believe that a crime has been committed and that evidence of that crime will be found.⁷⁸ In certain limited circumstances, however,

tional rights to freedom of speech or expression at the schoolhouse gate."); *West Virginia Bd. of Educ. v. Barnette*, 319 U.S. 624, 637 (1943):

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. . . . 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.

74. For a similar constitutional analysis of blanket testing in the public schools, see Note, *Dragnet Drug Testing in Public Schools and the Fourth Amendment*, 86 COLUM. L. REV. 852 (1986).

75. 105 S. Ct. 733 (1985). This case involved the search of a student's purse for cigarettes after the student denied that she had been smoking in the girls' restroom. The search, which uncovered marijuana, was found to be constitutional because it was based on reasonable suspicion. See also Note, *New Jersey v. T.L.O.: The Supreme Court Severely Limits Schoolchildrens' [sic] Fourth Amendment Rights When Being Searched by Public School Officials*, 13 PEPPERDINE L. REV. 87 (1985).

76. 105 S. Ct. at 741.

77. *Id.* at 750 (Brennan, J., concurring in part and dissenting in part). An exception to the warrant requirement is justified only when exigent circumstances make obtaining a warrant impractical or infeasible. *Id.* at 751.

78. See *id.* at 743 (majority opinion); *id.* at 751 (Brennan, J., concurring in part and dissenting in part); *Chambers v. Maroney*, 399 U.S. 42, 51 (1970) ("In enforcing the Fourth Amendment's prohibition against unreasonable searches and seizures, the Court has insisted upon probable cause as a minimum requirement for a reasonable search

neither a warrant nor probable cause is required.⁷⁹ The Court in *T.L.O.* held that a search by a school official falls into the narrow category of searches that do not require a warrant:

[T]he 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 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," . . . we hold today that school officials need not obtain a warrant before searching a student who is under their authority.⁸⁰

The *T.L.O.* Court then held that a search by a school official does not require a showing of probable cause.⁸¹ The Court relaxed the strict probable cause requirement to "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."⁸² The Court instead adopted a lower standard of "rea-

permitted by the Constitution.").

79. 105 S. Ct. at 743. These exceptions to the warrant and probable cause requirement include searches incident to hot pursuit of an armed criminal suspect, *Warden v. Hayden*, 387 U.S. 294 (1967), searches incident to lawful arrest, *United States v. Robinson*, 414 U.S. 218 (1973); *Beck v. Ohio*, 379 U.S. 89 (1964), administrative searches, *Camara v. Municipal Court*, 387 U.S. 523 (1967), "stop and frisks" for weapons, *Terry v. Ohio*, 392 U.S. 1 (1968), border searches, *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976); *United States v. Ortiz*, 422 U.S. 891 (1975); *United States v. Brignoni-Ponce*, 422 U.S. 873 (1975); *Almeida-Sanchez v. United States*, 413 U.S. 266 (1973), airport searches, *United States v. Albarado*, 495 F.2d 799 (2d Cir. 1974); *United States v. Skipwith*, 482 F.2d 1272 (5th Cir. 1973); *United States v. Epperson*, 454 F.2d 769 (4th Cir. 1972), courthouse searches, *McMorris v. Alioto*, 567 F.2d 897 (9th Cir. 1978); *Downing v. Kunzig*, 454 F.2d 1230 (6th Cir. 1972), and searches based on consent, *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973).

80. 105 S. Ct. at 743 (quoting *Camara v. Municipal Court*, 387 U.S. 523, 532-33 (1967)). Even Justice Brennan, concurring in part and dissenting in part, agreed that the warrant requirement should be excepted. Taking "judicial notice of the serious problem of drugs and violence that plague our schools," Brennan noted that a teacher or principal could not adequately teach or protect the safety of students if required to wait for a warrant before conducting a necessary search. *Id.* at 752.

81. *Id.* at 743.

82. *Id.* at 744.

sonableness" based on the two-prong balancing test established in *Terry v. Ohio*.⁸³ Under the *Terry* test, a search is "reasonable" (1) if it is justified at its inception, and (2) if it is reasonably related in scope to the circumstances that justified the interference.⁸⁴ In the school context, a search will be justified when there are reasonable grounds for believing that the search will turn up evidence that a student is violating school rules. In addition, the search will be permissible in its scope only if the measures "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."⁸⁵

The standard adopted in *T.L.O.* for school searches, however, does not directly address the constitutionality of the Detroit searches. Mass metal detector searches conducted by school officials in conjunction with the police raise two constitutional questions left unanswered by the Court in *T.L.O.*: (1) Is the standard of reasonableness the same when a school search involves the police? and (2) Is individualized suspicion a necessary element of the "justified at its inception" requirement?

First, the standard announced in *T.L.O.* applies only to school searches conducted by school officials,⁸⁶ whereas the Detroit searches were conducted with significant police involvement.⁸⁷ *T.L.O.* is silent on the issue of police involvement in school searches. Lower courts that have held that a reasonable suspicion standard applies to searches conducted by teachers, however, have noted that this might *not* be the proper standard if the police were involved.⁸⁸ Furthermore, some courts have held

83. 392 U.S. 1 (1968) (holding that a policeman may make a limited pat-down search of a suspect who has been stopped for questioning, without first obtaining a warrant and without probable cause).

84. *T.L.O.*, 105 S. Ct. at 744 (citing *Terry*, 392 U.S. at 20).

85. *Id.*

86. *Id.* at 744 n.7:

We here consider only searches carried out by school authorities acting alone and on their own authority. This case does not present the question of the appropriate standard for assessing the legality of searches conducted by school officials in conjunction with or at the behest of law enforcement agencies, and we express no opinion on that question.

87. See *supra* text accompanying notes 28-36; see also appendices I and II.

88. See, e.g., *Tarter v. Raybuck*, 742 F.2d 977 (6th Cir. 1984), *cert. denied*, 105 S. Ct. 1749 (1985). Although the police were summoned in this case, "the involvement of the police with respect to plaintiff was marginal." *Id.* at 984. Therefore, the court "decline[d] to pass directly on the question of what fourth amendment standards would be applicable where the fruits of a search are turned over to law enforcement officials and used in proceedings against the student searched." *Id.*; see also *In re William G.*, 40 Cal. 3d 550, 559 n.7, 562 n.12, 709 P.2d 1287, 1292 n.7, 1294 n.12, 221 Cal. Rptr. 118, 123 n.7, 125 n.12 (1985) ("While we believe that the existence of formal cooperative activities between law

expressly that probable cause should be required *whenever* the police are involved in a school search.⁸⁹

One of the Court's principal rationales for requiring a lower standard of reasonableness in a school search was because "a teacher has neither the training nor the day-to-day experience in the complexities of probable cause that a law enforcement officer possesses, and is ill-equipped to make a quick judgment about the existence of probable cause."⁹⁰ This rationale does not apply to the Detroit searches. Unlike the school official search in *T.L.O.*, the Detroit searches were conducted by the police and specially-trained security officers. The Court's concern with the need to spare *teachers* from determining probable cause is irrelevant to searches conducted by police officers and trained secur-

enforcement and public school officials in effecting searches of minor students may be an important consideration in determining the standard to be applied to these activities under the fourth amendment, we do not find this inquiry relevant," and therefore, "we do not reach the issue of what standard should apply where law enforcement officials are involved at the outset of a student search, or where a school official acts in cooperation with, or as an agent of law enforcement."); *Horton v. Goose Creek Indep. School Dist.*, 690 F.2d 470, 481 n.19 (5th Cir. 1982) ("We intimate no opinion as to the standards to be applied when a school official acts at the request of the police, calls in the police before searching, or turns over the fruits of his search to the police. In that situation, when there is some component of law enforcement activity in the school official's actions, the considerations may be critically different."); *cert. denied*, 463 U.S. 1207 (1983); *M. v. Board of Educ.*, 429 F. Supp. 288, 292 (S.D. Ill. 1977) (applying a reasonable cause to believe standard to a search by an assistant principal "when there was no police involvement").

89. See *M.J. v. State*, 399 So. 2d 996, 998 (Fla. Dist. Ct. App. 1981) (holding that the search of a student by an assistant principal and police officer for marijuana must be governed by probable cause: "[W]here a law enforcement officer directs, participates, or acquiesces in a search conducted by school officials, the officer must have probable cause for that search, even though the school officials acting alone are treated as state officials subject to a lesser constitutional standard . . ."); *Picha v. Wielgos*, 410 F. Supp. 1214, 1221 (N.D. Ill. 1976) (holding that because the principal called in the police to participate in the search, the search must be based on probable cause); *Smyth v. Lubbers*, 398 F. Supp. 777, 791 (W.D. Mich. 1975) (holding that the search of a college dorm room by campus police officers, who were also county deputy sheriffs, and school officials was unconstitutional absent a showing of probable cause); *Piazzola v. Watkins*, 316 F. Supp. 624, 626 (M.D. Ala. 1970) (concluding that a search of a college dorm room by police and university officials without warrant, without consent, and without probable cause was unconstitutional: "The standard of 'reasonable cause to believe' . . . cannot be the justification for a search by a police officer for the sole purpose of gathering evidence for criminal prosecutions."); *aff'd*, 442 F.2d 284 (5th Cir. 1971); see also *People v. Boykin*, 39 Ill. 2d 617, 237 N.E.2d 460 (1968) (holding that the search of a student by a police officer was "reasonable" because it was based on an anonymous tip that the student had a gun; the court did not say whether this tip amounted to probable cause). At least one court has required that a search by a school official, even without police involvement, be based on probable cause. See *State v. Mora*, 307 So. 2d 317 (La.), *vacated on other grounds*, 423 U.S. 809 (1975).

90. *T.L.O.*, 105 S. Ct. at 750 (Blackmun, J., concurring); see also *id.* at 748 n.1 (Powell, J., concurring) ("Unlike police officers, school authorities have no law enforcement responsibility or indeed any obligation to be familiar with the criminal laws.").

ity officers. Nor can it be seriously argued that the probable cause standard is too technical for school security officials to administer.

Second, even if the *T.L.O.* standard *were* to extend to school searches when police were involved, it is doubtful that the Detroit searches would meet the requirements of the two-prong *T.L.O.* test. The Detroit searches arguably fail the second prong of the *T.L.O.* test because they were not limited in scope to a weapons search.⁹¹ The searches uncovered a range of other contraband items, including drugs and alcohol.⁹²

More troubling is whether the Detroit searches also would fail the first prong of the *T.L.O.* test because of the lack of individualized suspicion. Although *T.L.O.* sidesteps the constitutionality of blanket school searches by reserving any opinion on whether individualized suspicion is an essential element of the reasonableness requirement,⁹³ the Court in other contexts has repeatedly stressed that the *Terry* reasonable suspicion standard requires *particularized* suspicion.⁹⁴ There is no reason why individualized suspicion should not also be extended to the school setting.

To date, no courts have addressed the constitutionality of mass metal detector searches in the schools.⁹⁵ In fact, the courts have rarely faced the issue of any mass school search because most of the school search cases, like *T.L.O.*, involve the search of

91. See, e.g., *Wheaton v. Hagan*, 435 F. Supp. 1134, 1146 (M.D.N.C. 1977) (holding that random pat-down searches and searches of bags and purses at the entrance to a coliseum did not rise to the *Terry* standard because the searches were not limited to inherently lethal weapons).

92. See appendices I and II.

93.

We do not decide whether individualized suspicion is an essential element of the reasonableness standard we adopt for searches by school authorities. . . . Exceptions to the requirement of individualized suspicion are generally appropriate only where the privacy interests implicated by a search are minimal and where "other safeguards" are available "to assure that the individual's reasonable expectation of privacy is not 'subject to the discretion of the official in the field.'"

T.L.O., 105 S. Ct. at 744 n.8 (citations omitted).

94. For example, the Court in *Terry* stressed that an officer must be able to point to "specific and articulable facts" that justify the search. 392 U.S. at 21. The Court later explained that "the 'narrow scope' of the *Terry* exception does not permit a frisk for weapons on less than reasonable belief or suspicion *directed at the person to be frisked.*" *Ybarra v. Illinois*, 444 U.S. 85, 94 (1979) (emphasis added).

95. Although one district court has approved the use of metal detectors in the Detroit schools as "facially constitutional," the court warned that the searches as actually conducted might not pass constitutional muster. *Bradley v. Milliken*, No. 70-35257, slip op. at 6-7 (E.D. Mich. Apr. 10, 1986); see *supra* note 22 and accompanying text.

one particular student.⁹⁶ But in the few cases that have addressed mass school searches, the courts have consistently required individualized suspicion and have therefore held indiscriminate school searches to be unconstitutional.⁹⁷

The Washington Supreme Court, for example, recently held unconstitutional the search of every student's luggage as a condition to participation in a school band trip.⁹⁸ The court held that the reasonableness standard applicable to school searches requires a reasonable belief on the part of the searching school official that the *individual* student being searched possesses contraband. "When school officials search large groups of students solely for the purpose of deterring disruptive conduct and without any suspicion of each individual searched, the search does not meet the reasonable belief standard."⁹⁹ It was not sufficient, the court argued, that in any sufficiently large group there is a statistical probability that *someone* will have contraband.¹⁰⁰

One of the most frequent types of mass searches in the schools has been the use of "sniffer" dogs to detect the presence of marijuana and other narcotics on the bodies of students.¹⁰¹ The

96. In the school search cases where the reasonable belief standard was applied, the searching school official had some basis for suspecting one particular student of misconduct prior to initiating the search. *See, e.g., T.L.O.*, 105 S. Ct. at 744 n.8; *M.M. v. Anker*, 477 F. Supp. 837 (E.D.N.Y.), *aff'd*, 607 F.2d 588 (2d Cir. 1979); *Stern v. New Haven Community Schools*, 529 F. Supp. 31 (E.D. Mich. 1981); *Jones v. Latexo Indep. School Dist.*, 499 F. Supp. 223 (E.D. Tex. 1980); *Doe v. Renfrow*, 475 F. Supp. 1012 (N.D. Ind. 1979), *aff'd in part*, 631 F.2d 91 (7th Cir. 1980), *cert. denied*, 451 U.S. 1022 (1981); *Collier v. Miller*, 414 F. Supp. 1357 (S.D. Tex. 1976); *Picha v. Wielgos*, 410 F. Supp. 1214 (N.D. Ill. 1976); *State v. Baccino*, 282 A.2d 869 (Del. Super. Ct. 1971); *State v. D.T.W.*, 425 So. 2d 1383 (Fla. Dist. Ct. App. 1983); *State v. Young*, 234 Ga. 488, 216 S.E.2d 586, *cert. denied*, 423 U.S. 1039 (1975); *R.C.M. v. State*, 660 S.W.2d 552 (Tex. Ct. App. 1983); *L.L. v. Circuit Court*, 90 Wis. 2d 585, 280 N.W.2d 343 (Ct. App. 1979).

97. *See infra* notes 98-107 and accompanying text.

