

Safe Communities ~ Safe Schools Safe School Planning and Law Related Issues

A Tool for Community Violence Prevention Efforts



Center for the Study and Prevention of Violence

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Issues

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Delbert S. Elliott
Jane M. Grady
Landa Heys
Rhonda Ntepp
Susan Williams

Contributing Editor
Matt Karzen

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Center for the Study and Prevention of Violence
Institute of Behavioral Science
University of Colorado, Boulder
1877 Broadway, Suite 601
Boulder, CO 80802
Phone: (303) 492-1032 Fax: (303) 443-3297
E-mail: cspv@colorado.edu
www.colorado.edu/cspv

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INTRODUCTION

Creating Safe Schools

Nationwide, schools, communities, parents and students recognize the continuing need to make schools a safe place – an environment where children can learn without fear for their safety. In the past few years, the available research on violence prevention has vastly increased, providing legislators with important information about effective violence prevention programs and practices. Nearly every state in the nation has enacted laws in an effort to improve school safety. In 2000, the Colorado legislature, for example, created a law mandating that every school has a safe school plan in place. These new laws have the potential for making real changes to the levels of school safety. However, laws can only be effective when they are understood. School administrators need to be aware of new and existing laws related to school functioning and safety.

In Colorado, the Safe Communities ~ Safe Schools (SCSS) Initiative has encouraged the collaboration between communities, schools and legislators in an effort to bridge the gap between effective policy and effective practice. The Center for the Study and Prevention of Violence (CSPV) developed the Safe Communities ~ Safe Schools Model with the understanding that school violence is not just a school problem, but a reflection of the larger community. The goal of the SCSS Initiative is to assist communities and schools in creating and maintaining a positive and welcoming school climate, free of drugs, violence, intimidation and fear – an environment strongly supported by the community where teachers can teach and students can learn. This comprehensive model can be a useful tool to educational institutions attempting to

fulfill requirements of new school safety legislation. The Safe Communities ~ Safe Schools Model is made up of five major components:

- Convene a Safe Communities ~ Safe Schools Planning Team
- Conduct Community and School Assessments
- Develop Strategies and Implement Violence Prevention Programs to Address School Safety Concerns (as revealed in the assessments)
- Establish an Interagency Social Support Team (ISST)
- Develop a Crisis Plan

These components, while focusing on safety concerns of schools and communities, can also raise legal questions that must be addressed. Attempting change without considering the legal ramifications can be counter-productive and lead to policies that are legally unsound. This demonstrates the critical need for educators to be aware of the implications of school safety practices, the need for involvement of the school district's attorney, and the importance of awareness of legislative changes and mandates.

Purpose of this Manual

This manual is designed to provide assistance to schools and the agencies with which they collaborate. The information that is provided is intended to help schools with safe school planning while drawing attention to the pertinent laws that affect the ability to plan effectively. Topics covered include Safe School Planning, Information Sharing, Searches and Seizures, and Accountability and Liability. Some of the information included is specific to the state of Colorado,

but the manual also provides a national perspective.

The information outlined can be used as a tool when considering the impact of legal issues on safe school planning efforts. In order to develop an effective and practical safe school plan, it is imperative for schools to include the school district's attorney in decision-making. It is also important to solicit the involvement of the community, including law enforcement, mental health agencies, businesses, parents, students and others when developing a safe school and community environment. A safe school is one that has the support and involvement of the community, because school safety is not only a school problem, but affects the well-being of the entire community.

SAFE SCHOOL PLANNING

Safe School Laws

Schools continue to be one of the safest environments for children. However, in light of several recent violent occurrences in schools across the country, there has been a move to change the laws to guard against such horrific events. Many of the new state laws require school districts to implement additional plans and agreements that foster a safe school environment. In Colorado, Senate Bill 133 is one such bill. This bill contains numerous policy implications for school boards including requiring inclusion of safety as a priority in the mission statement for the school district. It mandates that schools make school safety a priority. CSPV's Safe Communities ~ Safe Schools Model satisfies this requirement in that it provides a clear and concise plan for creating a safe school climate. The collaborative efforts of parents, students, school personnel and communities are required when adopting the safe school plan. The planning team, as defined by the SCSS Model, consists of all the above parties and serves as the driving force behind the safe school plan. To comply with the law, the plan must contain the following:

- A written conduct and discipline code
- Policy for annual building inspections to remove barriers to safety
- Policy for an annual written report regarding the learning environment to be submitted to the school district board (C.R.S. 22-32-109.1)

Many states have taken similar steps to require schools to take a proactive approach to school safety. In California, Senate Bill 334 requires K-7 schools to develop ongoing, comprehensive school safety plans

that address school-based crime, crime prevention, emergency services, sexual harassment, notification regarding dangerous pupils and child abuse reporting. This bill also requires the superintendent of public instruction and the attorney general to coordinate efforts to fund and implement violence prevention and school safety programs.

In Connecticut, House Bill 5317 enacted in 2000 requires a new family resource center to be located in public elementary schools, unless the Commissioner of Education waives the requirement. This center should offer comprehensive childcare, remedial educational and literacy services, support services to parents of newborns, and families-in-training programs. The bill allows school crisis response drills to replace fire drills once every three months. It also includes video surveillance devices in the list of allowable, general school improvements. For a more in-depth look at the laws in these states, as well as all others, please refer to the National Conference of State Legislatures, Select School Safety Enactments, 1994-2000, a summary of which is provided in Appendix C.

To better understand why a collaborative effort is important to creating a safe community and school climate, it may be helpful to consider the Safe School Initiative: An Interim Report on the Prevention of Targeted Violence in Schools produced by the National Threat Assessment Center (NTAC) in October 2000. This report illustrates the importance of creating a consistent, well-intended student discipline policy that improves the overall climate of the school. It is available on the Secret Service web site at www.secretservice.gov/ntac.

For this report, personnel from the Secret Service NTAC studied 37 school shootings, involving 41 attackers who were current or recent students at the school, and where the attackers chose the school for a particular purpose and not simply as a site of opportunity. Shootings that were clearly related to gang or drug activity, or to an interpersonal or relationship dispute that just happened to occur at the school, were not included.

