

ANSWER TO QUESTION NO. 11

This question seeks to have the applicant identify the law governing searches by school officials and reliance on anonymous tips, and then to discuss whether there existed a "reasonable suspicion" sufficient to justify the search of Grassmeyer's truck and the admission of the evidence discovered during the search.

Both the federal and state constitutions guarantee the right to be secure from unreasonable searches and seizures. *People v Smith*, 420 Mich 1, 18-19 (1984), quoting Const 1963, art 1, §11 and US Const, Am IV. The applicant should recognize that the Michigan Constitution in this regard is generally construed to provide the same protection as the Fourth Amendment to the United States Constitution, which is incorporated against the states under the due process clause of the Fourteenth Amendment. *People v Levine*, 461 Mich 172, 178 (1999). See also *Mapp v Ohio*, 367 US 643 (1961). Evidence obtained in violation of the Fourth Amendment is subject to suppression in state court. *People v Cartwright*, 454 Mich 550, 557-558 (1997).

As a preliminary matter, the applicant should address the presence of the liaison officer during the search. Although the Fourth Amendment generally requires police to obtain a warrant before conducting a search, police may search a vehicle without a warrant if there is probable cause to believe the vehicle contains evidence of a crime or contraband. *Pennsylvania v Labron*, 528 US 938, 940 (1996); *People v Garvin*, 235 Mich App 90, 102 (1999). Here, although there is no evidence of probable cause, the fact that the officer was present (and even forwarded the tip to the principal) had no effect on the search's validity as the officer did not initiate or even participate in the search. *People v Perreault*, 486 Mich 914 (2010); see, also, *Shade v City of Farmington*, 309 F3d 1054, 1060 (CA 8, 20902) (search constitutional "where school officials, not law enforcement officers, initiated the investigation and the search").

Unlike police officers, school officials need only a "reasonable suspicion" of an infraction of school disciplinary rules or a violation of the law when searching a student or his property (including a vehicle) on school grounds. *Perreault*, 486 Mich at 915 (Markman, J., concurring), quoting *New Jersey v TLO*, 469 US 325, 341-342 (1985); *People v Kazmierczak*, 461 Mich 411, 418-419 (2000). A "reasonable suspicion entails something more than an inchoate or unparticularized suspicion or 'hunch,' but less

than the level of suspicion required for probable cause." *People v Champion*, 452 Mich 92, 98 (1996), citing *United States v Sokolow*, 490 US 1 (1989).

The impetus behind the principal's search was an anonymous tip. Whether this tip was sufficient to constitute a reasonable suspicion depends on "the *totality of the circumstances* with a view to the question whether the tip carries with it *sufficient indicia of reliability* to support a *reasonable suspicion* of criminal activity." *People v Faucett*, 442 Mich 153, 169 (1993) (emphasis in original). A sufficiently detailed anonymous tip may provide a reasonable suspicion, especially where corroborating circumstances outside the tip are present. *Id.* at 170-172.

Arguably, the tip here was sufficiently reliable to support a reasonable suspicion. It identified four students whom the tipster had personally seen selling drugs on school grounds. The tipster was personally involved in the drug activity with one of these students (Weeden). Although greater detail was provided about Weeden and the search of his vehicle yielded no contraband, the tipster had also provided identifying details about the other students, including their names, grades at school, the vehicles they drove, and the types of drugs they sold. As for Grassmeyer, the tip additionally specified Grassmeyer's race and where he would sell drugs. Moreover, the corroborating circumstances concerning Grassmeyer pointed to the tipster's reliability. Specifically, the liaison-officer verified the students' vehicles, and additionally, the principal was aware before receiving the tip that Grassmeyer drove a truck and that he had been previously associated with drug activity. *People v Perreault*, 287 Mich App 168, 180-181 (2010) (O'Connell, J., dissenting), rev'd for reasons stated in Court of Appeals dissenting opinion, 486 Mich 914 (2010).

This information, taken as a whole, was sufficient to create a reasonable and particularized suspicion that Grassmeyer was selling drugs from the school parking lot. It was not based on a hunch and corroborating circumstances existed. Therefore, the search was reasonable under the Fourth Amendment and the circuit court should deny Grassmeyer's motion.