98. *Kuehn v. Renton School Dist.*, 103 Wash. 2d 594, 694 P.2d 1078 (1985).

99. *Id.* at 595, 694 P.2d at 1079.

100. *Id.* at 599, 694 P.2d at 1081.

101. *See, e.g., Horton v. Goose Creek Indep. School Dist.*, 690 F.2d 470 (5th Cir. 1982), *cert. denied*, 463 U.S. 1207 (1983); *Jones v. Latexo Indep. School Dist.*, 499 F. Supp. 223 (E.D. Tex. 1980); *Doe v. Renfrow*, 475 F. Supp. 1012 (N.D. Ind. 1979), *aff'd in part*, 631 F.2d 91 (7th Cir. 1980), *cert. denied*, 451 U.S. 1022 (1981). It is only the use of sniffer dogs to search the bodies of students that is relevant to this discussion. The use of sniffer dogs to detect drugs in lockers and cars is a separate issue. *See, e.g., Horton*, 690 F.2d at 477 (holding that a canine sniffing of students' bodies is a search within the fourth amendment's protection, but canine sniffing of cars and lockers is not).

The mass canine searches began in response to growing drug abuse problems in the schools. The searches were initiated and implemented by the school boards; one search involved the police. On a random, unannounced basis, the dogs would be taken to a school and moved from classroom to classroom, sniffing each student. For the duration of the search, all school doors were either locked or tightly guarded; all students were detained in their classrooms and not allowed to leave, except for escorted trips to the lavatory. If the dog detected a target odor, he alerted his trainer and the student was re-

search of all of the students in a class for the presence of drugs presents fourth amendment problems similar to the problems raised by indiscriminate metal detector searches for the presence of weapons.

The principal factor considered by the courts in evaluating the reasonableness of the canine search was its "sweeping, undifferentiated, and indiscriminate scope."¹⁰² Citing the *Terry* requirement that there be specific and articulable facts on which to justify an intrusion, one court wrote:

In keeping with the foregoing, the state must have a basis for subjecting a particular person to search before intruding upon his privacy. Neither the police nor any other official may stop and search all persons present at a particular location simply because of a generalized suspicion that somebody in attendance might possess contraband. . . . The blanket search or dragnet is, except in the most unusual and compelling circumstances, anathema to the protection accorded citizens under the fourth amendment. The state may not constitutionally use its authority to fish for evidence of wrongdoing.¹⁰³

The canine searches were held to be unconstitutional "dragnets" because there was no evidence that any of the students searched were in possession of contraband; the searches were mere fishing expeditions to justify a more extensive search of certain students.¹⁰⁴

Other courts have similarly held blanket school searches to be unconstitutional. One lower court found the indiscriminate strip search of an entire class of fifth graders to be a violation of the fourth amendment.¹⁰⁵ Most recently, a New Jersey court held

moved from the classroom and subjected to a search of pockets, purses, and outer garments. If contraband was found, the students were subject to school disciplinary action.

102. *Jones v. Latexo Indep. School Dist.*, 499 F. Supp. 223, 234 (E.D. Tex. 1980); see also *Horton v. Goose Creek Indep. School Dist.*, 690 F.2d 470, 482 (5th Cir. 1982) (similarly relying on the absence of individualized suspicion in finding the canine search unconstitutional), *cert. denied*, 463 U.S. 1207 (1983).

103. *Latexo*, 499 F. Supp at 234 (citations omitted).

104. *Id.* at 235.

105. *Bellnier v. Lund*, 438 F. Supp. 47 (N.D.N.Y. 1977). The court stressed the importance of particularized suspicion:

It is entirely possible that there was reasonable suspicion, and even probable cause, based upon the facts, to believe that *someone* in the classroom ha[d] possession of the stolen money. There were no facts, however, which allowed the officials to particularize with respect to which students might possess the money, something which has time and again, with exceptions not relevant to this case,

blanket urinalysis drug testing of high school students to be unconstitutional.¹⁰⁶

The school mass search cases make clear that even though schools may have unique security needs that justify excepting the warrant requirement and allowing a standard lower than probable cause, there is no reason to abandon the requirement of individualized suspicion in the school setting.¹⁰⁷ The police and school security officers in Detroit, however, conducted searches without individualized suspicion of any of the students that they searched. Even the proposed amendment to the Code of Student Conduct lacks any reference to individualized suspicion. It authorizes a search if there is "reasonable suspicion" of "unidentified students."¹⁰⁸ A suspicion of "unidentified students," however, is merely the general suspicion of an entire student body, and such a general suspicion has never justified a mass search. Indeed, it is the very purpose of the search to ferret out evidence in order to justify a more extensive search of selected students. A dragnet search of an entire student body, in the absence of any particularized suspicion that the students searched possess weapons or other contraband, is exactly the kind of indiscriminate intrusion upon privacy that the fourth amendment was designed to guard against.

been found to be necessary to a reasonable search under the Fourth Amendment. . . . For this reason, the search must be held to have been invalid under the Fourth Amendment, there being no reasonable suspicion to believe that each student searched possessed contraband or evidence of a crime.

Id. at 54 (emphasis in original).

106. *Odenheim v. Carlstadt-East Rutherford Regional School Dist.*, No. C-4305-85E (N.J. Super Ct. Ch. Div. Dec. 9, 1985). The case is on appeal. *See also* Note, *supra* note 74.

107. *See Jones v. Latexo Indep. School Dist.*, 499 F. Supp. 223, 236 (E.D. Tex. 1980) (citing *Bellnier v. Lund*, 438 F. Supp. 47, 53 (N.D.N.Y. 1977)) ("While the unique role of education is a factor to be taken into account . . . , it does not necessarily outweigh all other factors. Some articulable facts which focus suspicion on specific students must be demonstrated before any school search can be carried out."). The counterargument that the large number of students in school makes individualized suspicion impossible is undermined by the fact that teachers and school administrators are in close daily contact with students, making it likely that teachers will know students who supply information and can also make their own observations and form reasonable suspicions about particular students. *See New Jersey v. T.L.O.*, 105 S. Ct. 733, 756 (1985) (Brennan, J., concurring in part and dissenting in part).

108. The proposed amendment authorizes the use of metal detectors "[w]hen the administration in any school has reasonable suspicion to believe that weapons or dangerous objects are in the possession of *unidentified* students." *See* appendix III(C) (emphasis added).

B. Airport and Courthouse Searches

Although mass searches have never been approved in the school setting, this is not to say that all mass searches are necessarily unconstitutional. The courts have approved warrantless metal detector searches at airports¹⁰⁹ and at courthouses.¹¹⁰

Airport and courthouse searches are constitutional, despite the lack of individualized suspicion, because they are construed as a screening process directed not against the person searched but against the general introduction of weapons into a restricted area.¹¹¹ They are conducted as part of a general regulatory scheme in furtherance of an administrative purpose; the purpose of the search is not to detect weapons or apprehend those who carry them, but simply to *deter* persons carrying weapons from entering the area.¹¹² The searches would be unconstitutional if the regulatory screening were subverted into a general search for evidence of crime.¹¹³

The Detroit school searches appear to cross the line between regulatory screening, which is permissible, and a general search for evidence of crime, which is prohibited. This is evidenced by the fact that bags and parcels were emptied whether or not the metal detector was activated, and students were frisked before being allowed to empty their pockets of metal. It is doubtful, therefore, that the Detroit searches may be justified as mere administrative searches like those at airports and courthouses. But assuming that the Detroit metal detector searches are suffi-

109. See, e.g., *United States v. Albarado*, 495 F.2d 799 (2d Cir. 1974); *United States v. Slocum*, 464 F.2d 1180 (3d Cir. 1972); *United States v. Epperson*, 454 F.2d 769 (4th Cir. 1972). See generally Note, *The Constitutionality of Airport Searches*, 72 MICH. L. REV. 128 (1973).

110. See, e.g., *McMorris v. Alioto*, 567 F.2d 897 (9th Cir. 1978); *Downing v. Kunzig*, 454 F.2d 1230 (6th Cir. 1972); *Commonwealth v. Harris*, 383 Mass. 655, 421 N.E.2d 447 (1981).

111. See *United States v. Davis*, 482 F.2d 893, 907 (9th Cir. 1973). The court noted that airport searches could not be justified under *Terry* because the person conducting the search has no particular interest in the individual he is searching, much less specific and articulable facts. Prior to 1973, however, only those passengers fitting a Federal Aviation Administration (FAA) profile were searched; these early cases, therefore, often relied on *Terry* to justify the airport search. See, e.g., *United States v. Lopez*, 328 F. Supp. 1077 (E.D.N.Y. 1971). See generally 3 W. LAFAVE, SEARCH AND SEIZURES § 10.6 (1978).

112. See *Davis*, 482 F.2d at 908.

113. *Id.* at 909; *United States v. Albarado*, 495 F.2d 799, 805-06 (2d Cir. 1974). For example, to allow the screening authorities immediately to frisk a person who has activated the metal detector would deprive the airport search of the characteristic that is essential to its being deemed a reasonable administrative search, namely, that the intrusion be no more severe than is necessary to produce "acceptable results." 3 W. LAFAVE, *supra* note 111, § 10.6, at 351.

ciently analogous to airport and courthouse searches to warrant a comparison, the Detroit searches may still fail to satisfy the test of reasonableness applied to blanket searches in these other contexts. The test requires a tripartite balancing of public necessity, effectiveness of the search, and personal intrusiveness.¹¹⁴ Each of these three factors will be analyzed in turn, to compare the metal detector searches in the Detroit schools with the metal detector searches that, in other settings, courts have determined to be "reasonable."

1. *Necessity*—Matters of public necessity "can be evaluated by examining the nature of the threat to public safety involved and the likelihood that such a threat will materialize."¹¹⁵ Mandatory airport searches of all passengers prior to boarding began in 1973 as a response to the wave of hijackings in the late 1960's and early 1970's.¹¹⁶ The courts considered airports to be "critical zone[s]" and singled them out for special treatment under the fourth amendment.¹¹⁷ Among the reasons given to justify this special treatment were the "deeply disturbed and highly unpredictable" nature of the hijacker, the increasing frequency of air piracy, and the fact that air piracy "exceeds all [other crimes] in terms of the potential for great and immediate harm to others."¹¹⁸ Furthermore, airports were noted as being frequent avenues of escape for criminals, a means of extorting huge sums of money, and a device for carrying out acts of political violence and terrorism.¹¹⁹ Finally, airports have special detection problems because hijacking relies upon the anonymity of airports congested with thousands of travellers, and there is the need to avoid disruption of commercial air traffic.¹²⁰

114. *United States v. Skipwith*, 482 F.2d 1272, 1275 (5th Cir. 1973). The *Skipwith* three-part test was applied in *McMorris v. Alioto*, 567 F.2d 897 (9th Cir. 1978) (courthouse search); *Wheaton v. Hagan*, 435 F. Supp. 1134 (M.D.N.C. 1977) (coliseum search); *Collier v. Miller*, 414 F. Supp. 1357 (S.D. Tex. 1976) (stadium search); and *Gaioni v. Folmar*, 460 F. Supp. 10 (M.D. Ala. 1978) (stadium search). See also *United States v. Edwards*, 498 F.2d 496 (2d Cir. 1974) (balancing necessity against intrusiveness); *United States v. Davis*, 482 F.2d 893 (9th Cir. 1973). The balancing of interests standard seems to be the dominant view. See 1 W. RINGEL, *SEARCHES AND SEIZURES, ARRESTS AND CONFESSIONS* § 16.2 (1986).

115. *Wheaton v. Hagan*, 435 F. Supp. 1134, 1145 (M.D.N.C. 1977).

116. See *United States v. Davis*, 482 F.2d 893, 900-02 (9th Cir. 1973); 3 W. LAFAYE, *supra* note 111, § 10.6, at 330; Note, *supra* note 109, at 129-31.

117. See, e.g., *United States v. Moreno*, 475 F.2d 44, 51 (5th Cir.), *cert. denied*, 414 U.S. 840 (1983).

118. *Id.* at 48.

119. *Id.*

120. *Id.* at 49.

Like the airport searches, courthouse searches also began as a response to unprecedented violence. The Ninth Circuit took judicial notice that threats of violent acts directed at courthouses had given rise to an urgent need for protective measures.¹²¹ The court cited instances of bomb threats and bomb attacks directed at police stations and federal buildings, and a terrorist kidnapping of three jurors, a state prosecutor, and a superior court judge, who was later murdered.¹²² Courthouses, like the airports, had become targets for violent terrorist activity.

The airport and courthouse cases reveal that when a public danger reaches the level of terrorist violence, the courts will find that there is "public necessity" sufficient to satisfy the first element of the three-part balancing test.¹²³ It is unclear whether the violence in the Detroit schools rises to the level of violence sufficient to create a public necessity. The violence that occurred in the Detroit public schools was neither directed at the schools themselves nor did it potentially threaten as many lives. The shootings that fueled the demand for school searches usually occurred off school premises and often did not involve students.¹²⁴ Interviews with principals revealed that, in their opinion, violence was not the biggest problem in their schools.¹²⁵ Students

121. *McMorris v. Alioto*, 567 F.2d 897, 899 (9th Cir. 1978).

122. *Id.* at 900.

123. *See supra* notes 117-22.

124. *See supra* note 7. Lieutenant Julius Higdon of the Detroit Police Department admitted that "[a]ll the violent incidents this year [1985-1986] have been outside the school. In the past, the incidents have been inside the school. The decrease in incidents inside school is a sign of our effectiveness. There were more violent incidents before the sweeps, but there was a rather small number of violent incidents even then." Higdon Interview, *supra* note 27.

In a recent interview in the *Detroit News*, students from Mumford High School commented:

Jay: I think the situation of violence at Mumford is overrated. I think that most of the violence is outside the school. When I walk home I see fights, and I get scared. I don't want to walk home all the time.

Krystal: During school, there aren't too many violent occurrences. But after school, that's when you're inviting trouble, because then people come from outside of the school, into your school.

What They Couldn't Say on TV, *Det. News*, Nov. 17, 1985, at 10A, col. 3.

125. Three principals felt that absenteeism, not violence, was the biggest problem confronting them. Interviews with principals at School B (Oct. 16, 1985), School D (Oct. 14, 1985), and School E (Oct. 14, 1985). One principal estimated that one out of five students at his school was absent on any given day, more than double what is considered normal absenteeism, but "no worse than any Detroit school." *Shooting Puts a Chill on Cody's Homecoming Fever*, *supra* note 9, at 7A, col. 1.

Drugs and erratic work patterns were also mentioned as serious problems. Interviews with administrators at School B (Oct. 16, 1985) and School D (Oct. 14, 1985).