The preliminary findings of this report indicate that the attacks were rarely impulsive. The attackers had an understandable and discernible process of thinking and behavior.

- Over one-half of the attackers formulated their plan two weeks prior to the incident and in almost all cases the attacker developed a plan prior to the attack.
- The majority of the attackers not only communicated their grievances prior to the attack, but also informed someone of their plan to attack.
- There is no accurate or useful profile of attackers. They ranged in age from 11-21. More than one-fourth of the attackers were non-white. They came from a range of family situations, academic performance levels, socio-economic backgrounds, social position (isolated to popular). Few of the attackers were diagnosed with a mental disorder prior to the attacks. In addition, fewer than one-third had histories of substance abuse.
- In over two-thirds of the cases, having been bullied was a stated reason for the attack.

The findings in the report imply that violent events may be prevented if treatment or interventions are provided to the child before a serious incident occurs. In

preventing violent events, plans to reduce bullying and harassment are critical, as are opportunities for students to communicate with adults about concerns and fears. A collaborative effort involving the school and community serves to channel as much information as possible into one location about concerns and potential violent events. The more information the school has regarding a student the more effective the recommended treatment or intervention will be.

A comprehensive planning process based on state laws and district policies will guide a school and community in developing a plan that is relevant and effective. The National School Safety Center suggests the following as a few primary strategies to help inform, persuade and integrate school safety and public opinion.

- Place school safety on the state and local education agendas.
- Develop a district-wide safe school plan.
- Develop a school safety clearinghouse for current literature and data on school safety issues. Key topics to include are school crime and violence, drugs, alcohol, discipline, attendance and dropouts, vandalism, security, weapons, youth suicide, child abuse and school law.
- Prepare a school safety public information brochure. Briefly explain the important issues and the specific role individuals and groups can play in developing schools that are safe havens for learning.

These ideas may help to facilitate planning and implementation strategies in local school districts.

Summary

With guidelines set by new legislation, schools have standards by which to create or measure effective school plans. Senate Bill 133 sets out the specific areas that must be addressed in school safety plans. This codification of specifics helps schools avoid the possibility of overlooking an important aspect of school planning and thus limits the potential for liability. Perhaps the most important revelation that has come from the new laws is the assertion that not only is collaboration needed for an effective safe school plan, but it is essential in changing and creating a safe school climate. The latest reports about school-based violence indicate that perpetrators of mass school crimes do not fit within any definable profiles; however, schools may minimize the risk of such incidents in the future by implementing effective safe school plans.

INFORMATION SHARING

Why Share Information?

Information sharing has recently received widespread attention as a way to provide better services to children and families at risk for violence. With the continuing focus on delinquency and acts of violence among youth, a balance between the privacy rights of individuals and the safety of others must be achieved. Government agencies are beginning to recognize that in order to prevent violence and intervene with troubled youth, all service agencies need to be privy to as much information as possible about the individual in question.

A coordinated effort among agencies would not only help to eliminate duplication of services, but would also inhibit the need for repeated intrusive questioning of individuals. Each agency would be able to create a comprehensive individualized plan of action based on what services other agencies are already providing. With shared information, agencies would have the necessary tools to make informed decisions about the most effective treatment or intervention for an individual. Information sharing is key to maintaining the safety of the individual and protecting others in the school and community.

Information Sharing and the Law

While there are a number of laws restricting some types of information sharing, some agency policies have been scripted around misunderstandings about the law. Many agencies feel bound by these policies and are unsure about when it is appropriate to share information. However, the law not only allows, but encourages, and in some instances requires, a certain measure of

information sharing under specific circumstances. In order to move beyond the status quo, it is important to review the existing laws regarding information sharing.

FERPA

Perhaps the most well-known law affecting sharing of information about students is the Family Educational Rights and Privacy Act (FERPA) of 1974. Also known as the “Buckley Amendment,” this law pertains to educational agencies and institutions that receive federal education funds through the U.S. Department of Education. FERPA mandates that parents must provide written consent before an educational agency may release personally identifiable information from a student’s education records, except in specified circumstances.

According to the U.S. Department of Justice (2000), those exceptions “may permit educational agencies and institutions to share information from educational records of at-risk or delinquent juveniles as part of a properly constructed information-sharing network.” The law provides that information may be shared without parental consent under the following circumstances. Information may be provided:

- to school officials where the student is enrolled or seeks to enroll.
- in connection with a student’s application for or receipt of financial aid.
- for the investigation of a criminal matter.
- for educational testing and research for the purpose of administering student aid programs (confidentiality must be maintained and records destroyed after use).
- to accrediting institutions.

-
- to parents of students over 18 years of age for income tax purposes.
 - to appropriate persons in emergencies.
 - under court order or subpoena.
 - in the case of legal action where education records are relevant.

FERPA does not prohibit a school from receiving information from any other agency. These exceptions allow agencies some important leeway in constructing an information-sharing network.

In 1994, amendments to FERPA opened the door for greater information exchange between educational institutions and local and state agencies. A key change was the increased power to the states to authorize certain kinds of information sharing.

Information may be shared if:

- It concerns the juvenile justice system and its ability (prior to adjudication) to effectively serve the students whose records are released.
- The officials to whom information is disclosed certify in writing to the information-sharing educational agency that the information will not be disclosed to any other party (except as provided under state law) without prior written consent of the parent of the student.
- Schools maintain a record within the education records of each student that indicates all requests for or access given to a student's education records, and that indicates the legitimate interest that each requestor has in obtaining this information.

Any agency that violates the disclosure limitations shall be prohibited from obtaining access to information from education records for a period of not less than five years.

The amendments of 1994 also allow schools to pass along disciplinary information to educators who have legitimate educational interest in the behavior of the student. The amendment says, "Nothing in this section shall prohibit an educational agency or institution from:

- Including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students or other members of the school community; or
- Disclosing such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student."¹

Finally, the original information-sharing requirements of FERPA remain intact. The new amendments add to, but do not replace, the previous FERPA requirements.

The changes to FERPA make it easier for educational institutions to be more proactive about sharing information while still protecting the privacy rights of students. FERPA is now viewed as an asset to agencies wishing to collaborate to provide better services and greater safety to students.

