Danielle Van Dam

Negative brief by jascha Ely-hallwill



**Summary**:

Danielle Van Dam is an interesting application that serves as an emotional and impactful example. Affirmative will use this example to prove at least two things, we will discuss what those are later… but first let’s dive into what the context of the application is and what it is saying about the round.

**Affirmative general claim**:

In February 1-2, 2002. 7-year-old Danielle van dam was kidnapped, violated, and murdered in the late night by 49-year-old David Westerfield. No evidence was found of the crime, and police were initially lost with no hunch. It had seemed that Westerfield had committed the perfect crime.

Until later that month when an investigator named Mo Parga stumbled upon a major suspicion about a specific household, David Westerfield's. She had a hunch based off the awkward way his hose was laid out in his front yard, and immediately suspected him.

With only this suspicion, she walked up to Westerfield’s door, and lied to him claiming that they were just investigating all the house in the neighborhood. Westerfield welcomed her in for her “neighborhood investigation”

After a while, Parga found enough in order for her suspicions to raise. She asked David if he was willing to have a polygraph test. Westerfield was open to going to the station and doing one with them. In which he failed questioning.

Afterwards, Danielle’s blood and traces of her clothes was found over his house. And he was convicted of the crime. He eventually admitted to the murder.

**Application impacts**

With that out the way let’s understand what the affirmative is saying through this.

1. That Truth seeking needed to be valued higher than Individual Privacy in order to find the murderer
2. That justice is now served because of this
3. We can stop crime from doing this too.

Now, we will also go into some assumptions this application makes. These can be arguments, but much more philosophically rather than contextually.

**Application assumptions**

1. Police lying to people is ok.
2. The ends justify the means - it doesn’t matter that the officer lied, because they found the criminal
3. We will always find the criminal if we lie to citizens
4. His privacy was violated even though she was welcome into the house.
5. His personal consent doesn’t matter because idealistically truth-seeking was valued higher than individual privacy.
6. Investigators having no probable cause or search warrant (in the 4th amendment) is still ok, because we can lie to our citizens instead.

Alright with that out if the way, let's go into some contextual arguments.

Fred Dickey of the San Diego Tribune wrote an article in April, 2017 describing his interview with the investigator, Mo Parga, who was able to bring David Westfield in. And what we get, is a lot more specificity that deny this application’s “meaning”

*"How detective Mo Parga pinpointed Danielle Nicole Van Dam's killer - The San Diego Union-Tribune." The San Diego Union-Tribune - San Diego, California & National News. Web. <*[*http://www.sandiegouniontribune.com/news/columnists/sd-me-dickey-column-0501-story.html*](http://www.sandiegouniontribune.com/news/columnists/sd-me-dickey-column-0501-story.html)*>. (Accessed 1/10/19)*

So what we get are these arguments

1. **Plain view doctrine**

Usually a police officer will need a warrant and/or have probable cause in order to search or investigate, right? And if there’s warrant, or probable cause, then there wouldn’t be a violation of privacy, right? Well, it's more specific than that.

His privacy was suspended and not violated but not in the way you think. You see, it was the Plain View Doctrine (PVD) that came into play. What is PVD? Well the legal dictionary explains…

“The plain view doctrine allows a police officer to take any evidence of a crime or contraband that is found in plain sight during a normal observation. The police officer does not need a warrant in such a case to collect that evidence”.

“*Plain View Doctrine - Definition, Examples, Cases, Processes.” Legal Dictionary, 14 July 2017,* [*legaldictionary.net/plain-view-doctrine/*](https://legaldictionary.net/plain-view-doctrine/) *(Accessed 1/10/19)*

What this means that if the investigator found anything in plain view, then that means legal process comes into play, and his privacy is now treated like if it met probable cause. Do we know that Mo Parga had PVD? Yes, yes we do.

“She also notices a garden hose stretched across his lawn to the curb and back. It is just lying there. Mo studies it and thinks: A fussy gardener would never do this because it will make the grass underneath turn yellow. Why the rush? The wheels whirr in her head like fruit in the window of a slot machine. When they stop, they leave no doubt in her mind. It’s him. The guy who was in too big a hurry to rewind his hose – he’s our guy. She doesn’t yet know his name, but she’s convinced he’s the man who took the little girl”

*"How detective Mo Parga pinpointed Danielle Nicole Van Dam's killer - The San Diego Union-Tribune." The San Diego Union-Tribune - San Diego, California & National News. Web. <*[*http://www.sandiegouniontribune.com/news/columnists/sd-me-dickey-column-0501-story.html*](http://www.sandiegouniontribune.com/news/columnists/sd-me-dickey-column-0501-story.html)*>. (Accessed 1/10/19)*

The officer caught her masterful investigative hunch from a PVD point of view.

The impact here is that there was no privacy violation because it was treated just like probable cause under the 4th amendment.

1. **Consent**

Now, I want you to think about this. You have a police officer walk up to your door, ask to come in. It seems so simple, but what the affirmative is trying to say here is that the lie was the violation of privacy, but also that she went into his house and investigated with no warrant.

The thing is, once you let someone in, your expectation for privacy no longer exists. Take the Electronic Frontier foundation when they address this topic:

“The most frequent way police are able to search is by asking you for permission. If you say “yes” and consent to the search, then police don’t need a warrant. You can limit the scope of that consent and even revoke or take it back after the officers begin searching, but by then it may be too late.1 That’s why it’s better not consent to a search--police may drop the matter. If not, then they will generally need to get a search warrant to search.”

Simply this, David Westerfield let Mo in, a and didn’t refuse her or throw her out. His expectation of privacy is no longer existent.

Impact is that there’s no individual privacy.

Impact now, is that it's not a topical application.

*"Know Your Rights | Electronic Frontier Foundation." Electronic Frontier Foundation | Defending your rights in the digital world. Web. <*[*http://www.eff.org/issues/know-your-rights#1*](http://www.eff.org/issues/know-your-rights#1)*>. (Accessed 1/10/19)*

1. **The investigation wasn’t till after he was detained.**

Yes! The affirmative will leave out this key issue, the fact that he already consented to a polygraph test, then left his household. And after he failed the test, they begun investigation!

“She finally asks him to take a polygraph exam, downplaying it by saying others are doing it, and it just helps investigators clear people.

He agrees, so they drive to the northeastern police station on Salmon River Road. She waits while he takes the test. Later, when he’s told he failed, he says, “I don’t know why.”

“Westerfield’s denials quickly collapse. Investigators find Danielle’s blood and hair evidence in his house, the Toyota and the motor home.

He is arrested on Feb. 22, 2002, three days before his 50th birthday. Danielle’s body is found in rural East County near the Sycuan casino five days later.”

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What we see is that his individual privacy wasn’t violated because he wasn’t even in the household, and instead of his detention being based off the proof of the killing. It was based off a failed polygraph test! A totally different and untopical issue.

1. **Lying.**

This one is pretty simple. With Mo Parga lying to David Westerfield. We see two things.

1. That the affirmative can only affirm if police officers are lying to innocent and protected citizens.
2. A terrible precedent. This is horrifying! The thought of our government lying to us in order to protect us. What’s the use?

Impact this to the jugular in order for the judge to see the exclusivity, isolation, and the bad idea here. There’s no reason to vote for this application.

Hope this all works out! God bless and stay classy!