Random Drug Testing Violates Students' Rights

Do Children Have Rights?, 2011

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Government should be kept out of family decision-making and parental responsibility, including the issue of student drug use. Because drug tests for all students would violate many edicts set forth in the U.S. Constitution (such as the presumption of innocence and the need for probable cause before conducting searches), court and school officials used a pretense of safety to begin testing student athletes for drugs. And then the officials—including the U.S. Supreme Court—stretched the justification for drug testing to cover any student who engages in extracurricular activities. Random student drug testing is wrong; it does not work, and it should be stopped.

In America, where citizens are supposed to want to keep government out of their family decision-making, there should be no random drug testing at public schools. Yet some 19 percent of public schools engage in some form of student drug testing, the University of Michigan's Journal of School Health found in 2003. President [George W.] Bush proposes to spend $25 million in 2006 to fund more random drug testing. And the internationally minded U.S. Supreme Court thinks that drug testing in public schools is just swell.

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This is wrong. Parents who suspect their children of using drugs are free to test their kids. Hence, there is no need for schools to intervene—any more than there is a need for schools to set the punishment for children who disobey their parents' rules. Except that it is happening.

How It Started

It started when schools began testing athletes; there was at least the pretense of a safety argument for the tests—you don't want stoned kids leaping for a high fly [a tricky catch in baseball]. But by the time the U.S. Supreme Court ruled on said tests in 1995, the rationale for the tests had expanded. The [justices on the high court's] Big Bench supported testing of athletes to prevent the "increased risk of sports-related injury," but also because athletes are role models.

Court and school officials understand that it would be a coercive violation of privacy rights to force all public-school students to submit to drug tests. It goes against the presumption of innocence, unreasonable searches, the need for probable cause and other quaint notions found in the U. S. constitution. So those officials who want the government to play parent have come up with a new angle—require students who engage in extracurricular activities to agree to random drug testing. It's not mandatory, they argue, because students don't have to join clubs. And believe it or not, [in 2002 the U.S. Supreme court agreed].

The surest bet in America is: Once a bad idea is born, it only gets bigger.

Testifying before a House committee in February [2005], Bush drug czar John Walters argued that school "drug testing can be done effectively and compassionately." Its purpose, he explained, "is not to punish
students who use drugs, but to prevent use in the first place, and to make sure users get the help they need to stop placing themselves and their friends at risk.”

**It Does Not Make Sense**

[The problem] is: It is not clear how many students don't use drugs because they want to be in the chess club. Probably some students refrain. Still, University of Michigan researcher Lloyd Johnston noted in 2003 that there is "a serious question of whether drug testing is a wise investment," as it is not clear that it deters student drug use.

I don't think it is good policy to treat innocent students as if they might be guilty by making them pee in a cup if they want to be in debate club.

Meanwhile, there can be little doubt that students who use drugs say no to extracurricular activities because they don't want to say no to drugs. Testing for club membership, said Tom Angell of Students for Sensible Drug Policy, pushes these students "away from those positive atmospheres that study after study has shown are successful at keeping students away from drugs."

It's twisted: The very do-gooders who first lament that drug use consigns students to do poorly in school, now push for policies that marginalize students and guarantee that they will not have a full high-school experience.

And it doesn't matter what parents think. When the Supreme Court ruled in favor of testing for students who sign up for extracurricular activities in 2002, I asked the National School Board Association what it thought of a policy that required testing of students, even if parents took the responsibility. "The answer is that your child cannot participate in extracurricular activities," an official answered. "It's not negotiable."

Lori Earls, the parent of an Oklahoma high-school student on the losing side of the 2002 case, was outraged by the school's drug policy. She believed that other parents supported drug testing because it relieved them of the responsibility of their children's drug use, and ceded it to the schools. "They took away the parents' job," she noted.

And yet there is no outcry.

**Further Readings**

**Books**


**Periodicals**


• Michael C. Dorf "What Constitutional Rights Should Schoolchildren Have? Two Recent Cases Underscore the Ways in Which Children Are Not Simply Miniature Adults," Findlaw.com, March 23,


• Steph Kenrose "The Case for Comprehensive Sex Education in Schools," Associated Content, July 29, 2009.


• Diana Philip "Parental Involvement Laws: Why We Should Still Care That They Don't Work," Reproductive Health Reality Check, July 27, 2009, RHRealityCheck.org.


• Mallory Simon "My Bullied Son's Last Day on Earth," CNN.com, April 24, 2009.


• Ceil Than "Facing the Bully in the Computer: What Is Cyberbullying?" Children’s Rights of New York,


- Dan K. Thomasson "One Justice Failed to See the Obvious," *San Diego Union Tribune*, July 9, 2009.


- Ian Urbina "It's a Fork, It's a Spoon, It's a ... Weapon?" *New York Times*, October 11, 2009.


- Tiffany Ranae Widdifield "Should Kids in Middle School Have Access to Birth Control? Only If You Consider Yourself a Responsible Parent," Associated Content, October 18, 2007.


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