Summary

FERPA and other federal laws have influenced the creation of policies on information sharing. Many of the federal laws that have caused apprehension about collaboration also contain exceptions that make them more adaptable. Agencies interested in establishing an information-

¹ (20 USCS @ 1232g (1994))

sharing network should seek legal counsel to look in depth at the federal and state laws that may constrain, allow, or even mandate the sharing of information between government agencies.

How to Establish an Information-Sharing Network

There are many strategies and means of sharing information. Some of the less controversial ways include getting written consent, court orders, or by legislative mandate. A number of states and organizations have, in recent years, employed the use of interagency agreements, memoranda of understanding, or designations of information as “not confidential.” Each of these methods is useful and some less contentious than others. It is important that each information-sharing group be aware of which methods are legal and appropriate within its own state.

Besides determining the legal means of information sharing, there are numerous steps that should be followed to set up a network for exchanging information. Effective networks will consider:

- strategies for establishing and maintaining trust among agencies;
- maintenance of information security;
- appropriate partners to involve in the network;
- type of information to be shared by each agency and under what circumstances;
- establishing purpose and goals;
- focus on prevention and intervention;
- creating common policies and criteria; and
- knowing the law.

The information network should not only consider and utilize these strategies, but also should develop formal policies around these criteria.

Information Security and Trust Among Agencies

An important aspect of developing a successful information-sharing network is assuring all partners that any information disclosed will be handled confidentially and that the information will always be put to appropriate use. It is crucial that all members of the network trust each other to use the information correctly. An inter-agency agreement can be used for this purpose by serving as a contract between agencies. The agreement would specify the details of who would share information with whom, under what circumstances information would be shared, how the information would be used, and how the information would be stored.

The storage or maintenance of the information is another critical aspect of networking. Participating agencies must agree on a proper method for storing documented information. Possibilities include:

- assigning someone the job of maintaining written documentation and storing it in a locked file cabinet or office;
- having one representative from each agency maintain and store copies of documents at their respective offices (keeping in mind that the more copies of documents there are, the more opportunities for breach of confidentiality); or, if resources allow,
- creating a computerized information-sharing system.

Determining Partners for the Network

Those initiating an information-sharing network should consider who would be appropriate members of the team. It's important to remember that this group works with some potentially serious situations that require a high level of confidentiality and the ability to work together as a team. While it's important to involve all of the key players (law enforcement, mental health, social services, school counselors and the principal) it's equally important to keep the team manageable, effective and focused. This team draws on information from students, parents, teachers, community members and a variety of agencies, but the team itself should not include students, parents or teachers. The team should be made up only of those individuals trained to diagnose and deal with potential high-risk behavior. Members of this team must have the authority to make decisions.

Process of Sharing Information

A major purpose of the interagency agreement is to specify the details of the information sharing. The details include determining what information should be shared, under what circumstances, by whom and to whom. Each agency has a part to play, either for the information they can provide or for the expertise they represent. Roles of each organization vary, as there may be cases where agencies will be present as the discussions proceed, but may not be allowed to contribute information to the discussion.

Establishing Purpose and Goals

The purpose behind the sharing of information should be the network's focus. If all members are unified in purpose, there will be a smaller likelihood of misuse of information and a greater desire to work well with each other. It is the responsibility of the network to determine the purpose and goals of the group and of the information sharing. A sample statement of purpose could read: "In light of the evidence that schools and agencies can make more informed and effective decisions when presented with as much information as possible, the purpose of the Interagency Network is to better meet the needs of all youth by addressing the needs of at-risk/delinquent individuals through communication between the school, law enforcement and mental health agencies." A statement of purpose that is developed and individualized by the network will be the most useful.

Goals of the network should be specific and agreed upon by all members of the group. Goals might address areas such as:

- Serving as an information-gathering group to whom concerned students, teachers, parents and others can give information about youth who are causing problems or making threats.
- Maintaining a safe school and preventing emergencies by using information tips to monitor the actions of at-risk youth and to refer them to school or community services as necessary.
- Addressing the needs of youth already involved in the juvenile justice system by making appropriate services and intervention programs available to them.

Focus on Prevention and Intervention

In the past, most services have been targeted to youth involved in criminal activity. While these services are appropriate and necessary, another key responsibility of an information-sharing network is to share information in order to prevent criminal activity from occurring. There is a likelihood that the perpetrators of past school shootings may have been deterred if there had been a central location for students, teachers and parents to report information, and for law enforcement, mental health and school administrators to add their own agency's knowledge to the pool of information. Therefore, a focus on both intervention and prevention makes a more successful network.

Common Policies and Criteria

In order to provide consistency to the processes and decisions made by the information-sharing network, the network should develop a list of common definitions and criteria. For example, the network should come up with definitions for "at-risk youth," "delinquent youth," "serious habitual offenders" and criteria for designating youth as one of these types. This will prevent confusion and disagreements about methods and levels of services to provide.

Other common policies to determine include specific information to be shared, by whom, and under what circumstances; policies for protecting the confidentiality of the students; and policies for communicating with parents about the services being provided to their children.

Knowing the Law

Knowing and understanding current law is critical to the information-sharing process. Depending on the state, there may be laws that greatly facilitate the process, laws that mandate information sharing, or laws that inhibit the flow of information. The laws are constantly changing. The school district's attorney can provide useful information about changes to laws. If there are no laws in place to allow information sharing, policy-makers may need to sponsor legislation to allow interagency collaboration and information sharing.

Involvement of Policy Makers

Not only can policy-makers assist in passing legislation, but they can also help ensure that there is funding available to assist in interagency collaboration. In addition, the support of policy-makers can also provide a level of credibility that will be useful in helping the public understand and support this new collaboration.

Importance of Evaluation

As with any implementation, it is essential to monitor the effect of the information-sharing network. An evaluation can provide such information as changes that need to be made to better meet the needs of students; internal structure changes that can be made to allow the network to function better; and most important, to what extent the information-sharing network is reducing the levels of youth violence.

Evaluation results can be used for many purposes: to improve the functioning of the system, to increase the credibility of collaborative information sharing, to help garner additional legislation and funding, and to increase the effectiveness of the

program by documenting what is or is not working within the system.