Most of the principals interviewed denied the existence of any serious violence within their school. The principals explained that in-school violence was limited to an occa-

indicated that although fights did occur, the media exaggerated the amount of violence, and it was not that troublesome.¹²⁶ Furthermore, statistics reveal that less than one percent of the students searched were arrested for carrying weapons.¹²⁷

The data on the actual degree of violence in the Detroit schools is subjective and often conflicting. As a result, it is unclear whether the Detroit schools can be properly considered a "critical zone" like the airports and courthouses. Nevertheless, necessity alone is not sufficient to make a blanket search reasonable.¹²⁸ The courts also consider the effectiveness of the search and the degree of its intrusiveness.¹²⁹

2. Effectiveness— In evaluating the reasonableness of the

sional fist fight that rarely involved the use of weapons. Interviews with principals at School A (Oct. 16, 1985), School B (Oct. 16, 1985), and School C (Oct. 15, 1985).

126.

News: Miss Hall, will you tell us how much violence there is at Mumford?

Kyra: O.K. The level of violence at Mumford, in my opinion, is really not very high. I feel as though the parents, the media, other adults, have stereotyped the students there as being violent teen-agers. Really, the people at Mumford are not like that, in my opinion.

Personally, I have seen a shooting at Mumford, but the person doing the shooting was not a student there. It was just one of those things, they came up to the school, shot into a crowd, and a friend of mine was shot—shot in the arm. It was not a serious wound or anything.

Selena: I have been there for about two years now, and I haven't really seen any violence, except for maybe just a fight here and there over a girl or a boy, or whatnot. It's not as violent as people are making it out to be.

Krystal: Personally, I was scared when I first began to attend Mumford, because of the stories I heard, but once I began, it was a totally different school from what I visualized in my mind. People do a grave injustice to Mumford. . . .

Rome: Myself, I was from a parochial school, and you would not believe the unjustified rumors that were said about Mumford High, such as people getting killed, stabbed and beat up in the hallways, people using dope in the lavatories, people getting raped in the lavatories.

John: That's just not true.

News: You are saying you feel safe in the school, in the halls, the classrooms?

John: Yes, I feel safe.

Krystal: Quite often you feel apprehensive whenever there is a large group of people around, because you know that things do happen, even when you don't expect them to, but overall, I do feel safe.

What They Couldn't Say on TV, *supra* note 124, at 10A, col. 1.

127. See *infra* notes 144-45 and accompanying text. The low number of students arrested indicates that either the number of students carrying weapons has been highly exaggerated or that the weapons searches are simply not effective nets.

128. See *United States v. Skipwith*, 482 F.2d 1272, 1275 n.4 (5th Cir. 1973) ("No court has ever approved a dragnet search of all citizens in a high-crime area of any urban center, based upon the justification that the danger of criminal conduct would be reduced.").

129. *Id.* at 1275; see also *Gaioni v. Folmar*, 460 F. Supp. 10, 14 (M.D. Ala. 1978) (holding that even if necessity of a search was established, random searches of patrons entering a civic center were unconstitutional because they were ineffective and highly intrusive).

airport and courthouse searches, the courts next consider the effectiveness of the search in averting the potential harm.¹³⁰ Effectiveness can be measured in two ways: by evaluating the search procedure itself and by analyzing the change in the number of violent incidents and the number of weapons confiscated.

The search procedures in airports and courthouses are designed for optimal effectiveness. The search areas are permanent structures. The only way to board a plane or enter a courthouse is through the search area. Consequently, if a weapon is to be brought in, it must be smuggled through that one security area. The court in one airport case noted that there is but "one channel through which all hijackers must pass before being in a position to commit their crime. It is also the one point where airport security officials can marshal their resources to thwart such acts before the lives of an airplane's passengers and crew are endangered."¹³¹

The Detroit school searches, on the other hand, were not as watertight. The metal detectors were not permanent, and a school was usually searched only once a semester. For the rest of the semester, there was nothing to deter the flow of weapons into the school.¹³² Even on the one day that a search was conducted, it was not an effective net. Students could easily tell when a search was in progress, despite the efforts of the police and Board of Education to maintain secrecy.¹³³ Telltale signs appeared as soon as the students arrived at school. Frequently, a large number of police cars appeared in front of the school and students were required to enter the school by a different door.¹³⁴

130. See, e.g., *United States v. Skipwith*, 482 F.2d 1272 (5th Cir. 1973).

131. *United States v. Moreno*, 475 F.2d 44, 51 (5th Cir.), cert. denied, 414 U.S. 840 (1973).

132. One student stated: "The day after the search, they can bring anything, do anything. They know there is not going to be a search the next day." *What They Couldn't Say on TV*, supra note 124, at 12A, col. 1.

133. The students may even know of the searches before they arrive at school. After the February 6, 1985 sweep at Central High School, Detroit police accused the Board of Education of leaking news of the sweep to students beforehand. Detroit Police Commission Chairman Harold Shapiro stated, "When the Board of Education contacted school officials at Central so they could prepare for the sweep, some students apparently were nearby and heard about it. Apparently the students spread that information throughout the building." *Tipoff Charged in Weapons Sweep*, Det. News, Feb. 8, 1985, at 6A, col. 1.

134. Students interviewed at Osborn High School on October 28, 1985 stated that it became very obvious that the searches were going on the minute one arrived at school. Likewise, a teacher at Western High School stated: "Any idiot could have known—you couldn't help but notice. Ten to fifteen police cars and T.V. trucks were in front of the door." Interview on Oct. 20, 1985. One student interviewed by the *Detroit News* stated: "The searches are fine, but they just don't do it in the right manner, and when you come to school, and you see everybody all piled up . . . you just go back out the building with

As a result, many students threw their weapons in the bushes or on the floor,¹³⁵ or left the weapons in their cars¹³⁶ or with people outside of the school.¹³⁷ Other students avoided being searched by skipping school on the day of a sweep or by skipping morning classes and arriving at school after the search was over.¹³⁸ Lower attendance figures on the day of a search illustrate this practice.¹³⁹ It appears, therefore, that unlike the airport and courthouse searches, there were many ways to avoid the Detroit school searches.

The decreasing incidence of airline violence since the searches began also suggests the effectiveness of the airport searches. In *United States v. Albarado*,¹⁴⁰ for example, the court reported that in 1969 the number of successful hijackings peaked at thirty-three.¹⁴¹ As the airport searches became more widespread, the number of successful hijackings declined to ten in 1972 and to zero in 1973.¹⁴²

Unfortunately, available statistics on the number of weapons found in the Detroit school searches and the number of violent incidents reveal no similar successes. Appendix VI compares the number of guns, knives, and other miscellaneous weapons confiscated by Detroit public school security during the 1983-1984 school year—when no searches were conducted—with the number of weapons confiscated during the 1984-1985 and 1985-1986

whatever you had." *What They Couldn't Say on TV*, *supra* note 124, at 11A, col. 4.

135. Appendices I, II, and VI illustrate the large number of weapons and contraband confiscated from the floor.

136. In an interview with the *Detroit News*, one student declared:

[T]he people who are going to commit these crimes, shootings, and killings, they are outside of the school. They are not getting caught. They don't bring their guns in school, always. They keep their guns in their cars, and after school they go out and open up the trunk and unload the gun.

What They Couldn't Say on TV, *supra* note 124, at 12A, col. 1.

137. After a search at Denby High School on April 3, 1985, police went across the street to the Cedargrove Market. They charged two adults with "allowing a student enrolled in a day school program to be in a candy store" and found three knives being held at the store for Denby High School students. Interoffice Memorandum from Lieutenant Julius Higdon, Detroit Youth Crime Unit, to Chief of Police William L. Hart at 1 (Apr. 3, 1985).

138. Interview with students at Cody High School (Oct. 16, 1985).

139. At the Mumford High School search on May 10, 1985, the attendance was described as "light," and school administrators were unable to account for this "unusual attendance." Interoffice Memorandum from Charles Mitchell, Assistant Chief of Security, to Frank A. Blount, Chief of Security, at 1 (May 10, 1985). Similarly, student traffic was described as "lighter than normal" at the May 16, 1985, Kettering High School search. Interoffice Memorandum from Charles Mitchell, Assistant Chief of Security, to Frank A. Blount, Chief of Security, at 1 (May 16, 1985).

140. 495 F.2d 799 (2d Cir. 1974).

141. *Id.* at 804.

142. *Id.*

school years—when a total of twenty-six searches were conducted. The statistics reveal that more guns and knives were found in the school year *before* the metal detector searches began than in either of the two school years in which the metal detectors were used. The increase in *total* weapons confiscated during the 1984-1985 school year is due to the increase in “miscellaneous weapons,” not to an increase in guns and knives.¹⁴³

Moreover, if the number of weapons confiscated during weapons sweeps for the school years 1984-1985 and 1985-1986 is compared with the total number confiscated by using nonsweep methods, it appears that nonsweep methods were more effective in confiscating weapons. Appendix IX breaks down the number of guns seized by the various methods. Of the fifty-nine dangerous guns seized in the 1984-1985 school year utilizing all methods (including weapons sweeps), only five (eight percent) were seized during metal detector sweeps. Similarly, only three (twelve percent) of the twenty-four dangerous guns seized between September and October 1985 were taken during the sweeps; the other twenty-one guns (eighty-eight percent) were seized using more traditional methods, such as searches of individual students based on reasonable suspicion. The data further demonstrate that if the media was correct and there *was* a large number of students carrying weapons in the schools, the weapons searches were not an effective method for apprehending these students. In the seventeen sweeps conducted during the 1984-1985 school year, only 0.5% of the 32,000 students searched were arrested for carrying a gun, knife, or other weapon, or for violating the marijuana ordinance or a miscellaneous school ordinance.¹⁴⁴ The percentage of students arrested

143. Fifty-nine percent of the total number of weapons confiscated in 1984-1985 were in the miscellaneous category. The “other miscellaneous” category is probably far more expansive than the classification scheme used before the sweeps. Many of the items counted as “miscellaneous weapons” in the school statistics might not be used as weapons at all. Furthermore, sometimes the students had valid reasons for carrying these “weapons.” In the September 18, 1985 sweep at Henry Ford High School, for example, four students were suspended for possession of scissors, one female was suspended for possession of mace, and another student was suspended for possession of a cane. The sewing teacher had instructed the four girls carrying scissors to bring them to class due to a supply shortage; the student with the mace had received it from her mother for protection, and the boy with the cane had been instructed by his doctor to use it due to a leg injury. Memorandum on Summary of Disciplinary Action Taken as a Result of Security Sweep from Dr. Elijah Porter, Principal, Henry Ford High School, to Joseph Miller, Area G Superintendent, at 1 (Nov. 1, 1985).

144. This percentage was calculated by dividing the number of students arrested—171—by 32,000 searched. The figures are based on police statistics and break down as follows: .07% of the students searched were arrested for carrying a concealed weapon or possession of a dangerous weapon, .38% for violating the knife ordinance,

in the first seven sweeps conducted during the 1985-1986 school year is comparable. Out of 13,400 students searched, only 0.6% were arrested for carrying a gun, knife, or other weapon, or for violating the marijuana ordinance or a miscellaneous school ordinance.¹⁴⁵ The fact that less than one percent of the students were arrested for carrying weapons illustrates that either the media have grossly exaggerated the number of students carrying weapons in the Detroit schools or that the searches were simply not effective ways to confiscate these weapons.

More importantly, it appears that the weapons sweeps had no effect on the amount of violence within the schools, as measured by the number of weapons seized in serious incidents and the number of felonious assaults. Appendix VII shows the number of weapons seized during serious incidents in the school. In the school year before the searches began, thirty-two guns were seized during serious incidents. The number of guns seized during serious incidents actually increased in the next year—the year that the searches began.

Appendix VIII shows the number of assaults for the years before and after the searches began. Part A of the appendix compares a six-month pre-sweep period in 1983-1984 to the corresponding sweep period in 1984-1985. Although the number of felonious assaults decreased slightly, the number of other assaults more than doubled. Part B compares a two-month period in two pre-sweep years with the corresponding two-month period in 1985-1986. The number of felonious assaults doubled, and the number of other assaults increased even more dramatically. Part C compares the two-month period of the 1985-1986 school year in which seven sweeps occurred with the following three-month period of the same school year, during which time there were no sweeps. There were actually more assaults during the two-month period than in the following three-month period.

Given the comparative data on school violence before and after the metal detector searches, it is not surprising that interviews with principals revealed a subjective feeling that the searches have resulted in no noticeable change in the amount of

.06% for violating the marijuana ordinance, and .03% for violating miscellaneous school ordinances. See appendix V.

145. This percentage was calculated by dividing the number of students arrested—82—by the total number of students searched through November 7, 1985—13,400. The figures are police statistics and break down as follows: .04% of the students searched were arrested for carrying a concealed weapon, .5% for violating the knife ordinance, .07% for violating the marijuana ordinance, and .05% for violating a miscellaneous school ordinance. See appendix V.

violence in their schools. One principal felt that, at best, the searches had a short-lived psychological effect on the students.¹⁴⁶

3. *Intrusiveness*—Balanced against the necessity and effectiveness of a search is the extent of the intrusion involved. Airport searches are admittedly inconvenient, annoying, and in some cases embarrassing and incriminating.¹⁴⁷ But there are special factors that make airport and courthouse searches less offensive than similar searches in other contexts.¹⁴⁸ First, there is the “almost complete absence of any stigma.”¹⁴⁹ The searches neither “annoy, frighten, or humiliate”¹⁵⁰ those who are searched, and the airlines have a definite and substantial interest in ensuring that their passengers are not unnecessarily harassed.¹⁵¹ Second, airport searches carefully safeguard privacy by allowing a passenger who activates the metal detector to empty his own pockets of metal, and resorting to a frisk only if the metal detector is repeatedly activated.¹⁵² “This procedure is clearly preferred over the immediate frisk because [sic], while still a search, it entails far less invasion of the privacy or dignity of a person than to have a stranger poke and pat his body in various places.”¹⁵³

The search procedures approved for use in the courthouse are similarly unintrusive. All persons entering the building pass through a metal detector; if the metal detector is activated, the person has the choice of leaving the courthouse without further search or emptying his own pockets of metal and proceeding through again. If the metal detector is activated a second time, the person cannot enter the courthouse unless he submits to a pat-down search. Like the airport searches, the pat-down is the last resort; but unlike the airport search procedure, express consent must first be given.¹⁵⁴

146. When asked about the effectiveness of the searches, one principal felt that the searches had a brief psychological effect: “The kids get caught up in the P.R. and respect the show of force. The psychological effect wears off after an hour. The kids know the searches are a big public relations show.” Interview with principal at School D (Oct. 14, 1985).

147. See *United States v. Skipwith*, 482 F.2d 1272, 1275 (5th Cir. 1973).

148. See *McMorris v. Alioto*, 567 F.2d 897 (9th Cir. 1978); see also *United States v. Skipwith*, 482 F.2d 1272 (5th Cir. 1973).

149. *United States v. Skipwith*, 482 F.2d 1272, 1275 (5th Cir. 1973); see also *United States v. Albarado*, 495 F.2d 799, 806 (2d Cir. 1974).

150. *Albarado*, 495 F.2d at 806.

151. *Skipwith*, 482 F.2d at 1276.

152. *Albarado*, 495 F.2d at 808.

