

School Social Workers and Student Strip Searches

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Introduction

Assuring the safety of students at all times is a critical requirement for each school setting; however, the approaches to maintaining a safe and secure learning environment may vary widely from school to school and across school systems. In some instances, schools have employed methods such as searching lockers and backpacks, and even strip searches for contraband such as drugs, cigarettes and weapons.

The case of *Redding v. Safford Unified School District #1*, 531 F.3d 1071 (2008), illustrates some of the issues related to security and discipline within the schools and highlights issues of concern to the social work profession as discussed in a friend of the court brief filed by the National Association of Social Workers (NASW) and its Arizona Chapter (*Brief of Amicus Curiae NASW and NASW, Arizona Chapter*, 2008). This Legal Issue of the Month article will review the *Redding* case as well as NASW's relevant public policies.

Background

The facts in the *Redding* case involve a middle school with a strict no-drugs policy, as many school systems have implemented, and allegations that a 13-year-old female honors student with no disciplinary record may have possessed an unauthorized ibuprofen. Based on an uncorroborated "tip" from another student who was already under suspicion for possessing the same medication, school officials required Savana Redding to submit to a strip search. After searching her backpack and pockets and finding nothing, the school officials directed the school nurse to search Savana's person which included removing her outer clothing and shaking out her bra and the crotch of her underwear, exposing her breasts and genitals. The student's parents were not notified before the search and she was crying. No pills were found. Savana and her mother filed a lawsuit against the school in federal court based on a violation of her Fourth Amendment right to be free from unreasonable governmental searches and seizures.

NASW Involvement

NASW filed an *amicus curiae* ("friend of the court") brief in support of Redding to provide the court with information about the traumatic impact of an intrusive strip search on a young adolescent. NASW's brief summarized the available social science literature and argued that the "research indicates that strip searches can cause severe emotional and psychological harm to children" and that courts have agreed with the social science research that school strip searches "are excessively intrusive and traumatic" (*Brief of Amicus Curiae NASW and NASW, Arizona Chapter*, 2008).

NASW's policy statement, *Juvenile Justice and Delinquency Prevention*, provides one basis for the Association's involvement in the Redding case. "NASW supports the fact that children and youth are developmentally different from adults and must be treated appropriately" (NASW, 2006). The NASW brief points out that these differences require courts to analyze the reasonableness of strip searches based on an understanding of the effects of such action on children and youth (*Brief of Amicus Curiae NASW and NASW, Arizona Chapter*, 2008).

The NASW amicus brief cited research indicating the social and emotional discomfort experienced by the typical adolescent who is experiencing rapid physical changes and heightened social awareness. The research highlighted some of the reported negative effects of intrusive strip searches on students, such as an increase in oppositional behavior, decreased concentration in school, lowered self-esteem, sleep disturbance, anxiety, depression, phobic reactions, and dropping out of school. In addition, the cited research indicated that searches "in which students are required to remove some or all of their clothing are 'generally not very successful and tend to cause the greatest emotional turmoil'" (*Brief of Amicus Curiae NASW and NASW, Arizona Chapter*, 2008, p. 8).

In addition, NASW's brief discussed the negative impact on the school environment and on students' relationships with teachers and other school professionals when staff is required to police student behavior in such an intrusive manner.

Federal Court's Opinion

The *Redding* case originated from a school in Arizona and the underlying legal complaint was filed in federal district court in that state. The district court granted the school's motion for summary judgment on the basis that the strip search was justified at its inception based on the nexus between Savana and the girl who accused her of possessing the ibuprofen. After additional legal proceedings, the Federal Court of Appeals for the Ninth Circuit eventually heard an appeal in an *en banc* review (i.e., a review by the entire court, rather than a smaller panel of judges).

The appeals court, in a 6-3 decision, ruled that under the circumstances the strip search of Savana Redding, a 13-year-old middle school student, was a violation of her Fourth Amendment right to be free from unreasonable search and seizure.

The controlling precedent in student search cases is *New Jersey v. T.L.O.*, 469 U.S. 325 (1985), a Supreme Court decision that established the Fourth Amendment standard that a search must be "reasonable under the circumstances." Reasonableness under *T.L.O.* requires a two-pronged analysis of whether the search was: 1) justified at its inception and 2) reasonably related in scope to the circumstances which justified the interference (*Redding*, p. 8433-8434, quoting *T.L.O.*).

The Ninth Circuit Court applied the *T.L.O.* standard to the Safford school's search of Savana and determined that while the initial search of her backpack and pockets may have been justified, the progression to a strip search was not. Upon finding no ibuprofen in Savana's bag or pockets, the only basis for proceeding to a more intrusive search was the uncorroborated statement of her "friend." The court compared the circumstances of Savana's case to that in other reported cases, and found that the facts in those cases (which found the searches unconstitutional) were even more favorable to school officials than in this case.

After the court determined that the strip search of Savana was not justified at its inception, it then reviewed whether the scope of the search conducted was reasonable. In analyzing the reasonableness of the scope the court looked at whether or not the search was “excessively intrusive in light of the age and sex of the student and the nature of the infraction” (*Redding*, p. 8433, quoting *T.L.O.*). In this portion of its analysis, the court relied on NASW’s amicus brief, and quoted portions of the text relating to the trauma experienced by adolescents who are strip searched and the negative impact on student’s behavior (*Redding*, p. 8445-8446).

The court also discussed the other options available to school officials to address the potential danger posed by the possible existence of the pills, such as sending Savana home. Finally, the court determined that the right of a 13-year-old girl not to be strip searched on the basis of an unreliable student informant’s accusation of possessing ibuprofen was clearly established at the time the search was conducted and thus, the school principal was not immune from liability. The school nurse and an assistant were not found liable, as they were deemed to be acting solely on the principal’s instructions.

Analysis and Conclusions

The Ninth Circuit covers a region that includes nine Western states (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington), Guam, and the Northern Mariana Islands. Thus, the scope of its decision is wide-ranging. It may also serve as a guide for other federal courts that analyze similar cases. The court’s opinion was methodically reasoned and demonstrated the link between social science research, policy and the development of definable legal standards.

Within a school system, social workers utilize confidentiality and the respect of each person as a crucial basis for developing the trust of students, enabling them to access needed psychosocial services. In addition, school social workers also may have a significant role in facilitating a social climate within the school that is conducive to learning by implementing conflict resolution programs, leading social skills groups, and addressing students’ individual needs.

Social work policy makers and school social workers should be alert to school policies and practices that demean children and that may compromise professional standards of conduct and take appropriate steps to enhance the school climate so that students are comfortable accessing health and mental health services. Connecting youths with health and mental health services in schools is an important link to promoting healthy habits and lifestyles as students emerge into adulthood. To the extent that intrusive or coercive methods are utilized to maintain order and safety in schools, the participation of social workers or other health professionals in such actions is likely to erode students’ trust in the helping professions and such tasks are better delegated to trained security personnel.

References

- Brief of Amicus Curiae National Association of Social Workers and National Association of Social Workers, Arizona Chapter (2008). Redding v. Safford Unified School District No. 1, 531 F.3d 1071 (2008).*
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