Barriers to Success

It's crucial to anticipate barriers when developing a successful information-sharing network. Being aware of potential problems can prepare partnership members to deal with issues that arise. Three key barriers to an information-sharing collaboration are: lack of trust, agency incompatibilities and lack of funding.

There is a high potential for lack of trust between agencies in the information-sharing network due in large part to the restrictions associated with information sharing in the past. Many individuals fear that other agencies might misuse the information or that they might not keep it confidential. Other concerns may arise from a sense of ownership about information or from the desire to be the "lead" agency. Meeting often and developing an interagency agreement should help alleviate the worries associated with information sharing. As each agency's role is clearly defined in the agreement, there should be little room for distrust.

Incompatibilities between agencies may thwart a successful collaboration. Differences in definitions, practices, goals and organization of information can lead to a breakdown in communication between network members. In order to address these incompatibilities, it is crucial for agencies to take the time to agree upon definitions, goals and standardized practices.

Lack of funding can be another barrier to the success of the network. Computerized information-sharing systems can be very expensive, and the recurrent need for meeting space, supplies and staff time can

add up quickly. Because of this, the information-sharing network would do well to build up support within the communities, particularly among policy-makers. Key individuals and organizations can be important in helping the network reach its goals and assisting in raising needed funds.

Summary

Although it may seem that there are many steps involved in developing an information-sharing network, it is not difficult and is, in fact, already occurring in many towns and states. The strategies described are designed to ensure the success of the information-sharing network. The more planning and collaboration that go into setting up the network, the greater the likelihood that it will succeed at sharing information and help to decrease delinquency among youth.

Information Sharing and the Safe Communities ~ Safe Schools Initiative

One component of the SCSS Model – Establish an Interagency Social Support Team – represents the concept of an information-sharing network. The purpose of the SCSS Interagency Social Support Team (ISST) is to help improve the social climate of the school and address the needs of students at risk by identifying and managing individual student cases. The team should be made up of school and community professionals who have the training and experience necessary to identify and evaluate warning signs, explore the likelihood of possible dangerous situations, and to make collective recommendations for treatment or intervention programming. Using professionals in this capacity will relieve the burden placed on teachers to act as mental health workers, a job for which they are not trained, nor should they be expected to perform.

Because the ISST is an information-sharing team it should follow the strategies outlined in the preceding pages of this guide. The operation of the team, although customized by its member agencies, should function under an interagency agreement with the following responsibilities:

- ISST should serve as an information-gathering mechanism. The team should receive reports from students, school personnel, parents, community members and “hot-line” operators. A coordinator should be responsible for the team’s communication with the public.
- ISST reviews cases on a bi-weekly or monthly basis, but can also be called upon in emergencies. The team determines how to monitor and track cases.
- ISST determines whether to gather additional information and shares information between agencies on the team to ensure that all pertinent information is on the table.
- ISST creates an individualized plan for each case – classroom strategies, program recommendations, family interventions or legal interventions.
- ISST follows three levels of response: school-based response, involvement of parents and community mental health professionals, and court-ordered intervention and/or expulsion.

The development of an effective Interagency Social Support Team can be greatly enhanced by adhering to these procedures. The establishment of an information-sharing team such as the ISST may be a new concept for many, but is critical in order to make informed decisions about at-risk youth and their families.

Colorado Model Interagency Agreement

In collaboration with the Colorado Office of the Attorney General, CSPV invited key leaders of Colorado mental health, law enforcement and educational agencies to participate in an Interagency Agreement Task Force. The goal of the task force was to formulate an interagency agreement that could be used statewide as a model for sharing information by local networks or Social Support Teams. A Model Interagency Agreement was made available to the State of Colorado in 2001. The agreement is a tool for any agency interested in developing an information-sharing network. Although it is specific to Colorado law, the agreement can still be a model for other states in developing their own agreement around the laws of their state. The model interagency agreement can be found on CSPV’s web page at www.colorado.edu/cspv/safeschools.

Information Sharing Legislation in Colorado

The year 2000 was a milestone for Colorado in legislative acts aimed at reducing school violence. Two bills, House Bill 1119 and Senate Bill 133, both addressed the issues of school safety and information sharing. House Bill 1119 authorizes a greater exchange of information between schools and law enforcement agencies. Senate Bill 133 requires school boards to establish written policies for reporting criminal activity occurring on school property to the District Attorney or law enforcement agency. It, too, provides for the greater exchange of information between school districts and law enforcement. These two laws also require boards of education to cooperate with law enforcement and encourage, wherever possible, the development and implementation of written

agreements with law enforcement officials, juvenile justice system agencies and social services.

According to Formal Opinion No. 00-7 of Colorado Attorney General Ken Salazar, the following are highlights about information sharing in Colorado, based on House Bill 1119 and Senate Bill 133:

The following information <i>must be provided</i> to schools:	Who is responsible:
Basic identification information whenever a student is charged with committing a crime of violence or unlawful sexual offense (for students between 12 and 18 years of age only)	Prosecuting Attorney
Arrest and criminal records information whenever a delinquency petition is filed in juvenile court alleging the following: any felony, any class 1 misdemeanor and other specified state offenses	Prosecuting Attorney
Notice whenever a student is convicted or adjudicated for an offense involving a crime of violence, illegal use of controlled substances (for students under 18 years of age only), or unlawful sexual behavior (for students between 12 and 18 years of age only)	Courts
Notice whenever a student is convicted or adjudicated for a crime that would result in mandatory expulsion proceedings under Colorado law (i.e., while on school grounds, possessing a dangerous weapon, sale of drugs, robbery, or first or second degree assault)	Courts
Notice whenever a court makes school attendance a condition of release, probation or sentencing	Courts

Upon request of school personnel, law enforcement may share with school authorities records or information on students maintained by the judicial department or any agency that performs

duties with respect to delinquency or dependency and neglect matters. The information must be required to perform the school official's legal duties and responsibilities.