153. *Id.*

154. *McMorris v. Alioto*, 567 F.2d 897 (9th Cir. 1978); see also *Downing v. Kunzig*,

The Detroit school searches were substantially more intrusive than the typical search procedures utilized in airports and courthouses. Students were usually required to empty the contents of their pockets and bags in full view of the other students, *regardless of whether the metal detector was activated*.¹⁵⁵ This was often very embarrassing in light of the age of the students involved and the highly personal nature of the items that may be revealed to the student's peers. Airport searches, on the other hand, screen the contents of bags with x-rays, out of the view of awaiting passengers, and allow the passenger to remove only the metal from his own pockets.

The school searches were chaotic and disruptive. The hallways leading to the inspection area often became congested due to the high volume of students waiting to be searched. For example, during the December 11, 1984 search at Cody High School, approximately 2000 students lined the hallways while another 500 students were outside the building. The tremendous backup caused the heat to build up in the corridors. The temperature became so unbearable that one student passed out and an emergency medical unit had to be called. "Because of the snail-like pace of the searches, the number of students still on the outside of the building, the potential for racial conflict, additional media coverage of a negative nature, and the health and safety of all students," Principal Baum requested that the search be stopped.¹⁵⁶ By the time that the operation was terminated, approximately 300 students had been redirected to the school auditorium, while another 300 students were still outside the building awaiting admittance.¹⁵⁷ At another high school, the searches tied up the entire ground floor so that no classes could be taught on that floor.¹⁵⁸ The frisking, especially in the early searches, was shockingly intrusive at times.¹⁵⁹ In stark contrast to the careful handling of passengers at airports, the students

454 F.2d 1230 (6th Cir. 1972); *Commonwealth v. Harris*, 383 Mass. 655, 421 N.E.2d 447 (1981).

155. See *supra* note 42 and accompanying text.

156. Memorandum from Joseph Miller, Area G Superintendent, to Arthur Jefferson, General Superintendent, at 1-2 (Dec. 11, 1984); Higdon Memorandum—Dec. 11, 1984, *supra* note 48, at 1-2.

157. Higdon Memorandum—Dec. 11, 1984, *supra* note 48, at 1.

158. Interview with principal at School D (Oct. 14, 1985).

159. Helen Moore, president of Black Parents for Quality in Education, charged that some officers were overzealous in "[patting] down" female students during the weapons sweeps. *Schools Called Too Lenient in Weapons Cases*, Det. News, Mar. 13, 1985, at 3A, col. 2, 11A, col. 3.

The ACLU suits concerned the pat-down frisks of a young girl by a male police officer. See *supra* note 11 and accompanying text.

were often treated rudely and impersonally.¹⁶⁰ Some observers commented that the searches created a "prison-like" atmosphere in the school.¹⁶¹

In order to safeguard against intrusions of privacy, the courts have further required that the purpose of the search be specifically to deter violence. The search cannot be a pretext to gather evidence for criminal prosecution.¹⁶²

It is doubtful that the Detroit searches were conducted solely to deter violence. Bags and purses were examined *before* the

160. The most outspoken parent on the issue was Mrs. Donna Romero who filed a state court suit against the Board of Education. Mrs. Romero stated:

Guns and weapons have no place in school, and I don't object to metal detectors at the doors to keep them out But I don't like the way the searches are being done. It's like the kids have no rights, like they're in prison.

. . . .

It was like they were placed under house arrest I think if parents could see how it was handled, they would be against it.

Suit to Test Searches of Students, *supra* note 11, at 12A, col. 1. Mrs. Romero also declared: "I dislike my children being treated like cattle," *ACLU Mulls Suit in Student Searches*, *Det. News*, Feb. 23, 1985, at 5B, col. 1, and "treated like criminals." *Jussim, Court Ruling Spurs Student Searches*, *Civ. Liberties*, Summer 1985, at 6, col. 1.

The students interviewed by the *Detroit News* agree:

News: How are [the searches] done?

John: It's rudeness everywhere.

Kyra: We come in the building, we're all lined up against the lockers, we cannot move, we cannot bend down.

John: Hollering at us.

Kyra: We cannot chew gum, we cannot do anything.

Rome: Like criminals.

Kyra: You stand there, and the police officers are just so intimidating, as if they just *know* that you have something.

Krystal: Actually, it makes you feel less of a person. I have never experienced that before in my life. I couldn't believe it. They are so abrupt with you. And it's as though they are coming into your school treating you as though you're a criminal.

. . . .

Jay: I think the searches are very disrespectful to the students

What They Couldn't Say on TV, *supra* note 124, at 12A, col. 1 (emphasis in original).

161. For instance, one parent commented: "They have introduced a police state, a prison-like atmosphere in some of our buildings." *Schools Called Too Lenient in Weapons Cases*, *supra* note 159, at 11A, col. 3. Even Chief of Security Frank Blount agreed that the use of metal detectors in the schools contributes to a "prison-like atmosphere." *Searches Not My Idea*, *supra* note 5, at 12A, col. 1. In a November 3, 1983 memorandum from Frank Blount to Arthur Jefferson regarding the possible utilization of Detroit police reserves and Detroit Police Department cadets for school security, Blount stated:

Superintendent, our schools are as safe as any in this area and the nation. The earlier methods have worked very well, and with good publicity. To now add one to two more *armed guards within* our buildings at this time will create a prison-like atmosphere, and a distortion of our real situation.

Memorandum from Frank A. Blount, Chief of Security, to Dr. Arthur Jefferson, General Superintendent, at 3 (Nov. 3, 1983) (emphasis in original).

162. *McMorris v. Alioto*, 567 F.2d 897, 900 (9th Cir. 1978).

metal detector was activated—before there was any reason to suspect that a student possessed a concealed weapon.¹⁶³ The searches therefore uncovered a lot of contraband besides weapons—such as drugs, alcohol, and radios—that would never have been uncovered had the investigation been limited to a search for weapons.¹⁶⁴ This search procedure is similar to one conducted at a rock concert, in which bags and purses were randomly searched before there was any reason to believe that they contained weapons.¹⁶⁵ The court ruled that the search was unconstitutional, finding that it was not limited to discovering weapons but also sought to uncover other items of contraband, such as drugs, alcohol, and cameras.¹⁶⁶ For the Detroit school searches to be minimally “intrusive,” as the courts have interpreted that term, they must both respect students’ privacy and be limited strictly to the discovery of weapons.

The intrusiveness of an airport or courthouse search is sometimes said to be mitigated by the fact that individuals are warned of the searches and given the opportunity to avoid the search completely.¹⁶⁷ Some courts have relied on the passenger’s implied consent to justify the airport searches.¹⁶⁸ A sign reading “Passengers and Baggage Subject to Search” is said to be sufficient notice to passengers of their option to avoid search.¹⁶⁹ Therefore, if a passenger proceeds to board the plane, consent to the announced search is implied.¹⁷⁰

163. See *supra* note 42 and accompanying text.

164. See appendices I and II.

165. *Wheaton v. Hagan*, 435 F. Supp. 1134, 1144 (M.D.N.C. 1977).

166. *Id.* at 1146.

167. See *United States v. Edwards*, 498 F.2d 496, 500 (2d Cir. 1974); *United States v. Albarado*, 495 F.2d 799 (2d Cir. 1974); *United States v. Skipwith*, 482 F.2d 1272 (5th Cir. 1973).

168. 1 W. RINGEL, *supra* note 114, § 16.2(e), at 16-11 n.36 and cases cited therein.

169. See *United States v. Edwards*, 498 F.2d 496, 501 (2d Cir. 1974).

170. See *United States v. Lopez-Pages*, 767 F.2d 776, 779 (11th Cir. 1985); *United States v. Edwards*, 498 F.2d 496, 501 (2d Cir. 1974); *United States v. Dalpiaz*, 494 F.2d 374 (6th Cir. 1974):

[I]t must appear that the person who is subjected to such a search has an opportunity to avoid it by electing not to board an aircraft. . . . The basis for upholding such searches is that a person who proceeds to attempt to board a plane in the face of widespread publicity about the problem of air piracy and specific airport notices concerning the security measures which are employed to detect potential hijackers consents to this limited search.

Id. at 376 (citation omitted); see also *United States v. Herzbrun*, 723 F.2d 773, 776 (11th Cir. 1984) (“[T]hose presenting themselves at a security checkpoint thereby consent automatically to a search . . .”). Moreover, that consent may not be revoked if, after the person has passed through the metal detector, the officials decide to make a further search. *Id.*

Courthouse cases have similarly noted the ability of the person to avoid the search:

Persons entering the Hall of Justice are not physically coerced to submit to the magnetometer search or the briefcase and parcel inspection. They may leave the premises at any time, even after activating the magnetometer. They are apparently given more than one opportunity to pass through the magnetometer. Finally, even after activating the device, a person may not be subjected to a pat-down search unless he fully and voluntarily agrees to it. He is under no compulsion to submit.¹⁷¹

Other courts, however, disagree that the decision to board a plane implies consent to an announced search.¹⁷² Consent to a search involves a relinquishment of fundamental constitutional rights and should not be lightly inferred.¹⁷³ As one court noted, "[A]n accused's voluntary consent must be proven by clear and positive evidence. A consent is not a voluntary one if it is the product of duress or coercion, actual or implicit."¹⁷⁴ Although air travel is voluntary, to force a passenger to choose between flying to one's destination and exercising one's fourth amendment rights is coercion, however subtle.¹⁷⁵ If the right to travel may not hinge on the waiver of fourth amendment rights, certainly the right to an *education* may not so hinge. To require the student to attend school, and then condition that attendance on a relinquishment of constitutional rights, is coercion in its most blatant form.

Similarly, courts have refused to find any implied consent to indiscriminate searches at rock concerts.¹⁷⁶ In holding that searches at a particular rock concert were unconstitutional, one court noted the presence of a substantial number of uniformed and armed police officers, the search warnings printed on signs and tickets that gave the apparent authority to conduct the

171. *McMorris v. Alioto*, 567 F.2d 897, 901 (9th Cir. 1978).

172. *See, e.g., United States v. Albarado*, 495 F.2d 799 (2d Cir. 1974); *United States v. Kroll*, 481 F.2d 884 (8th Cir. 1973); *United States v. Lopez*, 328 F. Supp. 1077 (E.D.N.Y. 1971).

173. *Lopez*, 328 F. Supp. at 1092.

174. *Id.* (quoting *United States v. Smith*, 308 F.2d 657, 663 (2d Cir. 1962), *cert. denied*, 372 U.S. 906 (1963)); *see also Albarado*, 495 F.2d at 806; *Kroll*, 481 F.2d at 886.

175. *Albarado*, 495 F.2d at 806-07; *Lopez*, 328 F. Supp. at 1093.

176. *See, e.g., Gaioni v. Folmar*, 460 F. Supp. 10, 14 (M.D. Ala. 1978); *Wheaton v. Hagan*, 435 F. Supp. 1134, 1147 (M.D.N.C. 1977); *Collier v. Miller*, 414 F. Supp. 1357, 1365-66 (S.D. Tex. 1976).

searches, and the fact that many of the patrons did not even know of their right to refuse to be searched.¹⁷⁷

There was clearly no consent, express or implied, to the school searches in Detroit. The searches by their very design were a surprise, and the large number of police gave the impression of authority and compulsion. There were no signs or advance warnings as there are in airports and courthouses. But even if the searches were announced, as is proposed in the new search guidelines,¹⁷⁸ there is still no option of avoiding the search as there is in an airport or courthouse. Students are required by law to attend school and are not allowed to avoid search by leaving the school. Students who attempted to leave were apprehended by the police¹⁷⁹ and subjected to school disciplinary action.¹⁸⁰

Finally, the courts have recognized that searches of young people in particular can be injurious not only to their sense of personal privacy but also to their educational development. Justice Stevens warned: "The schoolroom is the first opportunity most citizens have to experience the power of government. . . . The values they learn there, they take with them in life."¹⁸¹ Similarly, the Washington Supreme Court, in holding that random searches of young people at a rock concert were unconstitutional, admonished: "[T]he danger to the understanding of con-

177. *Wheaton*, 435 F. Supp. at 1147.

178. See appendix IV.

179. According to Lieutenant Higdon, if a student attempts to leave without being searched, the police take the student to the school office. Higdon Interview, *supra* note 27; see also Standard Operating Procedures, *supra* note 30, at 4-5 (instructing the police to observe students attempting to leave the school area to avoid inspection).

180. The school security search guidelines adopted at the Board of Education meeting on October 22, 1985 expressly state: "If a student decides not to enter a school building or, upon entering, refuses to be searched and leaves, said student will be subject to disciplinary action [sic] as stated in the Policy on Discipline and Student Rights." Board Minutes, *supra* note 14, at 9.

At the Murray Wright High School search on May 2, 1985, for example, one student was injured outside the school when he ran from the door and was chased by a Detroit police officer. The student was found to be in possession of a 3½-inch knife. Interoffice Memorandum from Sergeant Christopher Buck, Special Crime Section, to Detroit Chief of Police William Hart at 2 (May 2, 1985). Likewise, two students at Mackenzie High School refused to be searched and were taken to the office. Interoffice Memorandum from Charles Mitchell, Assistant Chief of Security, to Frank A. Blount, Chief of Security, at 1-2 (Nov. 7, 1985). At Western High School, two students refused to be searched and were detained in the school's main office where they were not permitted to use the telephone. *Suit to Test Searches of Students*, *supra* note 11, at 12A, col. 1.

181. *New Jersey v. T.L.O.*, 105 S. Ct. 733, 767 (1985) (Stevens, J., concurring in part and dissenting in part).

stitutional guaranties of freedom from unreasonable searches on the part of these young persons is incalculable."¹⁸²

In sum, the courts have approved searches without individualized suspicion only if the necessity and effectiveness of the search outweigh its intrusiveness. The Detroit metal detector searches meet neither the necessity, the effectiveness, nor the minimal intrusiveness elements required by the courts.

III. ALTERNATIVES TO WEAPONS SEARCHES

Widespread public opinion suggests that metal detector searches are a necessary evil for which there is no alternative.¹⁸³ However, the fact that out of the nation's largest urban school districts¹⁸⁴ Detroit stands alone in using metal detectors and unannounced police weapons sweeps suggests that there are other methods to decrease the number of weapons and incidents of violence in schools.¹⁸⁵

182. *Jacobsen v. City of Seattle*, 98 Wash. 2d 668, 674, 658 P.2d 653, 657 (1983).

183. For example, a nonscientific *Detroit Free Press* reader opinion poll reported that 96% of the 572 respondents supported weapons sweeps in the schools. Some of those in favor of the sweeps stated: "I'd rather see my child's rights violated by searches than by bullets"; "It seems like a small price to pay for one's life"; and, "The only ones who need to fear this are the ones carrying the weapons; it shouldn't faze anyone else since it's for their own safety." *Soundoff*, *Det. Free Press*, Dec. 10, 1985, at 15A, col. 1.