Shared information or records may include:	Who is responsible:
Threats or any other incidents perpetrated by a student and deemed to be a public safety concern by the agency possessing the information. Medical and mental health records are exempt.	Courts, Police, Prosecuting Attorney, Probation Officer, Social Services, Corrections
Records, other than medical or mental health records, concerning the following: Adjudication or conviction records of a child for a misdemeanor, felony or municipal offense; felony or misdemeanor deferred prosecution; felony or misdemeanor deferred adjudication; felony or misdemeanor diversion	Prosecuting Attorney, Police, Courts, Probation, Social Services, Corrections
Court records in juvenile delinquency proceedings	Courts
Probation officer, law enforcement and parole records	Corrections facility, Police, Prosecuting Attorney, Probation Officer

Schools must automatically disclose the following information to the appropriate law enforcement agency:

Information to be disclosed:	Reported to:
Information which, under a reasonable grounds standard, relates to the possible abuse or neglect of a student	Department of Social Services and Local Law Enforcement
Reports of incidents on school grounds involving assault or harassment of a teacher or school employee	Law Enforcement
Instances on school premises of damage by a student to the personal property of a teacher or other school employee	Law Enforcement
Notification of failure of a student to attend school, if school attendance is a condition of that student's sentence or release	Supervising Court or Judicial Officer
Information concerning any criminal offense for which the school has reasonable grounds to believe has been committed by a student or adult on school grounds or at school-related activities	Law Enforcement

Upon request from law enforcement, and when certain statutory conditions are met,

school officials *must* provide the following information to law enforcement agencies:

Truancy, disciplinary and attendance records
Personally identifiable student information, under the following circumstances: <ul style="list-style-type: none">• with consent of the student’s parents, or• with the consent of the student, if the student is over 18• if the information falls under the category of “directory information” (i.e., the student’s name, address, telephone number, etc.), if such information has been designated as directory information by the school• if the records are of the school’s own “law enforcement unit”• in an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals

The most appropriate means of sharing information, as suggested in both laws, is through the use of an interagency agreement. An interagency agreement developed within the setting of an information-sharing network, or Social Support Team, can be much more productive than one that is developed outside of a collaborative network. Through the network, the information-sharing requirements can be thoroughly discussed, formalized and put into practice in a setting that promotes confidentiality, yet encourages collaboration to address student needs in a timely manner.

Information Sharing: A National Perspective

Colorado is not the only state addressing information sharing. Currently, 42 states have passed legislation to improve information sharing between schools and juvenile justice agencies, and the number continues to increase. The levels of information that can be shared vary greatly from state to state, depending on state laws. As Julie Thomerson notes in *School Violence: Sharing Student Information* (2001), current state strategies break down as follows:

- 18 states have authorized school staff to report violent or disruptive incidents to law enforcement officials;
- 17 states permit access to juvenile or school records in order to maintain safety and provide better services to at-risk youth; and
- 28 states allow law enforcement or juvenile justice officials to report arrests or adjudications to the student’s school.

Some examples of state-specific policies include:

- **California** – Laws encourage schools, law enforcement agencies and juvenile justice agencies to work together to determine the best placement for youth offenders, but access is limited to those working to meet the student’s needs, such as educators and juvenile justice employees (Thomerson, 2001).
- **Florida** – Law provides for the integration of substance abuse and mental health service with juvenile justice, child protection, school and health care systems. It prohibits the use of juvenile records for anything other than employment background screening (Thomerson, 2000).

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- **Missouri** – Missouri has extensive information-sharing laws. As of 2000, Missouri law required schools to report to law enforcement any student possessions of weapons or controlled substances on school property. Laws authorize school districts to disclose education records to law enforcement and juvenile justice authorities if necessary to serve notice to the juvenile prior to adjudication. The law also allows juvenile divisions of the circuit courts and Departments of Social Services, Mental Health, Health, and Elementary and Secondary Education to share information regarding youth for whom they provide services, subject to confidentiality requirements (Thomerson, 2000).

These are just a few examples of the diversity of information-sharing laws and policies nationwide. Virtually all states have enacted laws to foster the exchange of information between agencies. The National Conference of State Legislatures has compiled a listing of select state legislative enactments from 1994-2000 regarding juvenile record sharing. Highlights of this listing are available in Appendix B.

Summary

Despite the concerns associated with the sharing of information, many agencies in many states are exchanging information in productive ways. Laws are becoming more lenient around collaboration and sharing of information and people are recognizing the need to be informed in order to prevent violence. Information sharing through the use of a Social Support Team or information-sharing network can provide a safe, collaborative environment where goals, decisions and methods of communication can be arranged. It also provides a context in which confidentiality is expected and student cases can be openly discussed in a healthy and secure environment with a goal of meeting the needs of at-risk students. Information sharing is not an assault on confidentiality. When used appropriately, it can be a critical tool for providing services for at-risk students and for maintaining the safety of students and school personnel.

SCHOOL DISCIPLINE POLICIES

The discipline code is the foundation for appropriate behavior and positive school environment for both students and school personnel. Typically, staff behavior that complies with the discipline code affords protection against liability. The Safe Communities~Safe Schools Planning Team evaluates the school discipline code and provides information to students and school personnel about the meaning and implementation of the policies. The SCSS Social Support Team determines what methods and procedures to use when faced with the need to intervene with a disruptive student. The SCSS Model encourages team decision-making because evaluation of the situation will be more comprehensive and the resulting recommendations more appropriate.

Creating a School Discipline Code

For years Colorado law has required school districts to implement a written discipline code that clearly states the expectations for all students and the consequences for violations. The SCSS Model suggests this task be done with the help of the entire planning team. Input from students, parents, faculty and community provides a more complete and versatile code. It is imperative that the discipline code be enforced consistently and, above all, fairly. The more buy-in the school is able to generate from faculty, students, parents and community members, the more effective the code will be. The Colorado Attorney General's *Colorado School Violence Prevention and Student Discipline Manual* has highlighted the following areas the discipline code must address:

- A general policy concerning student conduct, safety and welfare.
- Policies for students who are disruptive in the classroom, on school grounds, in school vehicles or at school events.
- A method for expelling students who have been disruptive three times or more during a single school year.
- Policies surrounding the expulsion or suspension of a student.
- Prohibition of dangerous weapons, drugs or other controlled substances at school.
- Dress code.
- Bullying policy.
- Written policy on searches and seizures.