Similarly, 95% of 761 respondents indicated that they would support the idea of installing permanent metal detectors at the doors of the city's high schools and middle schools. *Soundoff*, *Det. Free Press*, Oct. 20, 1985, at 15A, col. 1.

An editorial in the *Detroit Free Press* lamented:

It is a sad business that the path to an education in Detroit runs through the poles of a metal detector, but the alternative—to do nothing about the arsenal of weapons that some young people bring to school—is far worse. . . .

. . . The weapons searches obviously must be conducted without abuse and without stripping students of their dignity. *In the absence of other means to protect students from violence, though, the random searches for weapons in the schools seem both justifiable and necessary.*

Hard Lesson: Weapons Searches Offer Students a Degree of Protection, *Det. Free Press*, Oct. 18, 1985, at 8A, col. 1 (emphasis added).

Finally, John Elliott, president of the 10,000 member Detroit Federation of Teachers, called the searches "unfortunate, but necessary." Elliott continued: "I recognize that there may be some abuses of the rights of a few But we've got to recognize that the school population as a whole has a right to learn and work in safety. To the extent that we don't take action, we're putting these people in jeopardy." *Detroit Schools Are Alone in Using Weapons Detectors*, *Det. Free Press*, Mar. 11, 1985, at 1A, col. 1 [hereinafter cited as *Detroit Schools Are Alone*]; see also *supra* note 17.

184. The nation's largest school districts include Baltimore, Boston, Chicago, Cleveland, Dade County (Miami), Dallas, Detroit, Flint, Houston, Los Angeles, New York, Philadelphia, Pontiac, and Washington, D.C. *Detroit Schools Are Alone*, *supra* note 183.

185. See *id.*

School districts that have tried mass metal detector searches have found them to be ineffective.¹⁸⁶ School security officials across the country say that, although they are concerned about weapons in their schools, they view the use of metal detectors to check students as a cumbersome, costly, and possibly unconstitutional step toward protecting school children.¹⁸⁷ Detroit's experience with metal detectors bears out these concerns. Like the

186. For instance, school districts in Boston and New York City tried metal detector searches but both districts stopped using them because they were time-consuming and ineffective. In Boston, metal detector searches were conducted between 1974 and 1976 during the city's volatile desegregation effort, but were finally abandoned. John Chistolini of the Office of School Police of Boston stated: "We find them to be counterproductive in a school setting Logistically, it didn't work . . . trying to run a school system and have 500 to 600 students walking in long lines. Jewelry, money, combs, and other items would make the detector sound, and we had to stop and search. It became a very cumbersome process." *Id.* at 21A, col. 2. Bill Murray, Chief of Security Services for the Boston schools, agreed: "You can't watch every door and window. You can't keep someone from stashing a gun at night. There are too many ways to bring them in." *Firm Approach Works in Boston*, Det. Free Press, May 28, 1986, at 3B, col. 4 [hereinafter cited as *Firm Approach Works*].

Metal detector searches were also used in a few New York City schools during the 1983-1984 school year, but only for a very short period of time. New York school board President James Regan stated: "We found when we used them, it caused more problems than it solved" *Detroit Schools Are Alone*, *supra* note 183, at 1A, col. 1. The metal detector experiment in New York broke out in a near riot at one of the city's high schools. The chaos resulted in part because students were vehemently opposed to them and because the hand-held metal detectors resulted in at least the appearance of more bodily contact than is appropriate. *Id.* at 21A, col. 2. "In the nature of the student body, devices should be much more sophisticated and depersonalized than the hand-held device Bodily contact between an individual with the device and the student could lead to a bad situation, an emotional situation as well." *Id.*

187. For instance, Robert Rubel, director of the National Alliance for Safe Schools, a federally financed organization that provides research and assistance in matters related to school safety, stated: "I believe as an organization we would be a little cautious before recommending metal detectors We'd be concerned about the impact psychologically on the climate of the school." *Detroit Schools Are Alone*, *supra* note 183, at 21A, col. 2. Richard Green, chief of security for the Los Angeles public school system stated: "We have considered using metal detectors One of the big objections is costs, the other is the reaction of the community, faculty and students." *Id.* Larry Burgan, chief of the Baltimore City School Police Force, declared that he is opposed to metal detectors because they are impractical: "With the number of doors and ground-level windows it's just not a practical thing to do" *Id.* at 21A, col. 3. George Sims, head of the Chicago Bureau of School Safety, also questioned the use of metal detectors: "If you need it I have no quarrel with using it, but I hate to start having the schools acting like a police state And the (U.S. Supreme) Court said searches wouldn't be done indiscriminately but with reasonable suspicion." *Id.* Leslie Burton, Houston's chief of school security, expressed similar doubts about the efficacy and legality of metal detectors: "I'm surprised [the Detroit schools have] been able to get by with it as far as the legal end If they're having a real serious problem in a certain school, that probably would be reasonable." *Id.* Burton said that Houston school officials considered using metal detectors but decided against it: "I don't see how we'd have enough time in [a] day to check everybody and get them to class They wear big belt buckles, heavy car keys and everything else that would set them off." *Id.*

searches tried, and abandoned, in other cities, the Detroit searches have proven to be not only costly,¹⁸⁸ but ineffective and possibly unconstitutional.

In support of the metal detector searches, school Superintendent Jefferson has said: "Ninety-nine percent of our students never carry any weapons in school and we have a preponderance of responsibility to them."¹⁸⁹ The school system can better fulfill that responsibility by providing a safe learning environment through methods that are both constitutional and more effective.

A. Individualized Searches

Many schools rely primarily on individualized searches based on tips from student informants and have found this system effective. John Chistolini of Boston's Office of School Police described one means of improving the effectiveness of the student informant system: "What we have found to be more productive [than metal detectors] is training all staff members in vigilance in developing the lines of communication with students because students are our best source of information."¹⁹⁰ Edgar Dews, chairman of the board of the National Association of School Security Officers and chief of security for the Washington, D.C. school system agrees: "Usually children themselves are concerned that they're in danger if someone has a knife or gun so they'll report to us."¹⁹¹

The Detroit school system has relied on the student informant system in the past and has found it to be effective. Statistics suggest that the schools had more success confiscating weapons when they acted on tips from students and searched students based on reasonable suspicion than when they conducted weapons sweeps.¹⁹² A number of the principals interviewed stated that they felt the student informant method was effective, and

188. From December 1984, when the searches began, to October 1985, more than one million dollars was added to the Detroit school system's security budget. *Detroit Schools May Get Permanent Weapons Checks*, Det. Free Press, Oct. 19, 1985, at 1A, col. 1. Installing permanent metal detectors in the Detroit high schools would cost \$76,000 to \$86,000. *City Schools Resume Searches; Knives Seized*, Det. Free Press, Oct. 24, 1985, at 12A, col. 1. These costs do not include the additional cost of extra sweep team personnel.

189. *Student Search Ruling No "Big Thing," Jefferson Says*, Det. News, Jan. 16, 1985, at 7A, col. 1.

190. *Detroit Schools Are Alone*, *supra* note 183, at 21A, col. 2.

191. *Id.*

192. See appendices VI and IX; *City Schools Face Court on Weapons Searches*, Det. Free Press, Dec. 9, 1985, at 3A, col. 5.

with better lines of communication and support it would be an even more productive method.¹⁹³ Chief of Security Frank Blount and Assistant Chief of Security Charles Mitchell have recognized the efficacy of the student informant technique.¹⁹⁴ To make even better use of the student tip system, ACLU attorney Deborah Gordon has suggested the creation of a student hot line or tip line for anonymous reporting of those who carry weapons.¹⁹⁵

B. Improvements in School Security

A second method that has proven to be effective is to improve school security. This can be accomplished by increasing the number of personnel, improving their training, and establishing a trusting, respectful relationship with the students.

First, the number of school security officers should be increased. Detroit had more than 300 security officers in 1981-1982, but loss of federal funding has cut the number to 150 in a school system with 200,000 students and 270 buildings.¹⁹⁶ School officials themselves admit that there are not enough security officers to do the job adequately.¹⁹⁷

Second, efforts must be made to improve the training that the

193. For instance, the principal at School C stated: "Student informants are effective. They are not the answer but they do help. Informant tips lead to an investigation—we find the kid and call the police if an arrest is necessary." Interview with principal of School C (Oct. 15, 1985). When asked how the informant system worked in comparison to weapons sweeps, the principal at School D replied: "The informant system works better. But because of retribution in the neighborhood we need to build support with the informants, or else they will be afraid to give tip-offs." Interview with principal of School D (Oct. 14, 1985).

194. In response to the question, "Do you feel it is helpful or could be helpful to have the students tell you who has weapons?," Mitchell answered, "[V]ery much so . . . [A] good amount of time it's accurate." Mitchell Deposition, *supra* note 40. In a November 3, 1983 memorandum to Dr. Jefferson regarding possible deployment of Detroit police officers inside of schools, Chief of Security Frank Blount stated, "The earlier methods [such as reliance on student informants] have worked very well, and with good publicity." Interoffice Memorandum from Frank A. Blount, Chief of Security, to Dr. Arthur Jefferson, General Superintendent, at 3 (Nov. 3, 1983).

195. *ACLU Suit to Fight Search Decision*, Det. News, Apr. 6, 1986, at 1C, col. 1. The hot line has been tried with positive results in Boston. *Firm Approach Works*, *supra* note 186, at 3B, col. 3.

196. *Firm Approach Works*, *supra* note 186, at 3B, col. 2.

197. Area Superintendent Miller stated:

We place security people at strategic points and all staff members are instructed to challenge people who should not be there. We do not have enough security people to totally monitor all the exterior doors at every high school and because of fire regulations, and rightfully so, we cannot chain doors.

Shooting Puts a Chill on Cody's Homecoming Fever, *supra* note 9, at 7A, col. 5.

Detroit school security officers receive. New York's efforts to improve security for its 950,000 students—a student population more than four times that of Detroit—focused on improving the skills of its 1700 school security officers by giving additional training in areas such as law enforcement and human relations. According to Bruce Irushalmi, director of New York's Office of School Safety, the results of this additional training are beginning to show. There was a reduction in the number of weapons incidents in the schools for the first time since 1980. From September 1984 to March 1985, there were 600 incidents involving weapons—a twenty percent decrease from the previous year.¹⁹⁸ Daniel O'Leary, assistant to the Chief of Safety Services for Boston schools, also felt that sensitivity to students was an important factor: "We take pride in the fact that the law enforcement arm of the police that works with the schools is sensitive to the students."¹⁹⁹

Although the Detroit school security officers are trained in the law,²⁰⁰ the Detroit school system could benefit from similar human relations training, which would help the security officers become more sensitive to young students and improve the trust and communication between them. Students feel that the security officers often avoid their responsibilities.²⁰¹ Rather than turning to the police to combat problems in the school, the Board of Education could improve the training that their own security personnel receive.

C. Disciplinary Reforms

Another factor contributing to the reduction of weapons in New York City schools was a policy requiring mandatory suspension for any student caught with a weapon.²⁰² Many school administrators across the country agree that a firm policy de-

198. *Detroit Schools Are Alone*, *supra* note 183, at 1A, col. 1.

199. Telephone interview with Daniel O'Leary, Assistant to the Chief of Safety Services, Boston (Oct. 30, 1985).

200. The training of the school security officers at law enforcement academies resembles police academy training. The school security officers have yearly training sessions in which they are briefed on changes in juvenile law. Higdon Interview, *supra* note 27; Interview with security officer at School F (Oct. 28, 1985).

201. A student at Mumford High School told the *Detroit News*: "I think, as far as discipline, as far as the guards, and the police, it seems like they are always at the wrong place at the wrong time." *What They Couldn't Say on TV*, *supra* note 124, at 10A, col. 4. A number of students stated that the security officers do not do anything when a fight breaks out because they are scared themselves.

202. *Detroit Schools Are Alone*, *supra* note 183, at 21A, col. 1.

manding swift and certain punishment for students caught with weapons is an effective deterrent to crime.²⁰³ For example, Boston public school officials recently tightened their system's expulsion policy for gun violations.²⁰⁴ Students caught with firearms in Miami schools are not only punished by the school but are also automatically referred to the juvenile or adult criminal justice system.²⁰⁵

Students and teachers agree that the lack of certain and consistent discipline is a significant problem in the Detroit schools.²⁰⁶ The inconsistency in discipline from school to school is illustrated in an August 1985 memorandum from Deputy Superintendent Stuart Rankin to high school administrators comparing the city's twenty-two high schools. The data showed wide variations between high schools in the number of suspensions during the 1984-1985 school year for transgressions such as carrying weapons, alcohol, drugs, or committing assaults and other crimes. Students disciplined for such violations can be temporarily suspended, transferred, expelled for up to one school year, or expelled permanently.²⁰⁷

203. *Id.*

204. *Not Just Our Problem*, Det. Free Press, Nov. 11, 1985, at 7A, col. 2.

205. *Detroit Schools Are Alone*, *supra* note 183, at 21A, col. 1.

206. For example, in response to the question, "Is there enough discipline in your school?" a Mumford High School student said, "I think that the discipline is there, however, it's not stressed." *What They Couldn't Say on TV*, *supra* note 124, at 10A, col. 4. "If you were to be kicked out of school, and you knew somebody in the school (system), it wouldn't make a difference; you could be back the next day—whether it was beating up, stealing, truancy. They know they can always come back." *Students Offer Ideas to Curb Teen Violence*, Det. Free Press, Nov. 9, 1985, at 7A, col. 1. The seemingly rapid re-entry to school of students caught with weapons was also a major student complaint at a crime conference sponsored by New Detroit Inc., a civic group. *City Students Transferred in Weapons Cases*, *supra* note 69, at 7D, col. 5.

John Elliott, president of the Detroit Federation of Teachers, has complained about the lack of strong disciplinary action:

This administration comes out with strong statements and strong-sounding policy and we wind up with the same thing we've had. . . . The students who cause problems remain in the classroom.

. . . .

The students know it and the teachers know it, and it creates the wrong kind of climate for a public school It creates a feeling of apathy, fear and apprehension.

Id.

At a hearing on December 9, 1985, Chief of Security Frank Blount stated that he did not know whether students caught with weapons had been expelled. Blount indicated that school officials had turned down his suggestion of requiring expulsion of students caught with any dangerous weapons, not just firearms. *Searches Not My Idea*, *supra* note 5, at 12A, col. 1.

207. *City Schools Face Court on Weapons Searches*, *supra* note 192, at 3A, col. 5; see also appendix X.

The disciplinary policies spelled out in the Code of Student Conduct were not always followed. According to the Code, a student found guilty of carrying a gun, knife, or other weapon *must* be suspended for up to sixty days and may be expelled.²⁰⁸ In practice, however, most students caught with weapons were merely transferred to another school.²⁰⁹ This policy of transferring rather than suspending or expelling those caught violating the Code has been criticized as giving an impression of "administrative softness."²¹⁰

In addition to more consistent enforcement of school regulations, the Detroit schools should tighten their attendance policy. Detroit schools have a seventy percent dropout rate, and forty percent of students skip classes each day.²¹¹ Interviews with students suggest that many of the fights that occur in school happen in the bathrooms, hallways, and stairwells during times when students should be in class. Eliminating "in-school truancy" would decrease the opportunity for violent outbreaks. In August 1984, the Board of Education removed in-school truancy as a punishable offense under the Code, stating that the problem needed to be treated primarily with rehabilitative services and counseling.²¹² Under a tentative proposal made in January 1986, however, students caught skipping would be subject to stricter penalties, including suspension and other punishments outlined

208. Detroit Bd. of Educ., Code of Student Conduct: Policy on Discipline and Student Rights art. VII, ¶¶ B (illegal behavior), C (violent acts) (Aug. 1984); see appendix X.

209. For the 1983-1984 school year, 943 Detroit public school students were subject to disciplinary action for the possession of weapons. Of these, 541 were merely transferred to another school. Of the 57 who were recommended for expulsion, only four students were permanently expelled, while the rest were put on long-term suspension, ranging from three weeks to one school year. *Weapons Are Tough Test*, supra note 69, at 11A, col. 2; *Schools Called Too Lenient in Weapons Cases*, supra note 159, at 3A, col. 2.

Similarly, of the 176 Detroit high school students caught carrying weapons in the metal detector sweeps between December 1984 and March 29, 1985, 57 students were transferred to other public high schools in Detroit and 116 were returned to their classrooms on probation after brief suspensions, while only the three who were charged with gun possession faced expulsion proceedings. *Armed Students Receive Light Punishments*, supra note 9, at 3A, col. 1.

210. *Firm Approach Works*, supra note 186, at 3B, col. 5. John Elliott, President of the Detroit Federation of Teachers, commented: "These statistics [see supra note 209] make a hollow mockery of the superintendent's statements . . . about removing from school the students caught with weapons. The message to the kids is, 'Do anything you want and not a damn thing is going to happen you.' This is barely a wrist slapping." *Armed Students Receive Light Punishments*, supra note 9, at 3A, col. 1.

211. *Undisciplined: Detroit Schools Still Need Help on Major Reform*, Det. Free Press, Jan. 23, 1986, at 12A, col. 1; see also supra note 125.

212. *Id.*; *Tentative Schools Pact Would Stiffen Truancy Penalties*, Det. Free Press, Jan. 22, 1986, at 3A, col. 2.

in the Code.²¹³ Stricter penalties for skipping are certainly a step in the right direction. An additional policy would require a student to achieve a certain attendance rate before the student could move to the next grade.²¹⁴

The courts have also recognized the need for stricter rules and more certain disciplinary actions. On October 29, 1985, Chief Judge Joseph Pernick of the Wayne County probate court and Y. Gladys Barsamian, presiding judge of the court's juvenile division, announced a new policy in which any juvenile found guilty of carrying a weapon would serve time in the Wayne County Youth Home, regardless of "prior record or any other circumstances."²¹⁵ Under the new policy, youths caught with weapons during police searches at schools are to be admitted to the youth home, pending a hearing. Previously, only juveniles arrested for an offense in which a gun was used were admitted to the youth home before a hearing. All students who are found guilty will now serve time in the home.²¹⁶

D. Educating Students and Parents

In addition to cracking down on discipline, the schools can increase classroom emphasis on school weapon policies. For example, Boston public school officials have launched a precedent-setting "teach-in." Students in every class at the beginning of the school day are reminded of the school's gun policies and of their responsibility to report any violations.²¹⁷ Some larger city school systems have even considered including information on guns and their dangers in the curriculum.²¹⁸ Similarly, in Detroit, administrators need to make sure that students are familiar with the Code of Student Conduct and school rules. In addition to posting the Code in classrooms and hallways, teachers and principals should discuss the content of the Code and ensure that students know the consequences of Code violations.²¹⁹

213. See authorities cited *supra* notes 211-12.

214. This has been tried with favorable results in the Boston school system. *Firm Approach Works*, *supra* note 186, at 3B, col. 5.

215. *Judges Tighten Up Policy on Juveniles With Weapons*, Det. Free Press, Oct. 30, 1985, at 15A, col. 5.

216. *Id.*

217. *Not Just Our Problem*, *supra* note 204, at 7A, col. 2.

218. *Id.* at 7A, col. 3.

219. Some principals already do this. School C, for example, has an orientation session where the Code is discussed in a question and answer session with the principal. The school also has specific rules of its own. Interview with principal at School C (Oct. 15, 1985).

Many school districts think that parents need to do more to help solve the problem of weapons in school. The Baltimore public school system regularly sends letters to parents reminding them of school rules on guns and the importance of keeping weapons secured at home. The decrease in the number of gun violations in Baltimore schools from 122 in 1983 to sixty-six in 1984 illustrates the efficacy of this method.²²⁰ Boston goes a step farther by requiring students to take the code of conduct home for parents to sign.²²¹

Detroit schools also could benefit from greater parental involvement. Parents should be just as knowledgeable about the Code as the students. At the Board of Education meeting on October 22, 1985, one parent complained to the Board that "more intensive training with parents is needed on the Code of Conduct."²²² In addition, Detroit Mayor Coleman Young has bemoaned the lack of parental involvement in ridding the schools of weapons.²²³ As in other urban areas, many of the students have easy access to weapons in their homes. Parents have an important role to play in educating their children on the dangers of firearms and making sure that weapons are not readily available.

E. Community Measures

Interviews with students about why they feel the need to carry weapons reveal that the real violence problem is in the neighborhoods and communities surrounding the schools rather than in the schools themselves. Students carry weapons to protect them-

220. *Not Just Our Problem*, *supra* note 204, at 7A, col. 3.

221. *Firm Approach Works*, *supra* note 186, at 3B, col. 4.

222. Comment of parent at Detroit Bd. of Educ. Meeting (Oct. 22, 1985).

223. At a rally on October 26, 1985, Mayor Young stated: "The young people who are responsible for so much of the crime are not orphans. They are our children. They are somebody's children. We must assume the responsibility for their conduct." *Young: Parents Must Take Charge*, Det. Free Press, Oct. 27, 1985, at 8A, col. 5.

On October 19, 1985, Mayor Young told Democratic delegates:

Every one of you must be as outraged as I am at the promiscuous shooting that's going on in our neighborhoods and schools. . . . All the police in the world can't prevent the type of shootings that are taking place in our streets—you must do that, we must do that. We've got to stop complaining about the police and take control of our own children. Who is running the homes in Detroit, the parents or the children?

Teen Hospitalized After Shooting at Party at West Side Hall, Det. Free Press, Oct. 20, 1985, at 10A, col. 1. He urged parents who owned guns to lock them up out of their children's reach, and he warned: "[W]e're going to do what we have to do. If you don't take care of them at home, we're going to try and take care of them in the streets." *Id.*

selves from being robbed of their clothing and jewelry when walking to and from school.²²⁴ Many girls feel the need to carry knives and mace to protect themselves from rape and violence on their way home from school or on their way home from nighttime jobs.²²⁵ Other students bring weapons to school to flaunt as a status symbol.²²⁶

The problem in schools is symptomatic of the larger community problem. It is unlikely that the searches and the confiscation of weapons in schools will have any significant spill-over effect in the community.²²⁷ The resources, money, and energy that are being used in these searches should be directed toward the resolution of community problems. For example, strict enforce-

224. Interviews with principals at School A (Oct. 16, 1985), School D (Oct. 14, 1985), and School E (Oct. 14, 1985); Interview with school security officer at School F (Oct. 28, 1985); Interviews with students at Osborn High School (Oct. 28, 1985) and Cody High School (Oct. 16, 1985); see also *What They Couldn't Say on TV*, *supra* note 124, at 1A, col. 2; *Students Who Live in Fear*, Det. Free Press, Oct. 20, 1985, at 1A, col. 5.

225. Interviews with principals at School B (Oct. 16, 1985) and School E (Oct. 14, 1985); Interview with students at Cody High School (Oct. 16, 1985); Higdon Interview, *supra* note 27.

For both the 1984-1985 and 1985-1986 school years, 61% of those arrested for carrying knives were females. In contrast, females made up only a small percentage of those found carrying dangerous or concealed weapons. See appendix V.

226. *Students Who Live in Fear*, *supra* note 224, at 1A, col. 5.

227. Mayor Young linked the October 11, 1985 shooting at a McDonald's restaurant near Cody High School to the absence of weapons searches in the city's high schools and middle schools. *School Arms Searches Halted*, *supra* note 11, at 3A, col. 2. An administrator at School B stated that he disagreed with Mayor Young. In this administrator's opinion, the effect of the searches does *not* carry over to the neighborhood. Interview with administrator at School B (Oct. 16, 1985).

Similarly, Board of Education member George Vaughn recognized that the real problem is in the community: "We are part of society. Violence is from the outside. The community perception is that it comes from school. The school system cannot solve the problems of society at large but we must start somewhere." Comments of members at Detroit Bd. of Educ. Meeting (Oct. 22, 1985). Vaughn admitted that much of the violence is not perpetrated by members of the particular school but felt that the public did not perceive it this way. Likewise, another Board member stated: "Community violence breeds violence. All the searches in the world won't resolve it. The searches are merely band-aid methods." *Id.* Even Superintendent Arthur Jefferson seemed to recognize the very limited effectiveness of the searches in decreasing violence when he stated: "[T]he recommendation for searches alone would not solve the problem. This is only one tool to combat violence." *Id.*

Despite the spate of shootings, several teachers interviewed by the *Detroit Free Press* still considered their school safe. The comments of an Osborn High School chemistry teacher illustrate that the real violence problems are in the community rather than the school: "I don't think the kids are really worried about a gun in school. I think they're worried about being bothered on the way to school. We really don't have much of a problem inside the school. It's outside the school." *Weapons Are Tough Test*, *supra* note 69, at 11A, col. 2. A Mumford High School student agrees: "During school, there aren't too many violent occurrences. But after school, that's when you're inviting trouble, because then people come from outside of the school, into your school." *What They Couldn't Say on TV*, *supra* note 124, at 10A, col. 3.

ment of Detroit's curfew ordinance is one way to tighten community security.²²⁸

Many Detroit parents are willing to help,²²⁹ but the city needs more volunteers and the support of the entire community to create a safer environment for students and to break down the violent subculture.

F. Gun Control Reform

Community involvement in the form of support for gun control laws has also been helpful in some school systems. For instance, the Dade County School Board implored the community to form a task force to explore legal ways to tighten handgun availability.²³⁰ Although the Metro Dade County Commission turned down a handgun proposal, other communities have been more successful. In Baltimore, school officials credit Maryland gun control laws and strong support from the Mayor, police commissioner, and state attorney with playing a key role in the decline of gun violations in the city schools.²³¹ Daniel O'Leary, assistant to the Chief of Safety Services in Boston, also feels that the state's gun control laws played a role in combating the weapons problem in schools.²³²

Reforms in gun control laws might be beneficial to Detroit public schools. One of the reasons for the large number of youngsters who possess guns²³³ is the ease of accessibility. According to Frank Gregurek, who has been a probation officer with the juvenile division of the Wayne County Probate Court for twenty years: "When I ask kids where they got their guns, in most of the cases—and by most, I mean maybe 30 percent—the answer I get is that they got it from home. Dad's bedroom,

228. DETROIT, MICH., CODE § 33-3-1 (1985); *id.* § 33-3-2; *see also id.* § 33-3-4; *Detroit Police to Get Tough on Youth Curfew*, Det. Free Press, Oct. 30, 1985, at 15A, col. 4.

229. For example, in 1983 the Detroit police began a "unified block parent homes" program in which Detroiters displayed orange and black stickers in their windows to signify that their homes were havens for school children accosted by strangers. *Roundup: Why Should Students Have Access to Guns in the First Place?*, Det. Free Press, Feb. 11, 1985, at 6A, col. 1.

230. *Not Just Our Problem*, *supra* note 204, at 1A, col. 1.

231. *Id.*

232. Telephone interview with Daniel O'Leary, Assistant to Chief of Safety Services, Boston (Oct. 30, 1985).

233. There were 1500 handguns confiscated between September 1984 and February 1985—about one every three hours. In addition, about one in nine of the guns was taken from someone under 18. *Getting a Gun Is No Problem*, *supra* note 9, at 11A, col. 2.

mom's bedroom."²³⁴ In 1985, an estimated 500 juveniles in Wayne County were involved in crimes with guns.²³⁵

Although Mayor Young has consistently opposed stricter gun control laws,²³⁶ gun control would be one way to limit young people's access to weapons that might later be brought into the schools. The current law is not strict enough.²³⁷ Reforms might include raising the age for gun ownership from eighteen to twenty-one, tightening the requirements for gun permits, and increasing penalties and enforcement. Certificates that would be issued only after prospective gun owners proved their ability to use firearms safely should be required and police should use more discretion in issuing permits. In fact, some community officials are in favor of an outright freeze on the sale of handguns accompanied by mandatory sentencing for violators.²³⁸

Although reforms in Detroit's gun control laws could help alleviate the weapons problem in city schools, this is only a partial solution. State and nationwide gun control is necessary to prevent weapons from flowing into the city from other areas.²³⁹

CONCLUSION

Any attempt to rid the schools of violence involves two competing goals: assuring the safety of students while preserving the students' constitutional rights. The metal detector searches in the Detroit public schools have failed to advance either goal.

234. *Id.* Wayne County Prosecutor John O'Hair said at an August 1986 press conference, "But for the accessibility of guns in the home, they never would be taken to the schoolhouse." *Schools Promise Gun Crackdown, More Searches*, Det. Free Press, Aug. 22, 1986, at 1A, col. 4.

235. *A Teen, A Gun, A Crime—and a Life in Limbo*, Det. Free Press, Jan. 19, 1986, at 3A, col. 2.

236. Mayor Young stated: "We have great difficulty enforcing the laws that are now on the books. I don't think that passing any new laws is going to solve our problems." *Comments on Kids and Guns*, Det. Free Press, Oct. 20, 1985, at 11A, col. 1.

237. Currently, an individual must be 18 years old to buy a handgun, rifle, or pistol in Michigan. MICH. COMP. LAWS § 28.422 (1979). All handguns must be registered and inspected for safety. *Id.* § 28.429. A police-issued permit is needed to buy a handgun. *Id.* § 28.422. Most cities in Michigan also have local ordinances that prohibit carrying loaded weapons or firing them inside city limits. *Gun Laws in Michigan*, Det. Free Press, Oct. 20, 1985, at 11A, col. 1.

238. *New Group Seeks Handgun Freeze*, *supra* note 7, at 3A, col. 4; *see also Comments on Kids and Guns*, *supra* note 236.

239. The need for widespread geographical coverage is illustrated by the results of a federal study that traced 40 of the guns taken from youths by the Detroit police over a six-month period. Only eight were from Detroit, eleven were from other cities in Michigan, and the rest came from other states. *Getting a Gun Is No Problem*, *supra* note 9, at 11A, col. 2.