The discipline policy must be distributed to all students and posted in the school.

Protection for School Staff

The protection of school officials and staff has become a priority for legislators. It is mandatory that schools adopt policies and strictly enforce them to protect school personnel. Although students have rights, those rights do not supercede those of adults. Schools must take steps to safeguard their staffs against physical danger and harassment from students. The school staff must be given avenues by which to file complaints. The law has allocated specific sanctions for students who harm school staff:

- Minimum of three days of suspension.
- Extended suspension or expulsion where there has been physical or property damage.
- In addition, the District Attorney must be informed of any incidents involving harm to school staff, the result of which

could result in the filing of criminal charges.

Protection against Liability for School Staff

An ever-increasing concern for many teachers and staff in the aftermath of school violence situations is the issue of liability. It is important for school personnel to realize that their good faith effort to comply with a disciplinary code will protect them from liability. In order for this to occur, teachers and staff must be well informed of the provisions of their disciplinary codes. It is an individual's responsibility to read and understand the code. It is well advised for schools to provide training and instruction to all school personnel on the current discipline code, and to ensure that codes are clearly written so that all personnel and students know the expectations for behavior and consequences of misbehavior. This will help to assure that staff is able to enforce the code.

In the case where a school staff member is faced with criminal charges, the demonstration of a good faith effort to comply with the code may lead to the dismissal of all charges. In fact, where a staff member can show that she acted in good faith, she can't be held liable in nonrenewal contract or disciplinary proceedings. In addition, acting in good faith in compliance with the district disciplinary code will protect school staff from child abuse charges. Furthermore, if the district board of education finds the staff member acted appropriately in providing affection or emotional support this will also serve as a defense to allegations of child abuse.

Another concern is the possibility of suit for the use of physical intervention against a student. School staff who act within the

guidelines established by state law contained in their disciplinary code will be protected against civil liability. With regard to criminal liability, as long as the staff member used a reasonable amount of force with the intention of maintaining discipline, protecting or promoting the child's welfare, he or she will be safeguarded against criminal prosecution for child abuse. The following factors will be taken into consideration when determining whether the force used was reasonable.

- The child's age and condition
- The misconduct restrained
- The degree of harm done to the child
- Other relevant factors.

Restraint may be used in cases of emergency when alternatives have failed or have been deemed ineffective. Strict guidelines for restraint must be in place and followed. Appropriate safety measures, staff training and thorough documentation are essential.

Some suggest that individual schools draft a more specific and clearly defined policy on the use of physical force, detailing the possible circumstances and appropriate behavior in the face of such circumstances. For example, when confronting a student always have more than one teacher or school official present to discourage the student from resisting or becoming physically aggressive. However, schools should confer with their school district's attorney to verify that the policies on physical force are appropriate.

The Colorado Attorney General's *Colorado School Violence Prevention and Student Discipline Manual* provides a checklist for reasonable and appropriate use of force:

- Follow the district's conduct and disciplinary code.

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- Use the minimum level of force necessary.
 - Isolate the student from peers.
 - If possible, don't confront the student alone.

Disruptive Students

The school must now provide an avenue for teachers to remove disruptive students from their classrooms. After only one removal from the classroom, the disruptive student may be required to follow a behavior plan developed to address his or her needs. The law now requires a behavioral plan for the student after the second removal from the classroom. If the student is removed from a class a third time, a permanent suspension from the classroom is permitted. However, if it is determined that such drastic measures are necessary, the student must be given *due process*. In other words, the student's parent must be contacted and given the opportunity to be present at the removal hearing. (Note: federal laws concerning students with disabilities must also be taken into consideration when creating and implementing disruptive student discipline policies.)

Expulsion and Suspension Policies

There is much discussion regarding zero tolerance policies in schools these days. Although the law recognizes the need and grants permission for the expulsion and suspension of students under certain circumstances, many factors should be considered when drafting these types of policies. However, there are certain behaviors for which school must show *no* tolerance in order to protect its students.

Guns or Weapons

The law makes it imperative that schools enforce strict procedures for students who bring guns to schools. In 1994, the United States Department of Education issued guidelines on the federal Gun-Free Schools Act to state governors and chief state school officers. This law was enacted as part of the Improving America's Schools Act of 1994 (PL103-382). It requires states receiving funding under ESEA to have a state law requiring the minimum of one year expulsion from school for bringing a gun to school. Colorado enacted such a law in 1993, which requires mandatory expulsion for having a gun at school. Colorado's law even allows other school districts to refuse to accept students expelled for this offense.

False Reporting

When developing literature for parents and students, schools should indicate that it is a felony to make a false report to any person that a bomb or any harmful, radioactive or chemical substance has been placed in a public/private building or vehicle. Section 18-8-110, C.R.S. (2000). Public/private buildings and vehicles include school grounds or buses. These laws are extremely important for students and parents to know. By informing students and parents of the gravity of false reporting, schools may be able to avoid such threats.

Dress Codes

While most school districts have student dress codes, the law now requires it. The law does not specify what the dress code must contain. We recommend that each school district develop its own policy after receiving community, parent and student input.

The discipline code may include restrictions against “gang-related activities in the schools, on school grounds, in school vehicles, or at school activities or sanctioned events.” Section 22-32-109.1(2)(a)(VI), C.R.S. (2000). The subject of restricting “gang” paraphernalia or other disruptive types of symbols, tattoos or garments is a delicate one. The wearing of symbols or tattoos, which can be interpreted as “symbolic speech” can fall within the protections of the First Amendment. However, it is safe to say that a school may restrict a student’s symbolic speech when that speech materially and substantially interferes with the effective operation of the school, or when it invades the rights of others. *Tinker v. Des Moines Independent School District*, 393 U.S. 503, 513 (1969); *Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986). The Colorado Attorney General’s *Colorado School Violence Prevention and Student Discipline Manual* provides seven steps to drafting a school gang symbol restriction policy:

1. The school should first objectively decide whether there is, in fact, a need for such a policy. If there is no need then the policy should not be created.
2. Document the basis for the need. Any violent or disruptive incidents caused in whole or in part by the display of gang symbols should be recorded.
3. Clearly articulate the purpose of the restriction. Use examples of incidents that have occurred in the past.
4. Distribute copies of the policies to students and parents prior to implementation and then provide a clearly defined process for punishment due to violations.
5. Define clearly all pertinent terms. Words such as “gang,” etc., must be specific. If they are too vague they will be held unconstitutional.

6. Maintain flexibility because gang symbols, etc., can change over time. Make sure the policy is reviewed and updated annually.
7. Apply your policy neutrally and indiscriminately.

Bullying

Discipline codes must also address the inappropriateness of bullying. Bullying in its many forms has been determined to play a major role in school climate. Certain behaviors commonly associated with bullying are actually criminal. Menacing, harassment and assault are all criminal violations. Colorado has recently passed bullying legislation that now requires each school district to include a specific policy in the district conduct and discipline code concerning bullying prevention and education.

“SB 80 is about creating safer learning environments and better citizens,” Attorney General Ken Salazar said. “Colorado cannot meet high standards of student achievement unless a safe school environment is created where students feel safe and learn how to prevent bullying both as victims and perpetrators. Passage of this bill is an important step toward bringing bullying out of the shadows of school hallways and playgrounds and establishing its prominence as a threat to the safety of our children. The good news is that we can dramatically reduce the level of bullying in schools with proven anti-bullying programs.”

The Center for the Study and Prevention of Violence has fact sheets addressing programs and procedures on the best ways to address this important issue.

Summary

It is clear the law now provides protection where it had not before and poses additional requirements for effective disciplinary codes. An effective disciplinary code is one that clearly outlines the expectations of the school for students, staff and parents. The more that affected parties take part in the creation of the disciplinary code, the higher the assurance of compliance and usability. It can not be over-stated that the school's interest is best served when the disciplinary code can function as a foundation for addressing its needs.

SEARCHES AND SEIZURES

The term “search and seizure” sounds like a legal lion. However, it can play a large role in school climate in two ways. First, if students and staff do not feel safe because weapons or drugs are readily available in the school, the climate of the school can be one of fear and chaos. The ability of school officials to search for and seize weapons, illegal drugs or items that violate school policy, is crucial to their ability to create a safe climate. However, secondly, if students and staff feel as though they are in a prison-like environment due to undue privacy invasions, a feeling of powerlessness and lack of respect can permeate the climate. Students “do not shed their constitutional rights at the school-house door.” *Goss v. Lopez*, 419 U.S. 565. Therefore, a full understanding of search and seizure and its boundaries plays an essential role in developing a positive school climate. Teachers and administrators will feel comfortable using this tool if they understand how to conduct a responsible search and know that responsible actions will be safeguarded from future liability.

It is always wise to proceed with the least intrusive method possible before resorting to more invasive methods. The administrator should try to obtain the student’s voluntary cooperation whenever possible. The student should be informed about what the administrator is seeking and be given an opportunity to voluntarily relinquish the item. If the student is hesitant, then the administrator should fully inform the student of his suspicion and indicate that the student could avoid the embarrassment of being searched if he or she simply relinquished the sought-after item.

Colorado law requires all school districts to establish written policies concerning

searches on school grounds. The Colorado Attorney General has disseminated a manual entitled *Colorado School Violence Prevention and Student Discipline Manual*, August 2000. This manual serves as a comprehensive tool for the planning team when drafting these policies. The manual also provides sample forms to be used in documenting searches and student consent forms to searches. However, it is important for the planning team to remember that the more climate-friendly the plan is the more likely it will serve the goals of the team. The planning team should have the school attorney or local prosecutor review and approve its search and seizure policy. The Center for the Study and Prevention of Violence and its partners can also serve as a resource for obtaining sample search and seizure policies.

When creating a climate-friendly search and seizure policy, it is important to understand two types of searches, the specific suspicion search and the random generalized search.

What is a Search and Seizure?

When a school official seeks to examine areas in which a student has a privacy interest (items not in open view), this constitutes a search. A seizure occurs anytime a school official takes property from a student or restricts a student’s movement. House Bill 99-1090 affords “Protection of Persons from Restraint.” This new provision details the law regarding schools’ power to restrain students. The statute specifically notes that holding a student for less than five minutes in order to protect the student or others is not considered restraint. The use of “time-out” is not considered restraint of a student and is

permissible. Restraint is considered to be any method used to limit a student's movement, including bodily force, mechanical devices, chemical agents and seclusion.

It is important that policies authorizing the use of "time-out" and restraint are clearly defined in the discipline manual so that they can be administered consistently and appropriately. The procedures for disciplining special education students or students with emotional or behavioral issues should be tailored to best serve their special needs.

When to Search

A search may only be administered when the school official has reasonable suspicion. Reasonable suspicion means that one has facts that a reasonable person (most people) would agree indicate suspicion of a violation of the discipline code or law.

In order for the search and seizure to be legally valid, the school official must reasonably suspect the student of a particular violation, be looking for evidence of that specific violation, and look in a place where that type of evidence would likely be found. Consider the following Texas case, *Coffman v. State* (1989). In this case, the assistant principal of a public school observed a student in the hallway of the school between classes. The student did not appear to have a pass to be out of class. The administrator knew this student and had reprimanded him on several occasions for violation of school policy. The student was asked to stop and produce a pass, and he refused. After questioning the student, the administrator discovered that the student was coming in from the parking lot, where many recent unresolved thefts had occurred. The administrator then searched the student's bag and found a concealed weapon. The

court approved the search and noted the following:

Based on appellant's prior propensity to get into trouble, coupled with the fact that he was in the hall without a pass and returning from an area where thefts had previously occurred, [the principal] formed the very reasonable suspicion that appellant was involved in something illegal, or had violated school rules, and was trying to hide it. We find [the principal] acted properly by stopping appellant and asking him for a hall permit. We also find the events that followed [the principal's] routine questions justified appellant's prompt detention and subsequent search of the bag. (*Coffman v. State, 1989*)

How Do We Search?

Although it is essential for administrators and teachers to be able to conduct searches, for the sake of a positive climate and to shield them from litigation, the guidelines for a search must be clear, concise and followed by all school officials. The Colorado Attorney General's *Colorado School Violence Prevention and Student Discipline Manual* provides an in-depth look at the processes for conducting a search.