First, the searches have proven to be an ineffective method of confiscating weapons or reducing violence. Second, and equally important, the searches have involved serious intrusions on students' fourth amendment right to be free from unreasonable search. As school searches, they fail to meet the reasonableness test established by the Supreme Court in *New Jersey v. T.L.O.* As metal detector searches, they fail to satisfy the tripartite test of necessity, effectiveness, and minimal intrusiveness used to evaluate metal detector searches at airports and courthouses.

The new search proposals,²⁴⁰ which include allowing students to empty their own pockets and warning students in advance of the search, are a step toward recognizing students' rights, but would not increase the effectiveness of the searches. Weapons will still be smuggled into the school, and youth violence will continue.

There *are* methods, however, that would increase school safety without sacrificing students' privacy. These alternatives include improved school security, community programs that would involve parents, more consistent disciplinary policies, and stricter gun control laws. Finally, only the *particular* students whom police or teachers have reasonable cause to suspect of carrying weapons should be searched. When asked about possible solutions to the problems in the Detroit schools, Detroit School Superintendent Arthur Jefferson replied:

In the long run, [the answer] is to deal with attitudes, behaviors and self-discipline. We don't want a situation where we have security officers in every lavatory and every door. And we won't be able to afford it anyway.

We also will say very firmly, we don't think that it's . . . the school's problem to solve totally. It isn't, and the fact of the matter is, we hope the day will come [when] we get out of the security business.²⁴¹

—Myrna G. Baskin & Laura M. Thomas

240. See appendix III(C).

241. *Comments on Kids and Guns*, *supra* note 236.

APPENDICES

TABLE OF CONTENTS

Appendix I: 1984-1985 School Year

Appendix II: 1985-1986 School Year

Appendix III: Codes of Conduct

(A) August 1984 Code

(B) October 22, 1985 amendment

(C) March 11, 1986 amendment

**Appendix IV: School Board Rules and Regulations as to the
Use of Metal Detectors for Student Safety**

Appendix V: Arrests and Detentions by Category

**Appendix VI: Weapon Seized During Sweep and Pre-sweep
Years**

Appendix VII: Weapons Seized During Serious Incidents

**Appendix VIII: Number of Assaults During Pre-sweep,
Sweep, and Post-sweep periods**

Appendix IX: Guns Seized by Method

**Appendix X: Code of Conduct Standards Governing Use of
Disciplinary Actions**

KEY TO APPENDICES

- V.K.O.: Violation of the Knife Ordinance
- V.M.O.: Violation of the Marijuana Ordinance
- V.G.O.: Violation of the Gun Ordinance (e.g., pellet guns, starter pistols)
- C.C.W.: Carrying a Concealed Weapon (e.g., brass knuckles, martial arts stars, guns)
- P.D.W.: Possession of a Dangerous Weapon (e.g., knives, pipes, clubs, karate sticks)
- V.S.O.: Violation of a School Ordinance (e.g., unauthorized presence on school grounds, disorderly conduct)
- M.P.A.: Minor in Possession of Alcohol
- V.C.O.: Violation of City Ordinance (e.g., curfew ordinance)
- N.A.: Information not available
- Adults are "arrested" and juveniles are "detained."
- Number of uniformed police does not include plainclothes police officers.
- Appendices I and II are based on the Detroit Police Department Special Crime Section School Sweep Operation Enforcement Reports (copies on file with U. MICH. J.L. REF.).

APPENDIX I
1984-1985 School Year

SCHOOL	DATE	DURATION OF SEARCH	METHOD OF SEARCH	NUMBER OF UNIFORMED POLICE/ SECURITY OFFICERS	NUMBER OF STUDENTS SEARCHED	NUMBER OF STUDENTS DETAINED OR ARRESTED
Cody High School	December 11, 1984	1 hr.	2 hand-held metal detectors	N.A./4	N.A.	0
Southeastern High School	December 11, 1984	45 mins.	5 hand-held metal detectors	N.A./N.A.	1800	1 (1 adult)
Emerson Middle School	December 20, 1984	25 mins.	6 hand-held & 1 walk-through metal detectors	3/6	900	0
Central High School	February 6, 1985	2 hrs.	22 hand-held metal detectors	8/16	1750	22 (11 Adults 11 Juveniles)
Northern High School	February 14, 1985	2½ hrs.	22 hand-held metal detectors	10/15	822	9 (6 Adults 3 Juveniles)
Western High School	February 20, 1985	2 hrs. 15 mins.	22 hand-held metal detectors	10/20	1150	16 (9 Adults 7 Juveniles)
Finney High School	March 13, 1985	2 hrs.	22 hand-held metal detectors	16/20	2150	8 (1 Adult 7 Juveniles)
M.L. King High School	March 21, 1985	1½ hrs.	14 hand-held & 2 walk-through metal detectors	16/20	1500	5 (4 Adults 1 Juvenile)
Northern High School	March 29, 1985	1 hr. 45 mins.	10 hand-held & 2 walk-through metal detectors	16/15	850	2 (2 Juveniles)

VIOLETIONS	WEAPONS CONFISCATED FROM STUDENTS	WEAPONS RETRIEVED FROM FLOOR AND SEARCH AREA	CONTRABAND CONFISCATED FROM STUDENTS	CONTRABAND RETRIEVED FROM FLOOR AND SEARCH AREA
0	0	7 knives	0	0
1-V.K.O.	1 razor blade 2 mace 3 pairs of scissors 4 small pocket knives	2 knives 1 pair nun-chakus	0	0
0	0	3 small knives 1 razor 2 nail files	0	0
14-V.K.O. 5-V.M.O. 1-V.G.O. 1-C.C.W. 1-V.S.O.	1 pellet gun 13 knives 1 carpet cutter 1 mace 1 night stick	14 knives (1 butcher knife, 9 pocket knives, 2 kitchen knives, 1 pen knife, 1 small dagger) 3 razors	12 marijuana cigarettes 1 plastic bag with suspected marijuana	0
2-C.C.W. 2-P.D.W. 2-V.K.O. 2-V.M.O. 1-M.P.A.	1 .22 cal. 6 shot revolver 1 .32 cal. 6 shot revolver 2 knives 1 ice pick 1 lead pipe 1 plexiglass shaped knife	3 pocket knives 1 razor blade	12 marijuana cigarettes 1 12 oz. bottle California Cooler (6% alcohol)	0
14-V.K.O. 1-V.M.O. 1-V.G.O.	1 starter pistol 11 pocket knives 1 razor box opener 1 carpet cutter 1 studded wristband	8 pocket knives 1 screwdriver 1 studded wristband 1 razor type box opener	23 marijuana cigarettes	0
7-V.K.O. 1-C.C.W.	8 knives	7 knives 3 razors 1 pair scissors	0	23 marijuana cigarettes
1-C.C.W. 3-V.K.O. 1-V.S.O.	1 .25 cal. blue steel automatic (4 live rounds) 3 knives	4 knives 1 razor	0	0
2-V.K.O.	2 knives	0	0	0

APPENDIX I (continued)

SCHOOL	DATE	DURATION OF SEARCH	METHOD OF SEARCH	NUMBER OF UNIFORMED POLICE/ SECURITY OFFICERS	NUMBER OF STUDENTS SEARCHED	NUMBER OF STUDENTS DETAINED OR ARRESTED
Denby High School & Cedargrove Market*	April 3, 1985	2 hrs.	10 hand-held & 2 walk-through metal detectors	15/17	2500	5 (3 adults 2 juveniles) 2 adults at Cedargrove Mkt.
Pershing High School	April 19, 1985	2 hrs.	22 hand-held & 2 walk-through metal detectors	20/18	2500	7 (4 Adults 3 Juveniles)
Redford High School	April 25, 1985	3 hrs. 15 mins.	22 hand-held & 2 walk-through metal detectors	17/15	3000	11 (6 Adults 5 Juveniles)
Murray Wright High School	May 2, 1985	2 hrs.	22 hand-held & 2 walk-through metal detectors	22/20	2300	17 (10 Adults 7 Juveniles)
Mumford High School	May 10, 1985	1 hr. 45 mins.	22 hand-held & 2 walk-through metal detectors	18/18	2000	18 (9 Adults 9 Juveniles)
Kettering High School	May 16, 1985	2 hrs.	10 hand-held & 2 walk-through metal detectors	20/18	2000	22 (12 Adults 10 Juveniles)
Henry Ford High School	May 29, 1985	2 hrs. 45 mins.	22 hand-held & 2 walk-through metal detectors	18/20	3100	16 (4 Adults 12 Juveniles)
Northwestern High School	June 6, 1985	2 hrs.	22 hand-held & 2 walk-through metal detectors	18/18	1700	10 (3 Adults 7 Juveniles)

*The search at Denby High School included a search of Cedargrove Market, a nearby grocery store.

VIOLETIONS	WEAPONS CONFISCATED FROM STUDENTS	WEAPONS RETRIEVED FROM FLOOR AND SEARCH AREA	CONTRABAND CONFISCATED FROM STUDENTS	CONTRABAND RETRIEVED FROM FLOOR AND SEARCH AREA
2-V.K.O. 1-C.C.W. 1-V.M.O. 1-V.C.O. 2-V.C.O.	3 knives 1 brass knuckles	1 bike chain 1 plastic cap pistol 1 rug cutter	5 marijuana cigarettes	0
5-V.K.O. 1-C.C.W. 1-V.G.O.	5 knives 1 handgun 1 pellet gun	1 knife 1 knife-brass knuckles combination	0	0
9-V.K.O. 1-C.C.W. 1-V.M.O.	8 knives 1 boxcutter 1 handgun	17 knives 3 razors 1 boxcutter 1 pair scissors 1 screwdriver 1 shotgun shell (ammunition) 1 martial arts star	0	29 white pills 3 marijuana cigarettes
16-V.K.O. 1-V.M.O.	14 knives 1 ice pick 1 pair scissors	1 .32 caliber blue steel revolver (2" barrel) 10 knives 1 pair scissors 1 brass belt buckle 1 large steel safety pin 1 fork 1 nail clipper	2 marijuana cigarettes	1 pack tobacco cigarettes
11-V.K.O. 1-C.C.W. 2-P.D.W. 4-V.M.O.	10 knives 2 razors 1 karate star 1 1/2 baseball bats	1 live shotgun shell (ammunition) 1 boxcutter 1 club 2 knives	6 coin envelopes of marijuana 3 marijuana cigarettes	18 marijuana cigarettes 14 coin envelopes of marijuana
21-V.K.O. 1-P.D.W.	19 knives 3 boxcutters	2 knives 1 boxcutter 1 slap jack	0	0
8-V.K.O. 1-C.C.W. 2-P.D.W. 1-V.M.O. 1-V.S.O. 3-Disorderly Conduct	7 knives 1 boxcutter 1 razor 1 pair nun-chakus 1 brass knuckles 1 club	1 .25 caliber bullet 1 .22 caliber bullet 1 boxcutter 7 knives 1 razor	16 marijuana cigarettes 1 pack marijuana cigarettes	12 marijuana cigarettes 18 Tylenol pills
5-V.K.O. 2-P.D.W. 3-V.M.O.	5 knives 1 karate star 1 club	3 knives	34 marijuana cigarettes 1 coin envelope of marijuana 1 unidentified red pill	0

APPENDIX II

1985-1986 School Year

SCHOOL	DATE	DURATION OF SEARCH	METHOD OF SEARCH	NUMBER OF UNIFORMED POLICE/ SECURITY OFFICERS	NUMBER OF STUDENTS SEARCHED	NUMBER OF STUDENTS DETAINED OR ARRESTED
Pershing High School	September 5, 1985	3 hrs.	20 hand-held metal detectors	19/15	2100	12 (3 Adults 9 Juveniles)
Osborn High School	September 12, 1985	2 hrs. 40 mins.	20 hand-held & 2 walk-through metal detectors	19/15	2900	18 (5 Adults 13 Juveniles)
Central High School	September 13, 1985	2 hrs.	N.A.	N.A./14	N.A.	17 (2 Adults 15 Juveniles)
Henry Ford High School	September 18, 1985	2 hrs. 45 mins.	20 hand-held & 2 walk-through metal detectors	20/20	3200	0
Finney High School	October 23, 1985	2 hrs.	15 hand-held & 2 walk-through metal detectors	32/17	2000	9 (5 Adults 4 Juveniles)
Chadsey High School	October 25, 1985	2 hrs.	15 hand-held & 2 walk-through metal detectors	34/15	1200	7 (3 Adults 4 Juveniles)
Mackenzie High School	November 7, 1985	2 hrs.	11 hand-held & 2 walk-through metal detectors	20/15	2000	16 (6 Adult 10 Juveniles)
Southwestern High School	November 20, 1985	N.A.	N.A.	N.A.	N.A.	N.A.
Cody High School	November 27, 1985	N.A.	N.A.	N.A.	N.A.	N.A.

VIOLATIONS	WEAPONS CONFISCATED FROM STUDENTS	WEAPONS RETRIEVED FROM FLOOR AND SEARCH AREA	CONTRABAND CONFISCATED FROM STUDENTS	CONTRABAND RETRIEVED FROM FLOOR AND SEARCH AREA
10-V.K.O. 2-C.C.W.	10 knives 1 sawed-off shotgun (3 live rounds) 1 .22 caliber blue steel revolver (7 live rounds)	0	0	0
18-V.K.O. 1-V.M.O.	16 knives 2 box openers	1 starter pistol 5 knives, 2 box openers 1 ice pick 1 .32 cal. bullet, 4 .22 cal. bullets	3 coin envelopes of marijuana 13 marijuana cigarettes	2 marijuana cigarettes
17-V.K.O. 1-C.C.W. 1-V.M.O.	13 knives 2 box cutters 1 .25 cal. Titan automatic (6 rounds)	5 knives	8 marijuana cigarettes	0
0	0	9 small knives 2 martial arts stars 1 brass knuckles 1 screwdriver 1 pair scissors	0	0
8-V.K.O. 1-V.M.O.	8 knives	10 knives 2 razors 11 .22 cal. live rounds 2 toy guns	15 marijuana cigarettes	3 marijuana bags
3-V.K.O. 1-V.M.O. 1-V.S.O.	3 knives	2 knives	30 marijuana cigarettes	0
5-V.K.O. 2-C.C.W. 5-V.M.O. 1-M.P.A. 3-V.S.O.	5 knives 1 martial arts star 1 wooden club	6 knives 1 pair scissors 1 screwdriver 1 .25 cal. live round (ammunition) 2 wooden clubs	1 pint liquor 12 marijuana cigarettes 1 marijuana bag	0
N.A.	N.A.	N.A.	N.A.	N.A.
N.A.	N.A.	N.A.	N.A.	N.A.

APPENDIX IIICodes of Conduct

(A) The relevant section of the Code of Student Conduct is article III, paragraph 4, which provides:

4. Freedom from Unreasonable Searches and Seizures:

Students have rights which have been established and guaranteed by the Fourth Amendment to the United States Constitution protecting the right of privacy of their person and freedom from the unreasonable search or seizure of property. The school district retains the authority to search regardless of whether the student has given consent or is present for the search of school property assigned to the student. The following guidelines apply to the seizure of items in the student's possession and the search of a student's school property (locker, desk): (1) There must be reasonable cause to believe that the student is in possession of an article, possession of which constitutes an illegal behavior under this policy; or (2) There must be reason to believe that the student is using his/her locker, desk or other property in such a way as to endanger his/her own health or safety or the health, safety and rights of other persons.

The school district retains the right to search in emergency situations, such as a bomb threat or a belief that there are weapons or dangerous materials on the premises. In the event of such a clearly defined emergency the principal or his/her designee(s) has (have) the right to enter. The student should be notified of such action as soon thereafter as possible.

Detroit Bd. of Educ., Code of Student Conduct: Policy on Discipline and Student Rights art. III, ¶ 4 (Aug. 1984) (copy on file with U. MICH. J.L. REF.).

(B) At the Detroit Board of Education meeting on October 22, 1985, article III, paragraph 4 of the Policy on Discipline and Student Rights was amended as follows (new language is italicized):

4. Freedom From Unreasonable Searches and Seizures:

Students have rights which have been established and guaranteed by the Fourth Amendment to the United States Constitu-

tion protecting the right of privacy of their person and freedom from unreasonable search or seizure of property. The school district retains the authority to search regardless of whether the student has given consent or is present for the search of school property assigned to the student. *These searches may include the use of metal detectors or other electronic or mechanical devices designed for the purpose of screening groups of students for weapons or other dangerous materials on school premises. The following guidelines apply:*

1) There must be a reasonable *suspicion* to believe that the student is in possession of an article, possession of which constitutes an illegal behavior under this policy. *A positive response from a metal detector or similar device will constitute reasonable suspicion justifying search of the student according to administrative regulations and procedures developed by the general superintendent under the authority delgated to him/her in Article II. The search will be primarily for the purpose of finding weapons or other dangerous materials. However, students found to be in possession of any article which constitutes illegal behavior under this policy will be subject to appropriate disciplinary action. The school may request the assistance of police officers in apprehending any student found to be in possession of a weapon or other dangerous article.*

2) *With respect to the search of a student's property (locker, desk), there must be reason to believe that the student is using his/her locker, desk or other property in such a way as to endanger his/her own health or safety or the health, safety and rights of other persons.*

The school retains the right to search in emergency situations, such as a bomb threat or a belief that there are weapons or dangerous materials on the premises. In the event of such a clearly defined emergency the principal or his/her designee(s) [has (have) the right to enter. The student] should be notified of such action as soon thereafter as possible.

Detroit Bd. of Educ. Minutes of Meeting at 13-14 (Oct. 22, 1985) (copy on file with U. MICH. J.L. REF.).

(C) The Detroit Board of Education adopted the following proposed amendment to the Policy on Discipline and Student Rights, article III, paragraph 4, on March 11, 1986 (new language is italicized):

4. Freedom from Unreasonable Searches and Seizures:

Students have rights which have been established and guaranteed by the Fourth Amendment of the United States Constitution protecting their right of privacy of their person and freedom from unreasonable search and seizure of property. *The school district may conduct reasonable searches and seizures such as the following:*

(a) The School District retains the authority to search regardless of whether the student has given consent or is present for the search of school property assigned to the student. The following guidelines apply to the seizure of items in the student's possession and the search of the student's school property (locker, desk); (1) There must be reasonable suspicion to believe the student is in possession of an article, possession of which constitutes illegal behavior under this policy; or (2) There must be reason to believe that the student is using his/her locker, desk or other property in such a way as to endanger his/her own health or safety or the health, safety and rights of other persons.

(b) *The deterrence of the possession of weapons or other dangerous objects as defined by this policy is necessary to promote health and safety within the school setting and to provide a school environment conducive to education. When the administration in any school has reasonable suspicion to believe that weapons or dangerous objects are in the possession of unidentified students; when there has been a pattern of weapons or dangerous objects found at a school, on school property, at a school function or in the vicinity of a school; or when violence involving weapons has occurred at a school or on school property, at school functions or in the vicinity of a school, the administration is authorized to use stationary or mobile metal detectors. School personnel operating the metal detectors must comply with the rules and regulations for the use of such devices as adopted by the Board of Education.*

(c) The School District retains the right to search in emergency situations, such as a bomb threat or a belief that there are weapons or dangerous materials on the premises. In the event of such [a] clearly defined emergency the principal or his/her designee(s) has (have) the right to enter. The student should be notified of such action as soon thereafter as possible.

Detroit Bd. of Educ. Minutes of Meeting, attachment B, at 1-2 (Mar. 11, 1986).

APPENDIX IV

On March 11, 1986, the School Board adopted the following *Rules and Regulations as to the Use of Metal Detectors for Student Safety*:

1. If a metal detector is to be used in a particular school pursuant to Article III, Section 4(b) of the Policy on Discipline and Student Rights, the students will be notified via the loud speaker, at an assembly, or by similar means of its use. On the day of its use signs will be posted to warn the students that each student will be required to submit to a screening for metal as a condition of entering or continuing attendance at school. The screening will be conducted by Detroit Public Schools staff.
2. When a metal detector is being used, students will be allowed to use only the entries designated. If a metal detector activates on a student, the student should be asked to remove metal objects from his or her person and walk through or be scanned again. If, after the removal of other metal objects and third activation by the metal detector on the student, the student will be taken to a room out of view from the other students and subjected to a "pat down" search under the procedures set forth in Paragraphs 4 through 7.
3. School personnel may inspect the contents of any brief case, knapsack, purse or parcel which activates the metal detector for the limited purpose of determining whether a weapon is concealed therein. School personnel may not inspect brief cases, knapsacks, purses or parcels in which a weapon could not be concealed, and may not examine written materials.
4. A "pat down" search conducted by school personnel shall be a limited feeling of the student's outer clothing for the purpose of discovering only items which may have activated the metal detecting device.
5. If the school personnel conducting a "pat down" search feels an object which may have activated the metal detecting device, the student will be asked to remove such object. If the student declines to remove the object, it may then be removed by school personnel.
6. If the object removed from the student could have activated the metal detector, the school personnel must cease performing the "pat down" search. In such event, the student will again pass through the metal detector and the "pat down" search will be continued only if the device again yields positive reading.

7. Under all circumstances, the "pat down" search will be conducted by school personnel of the same sex as that of the student.
8. All property removed from the student as a result of the above procedure which may be legitimately brought onto school premises will be returned to the student.
9. Property removed from the student, possession of which is a violation of the Policy on Discipline and Student Rights, shall be confiscated and the student shall be disciplined in accordance with the Code of Student Conduct.
10. Students who fail to cooperate with school personnel performing their duties under these procedures may be subject to discipline for insubordination.
11. Nothing in the procedures set forth above shall limit the authority of school officials to search a student in accordance with Article III, Section 4 of the Policy on Discipline and Student Rights when there is reasonable suspicion to believe that a particular student is in possession of an article, possession of which constitutes illegal behavior under this Policy.

Detroit Bd. of Educ. Minutes of Meeting, attachment C, at 1-3 (Mar. 11, 1986).

APPENDIX V

Arrests and Detentions by Category

	<u>1984-1985 School Year¹</u>	<u>1985-1986 School Year²</u>
Total C.C.W.	11*	5
Males	8	5
Females	1	0
C.C.W. (gun)	5	3
C.C.W. (knife)	1	0
C.C.W. (star)	1	1
C.C.W. (stick/club)	1	1
C.C.W. (brass knuckles)	2	0
C.C.W. (possession of starter pistol)	1	0
Total P.D.W.	11	0
Males	10	0
Females	0	0
P.D.W. (gun)	2	0
P.D.W. (other)	9	0
Total P.D.W. and C.C.W.	22	5
Total V.K.O.	120	61
Males	47	24
Females	73	37
Total V.M.O.	19	9
Males	11	7
Females	8	2
Total V.S.O.	10	7
Males	5	7
Females	5	0
Misc. Ordinance	3	6
Disorderly Conduct	3	0
Possession of alcohol	1	1
Curfew Violation	1	0
Miscellaneous Violation by nonstudent adults	2	0
Total Arrests	171	82
Adults	85	24
Felony	9	1
Misdemeanor	76	23
Juveniles	86	58
Total Number of Students Searched	32,000	13,400

*The number of males and females does not add up to the total figure when the sex of the arrested individual was not available.

1. Seventeen metal detector searches.
2. Seven metal detector searches.

Figures based on Detroit Police Department, Special Crime Section, School Security Operation Enforcement Reports (copies on file with U. MICH. J.L. REF.).

APPENDIX VI
School Security Statistics

WEAPON	(Pre-sweep Year) 1983-1984	(Sweep Year) 1984-1985 (17 metal detector searches)	(Sweep Period) Sept. 5, 1985-Sept. 18, 1985 (4 metal detector searches)
Guns			
Dangerous	N.A.	5	3
Other	N.A.	8	2
Total	32	13 (3% of total)	5 (4% of total)
Knives	174	171 (38% of total)	63 (54% of total)
Other Misc. ¹	70	264 (59% of total)	48 (42% of total)
Total	276	448	116

1. Other Misc. Weapons Include: screwdrivers, chains, razors, tear gas, pipes, bullets, scissors, mace, nail file, box cutters, hammers, brass knuckles, pliers, studded bracelets, studded belt, karate stars, ice picks, saw, handcuffs, night stick, darts, and wooden objects.

Figures based on Detroit Public School Security Reports (copies on file with U. MICH. J.L. REF.).

APPENDIX VI (continued)

Police Statistics

WEAPON	1984-1985 School Year (17 metal detector searches)		1985-1986 School Year (7 metal detector searches) ^a		Total
	Confiscated from Student	Retrieved from Floor Area	Confiscated from Student	Retrieved from Floor Area	
Guns					
Dangerous ²	5	1	3	0	3
Other ³	3	0	0	1	1
Total	8 (6% of total)	1	3 (5% of total)	1	4
Knives	110 (76% of total)	93	59 (92% of total)	37	96
Other Misc. ⁴	27 (18% of total)	43	2 (3% of total)	27	29
Total	145	137	64	65	129

2. Dangerous guns: handgun, shotgun.
3. Other guns: pellet gun, starter pistol, BB guns.
4. Other Misc. Weapons: ammunition, belt buckles, brass knuckles, chains, carpet cutters, clubs, electrical cable, fork, ice pick, mace, nail clippers, nun-chakus, razors, safety pins, scissors, screwdrivers, martial arts star, toy gun, and studded wrist bands.
5. Figures do not include the last two searches.

Note: The wide discrepancy between school security figures and police statistics might be due to disagreement on what objects should be classified as "weapons". Figures based on Detroit Police Department, Special Crime Section, School Sweep Operation Enforcement Reports (copies on file with U. MICH. J.L. REF.).

APPENDIX VII

Weapons Seized During Serious Incidents

WEAPONS SEIZED	(Pre-sweep Year) 1983-1984	(Sweep Year) 1984-1985	(Sweep Period) Sept.-Oct. 1985
GUNS	32	59	30*
KNIVES	174	133	119
OTHER	70	91	78
TOTAL	276	283	227

*24 dangerous

6 others:

2 starter pistols

2 BB pistols

1 pellet gun

1 toy gun

Figures based on Detroit Public School Security Reports (copies on file with U. MICH. J.L. REF.).

APPENDIX VIII

Assaults in Detroit Public Schools

A. <u>Assaults</u>	(Pre-sweep Period) December 1983- June 1984	(Sweep Period) December 1984- June 1985	
Felonious Assault ¹	57	40	
Other Assaults ²	52	122	
Total Assaults	109	162	
	(Pre-sweep Period) September 1983- October 1983	(Pre-sweep Period) September 1984- October 1984	(Sweep Period) September 1985- October 1985
B. <u>Assaults</u>			
Felonious Assault	15	15	34
Other Assaults	5	57	101
Total Assaults	20	72	135
	(Sweep Period) September 1985- October 1985	(Post-sweep Period) November 1985- January 1986	
C. <u>Assaults</u>			
Felonious Assault	34	21	
Other Assaults	101	44	
Total Assaults	135	65	

1. Felonious Assault: An assault with a gun, knife, iron bar, knuckles, or other dangerous weapons, but without intending to commit the crime of murder and without intending to inflict great bodily harm less than murder.
2. Assault: An assault without any weapons and that inflicts injury upon the person of another without intending to inflict bodily harm.

Figures based on Recommendations Presented to Detroit Board of Education regarding Safety and Security, Attachment A: Weapons Found in Detroit Public Schools 1983-1985 (copy on file with U. MICH. J.L. REF.).

APPENDIX IX**Guns Seized by Method**

	<u>1984-1985 School Year</u>	<u>September 1985-October 1985</u>
Dangerous Guns Seized Using Nonsweep* Methods	54	21
Dangerous Guns Seized From Students During Sweeps	5	3

*Nonsweep methods primarily include searches based on reasonable suspicion of individual students.

Figures based on Detroit Public School Security Reports (copies on file with U. MICH. J.L. REF.).

APPENDIX X**Code of Conduct Standards Governing Use of Disciplinary
Actions**

The Code of Student Conduct provides:

B. Illegal Behavior: Students who have been suspended once for illegal behavior in a school year and NOT TRANSFERRED must be approved to remain in that school by the Area Superintendent upon the second suspension.

C. Violent Acts: Any student who after appropriate suspension hearings at the local school level, is found guilty of committing a violent act as defined by this policy, MUST be suspended and referred to the Area Superintendent for review. A suspension pending an expulsion review may extend for up to sixty (60) school days or until such time as the central level review has been completed (whichever is sooner). The review shall be for the purpose of either confirming the suspension, rescinding the suspension and referring the case back to the principal for other alternative actions, and/or recommending a central level expulsion review to the General Superintendent. Upon completion of the review, the General Superintendent will make a recommendation to the Detroit Board of Education. Under these conditions the student is not to return to school pending resolution of the reviews.

Violent acts specifically include the following illegal behaviors:

1. Possession of a gun or knife, whether manufactured or homemade (under circumstances which create an immediate and clear threat of injury to the health and safety of individuals).
2. Use or possession of a gun, other weapon, or dangerous instrument in a physical altercation with staff or other students.

Detroit Bd. of Educ., Code of Student Conduct: Policy on Discipline and Student Rights art. VII, ¶¶ B (illegal behavior), C (violent acts) (Aug. 1984).

Under article VI of the Code, an expulsion is defined as “[t]he permanent denial of the right of the student to attend any school or program operated by the school district. Only the Board of Education may order the expulsion of a student. Although expulsion is usually permanent, the Board may establish

conditions under which the student may petition for readmission." Detroit Bd. of Educ., Code of Student Conduct: Policy on Discipline and Student Rights art. VI, ¶ C.