- First, note that a suspicion search is not a "fishing expedition." The examiner must have a concrete idea of what he or she is searching for.
- The search should be conducted as quickly as possible. Logic must govern the search. The examiner should begin searching where the object is most likely to be found and limit the search only to the initial objective. For example, an examiner should not search the student's

pockets if he or she is searching for a stolen backpack. Nor would the search for drugs in a student's pocket justify reading a note found in the student's pocket.

- School officials have the right to use force to conduct a search, but only when necessary to maintain order or prevent the destruction of evidence. Also, informing the student of the possibility of the use of force is encouraged, thus giving the student a chance to submit peacefully.

The Colorado Attorney General's *Colorado School Violence Prevention and Student Discipline Manual* provides the following guidelines for searching students:

- Remove the student to a private area. Personally escort the student to be searched to the office. Maintain visible contact with the student from the time they are retrieved from the classroom to the time they reach the search location to ensure they do not abandon contraband. At least two staff members should escort the student to provide extra support in monitoring so that the student does not flee or resist the school officials. Stops along the way to the search location should not be permitted.
- Always watch the student's hands. If a student is suspected of having a weapon or drugs, the student may try to discard it if the opportunity arises. This can occur from the time the student is told to accompany a school official to the office up to and including the time when the student is actually in the office and being searched. Never allow a student to follow behind a staff member where the student cannot be observed.
- Always have another school official present as a witness from the inception of the search until the evidence is properly secured. This will strengthen any case brought against the student and protect the searcher from charges of improper conduct.
- Student searches should be conducted and witnessed by school officials of the same gender as the student. This will help protect the rights of the students and protect the searcher from claims of impropriety.
- Searches should be conducted in a discreet manner to cause the least amount of embarrassment possible. Only the searcher, witnesses and student should be present. A student should never be searched in front of another student. Student searches should be conducted in a private area where there will be no interruptions.
- Tell the student what you are looking for and give him a chance to surrender the item. Before beginning the search, ask the student if he or she has anything in their possession that violates the criminal law or school rules. If they hesitate, tactfully advise them that you have reasonable suspicion that they do possess such an item. Further explain that you plan to conduct a search, and that it would save everyone time and unnecessary embarrassment if the student cooperates.
- The student should first remove all outer clothing such as coats, sweaters, hats and shoes. The student should not be required to remove inner layers of clothing in direct contact with the skin, unless school officials have authorization from the school district to conduct strip searches and justification to conduct a strip search. The student should remove all objects from his or her pockets. These items should be laid aside until the student search is complete. Conduct a pat down search on the side of the student's body working

from top to bottom on each side. Do not stop if contraband is found. Continue until all places have been searched. Next, turn attention to items that had been set aside. Items that could conceal contraband should be searched.

Remember: The scope of the search must be reasonably related to the circumstances that justified the search and the item sought.

- Seize any item that violates a criminal law or school rule or provides evidence of a criminal law or school rule violation. Each seized item should be placed inside a separate sealed envelope. The envelope should be marked with inventory information including a description of the item seized, date and time of the seizure, source of item, name of the person who seized item, and name of the person who witnessed the search. Seized evidence should be secured in a locked storage area with restricted access. Where a potential criminal violation is involved, the seized evidence should be transferred to police in a timely manner.

It may be helpful to provide the administrator who is conducting the search with a simple checklist in order to facilitate an appropriate search. A checklist from the Colorado Attorney General's *Colorado School Violence Prevention and Student Discipline Manual* has been provided in Appendix A.

It is natural for school officials to be concerned about whether they have actually formed a "reasonable suspicion" in order to justify a search. In cases such as *Coffman v. State* the administrator's actions were reactive. The student in that case had already exhibited behavior that constituted a violation of school policy when he was unable to produce a hall pass. However, in

cases where the administrator wishes to conduct a search based on a tip or on what may seem a mere hunch, the lines between reasonable suspicion and mere speculation become blurred.

In the 1990 Massachusetts Supreme Court case, *Commonwealth v. Carey*, the court decided reasonable suspicion of wrongdoing "is a common-sense [conclusion] about human behavior upon which 'practical people' – including government officials – are entitled to rely." In this case two students reported to the principal that another student had shown them a gun. The principal decided the tip about the gun was reliable because of prior knowledge that the accused student had just recently been in a fight. After searching the accused student's person and immediate surroundings and finding nothing, the principal then searched his locker where, in fact, a gun was found.

In contrast to the *Carey* case, the California case of *In re William G* (1985) held that the administrator acted on a hunch and did not have enough evidence to form *reasonable suspicion*. Here the administrator observed two students walking the commons area of the school. He noticed one of the students carrying a bag with an odd looking lump in it. While he was questioning the students, he determined that they did not have a class at that time. However, the administrator noticed the student with the bag seemed to be trying to conceal the bag behind his back. He then required the student to come back to his office where he searched the student's bag, finding: four baggies of marijuana, a metal gram weight scale and cigarette papers. The court justified its decision by contending the following:

[The student's] "furtive gestures" in attempting to hide his calculator case from [the principal's] view cannot,

standing alone, furnish sufficient cause to search...If a student's limited right of privacy is to have any meaning, his attempt to exercise that right—by shielding a private possession from a school official's view—cannot in itself trigger a "reasonable suspicion." A contrary conclusion would lead to the anomalous result that a student would retain a right of privacy only in those matters that he willingly reveals to officials. (*William G., 1985*)

Therefore, it is imperative that school staff base their decisions on whether to search a student based on conclusions drawn from real facts that constitute a violation of the law or school rules. The Center strongly encourages that all staff be fully trained on the appropriate ways to proceed when conducting searches and seizures. The collaborative effort of a planning team is essential when determining the most effective way of communicating to staff on how and when to search. The collaborative effort is more likely to produce the desired comfort level for the staff in using this tool. In addition, parents, students and community members should be informed of the procedures. If those most likely to be involved in these matters are informed about how the searches will be conducted and the method by which these procedures were determined, resistance to these policies is less likely.

Car Searches

Peering through the window of a student's car does not constitute a search. A search occurs only when a school official actually breaches the interior or trunk of the car. The student's car on school property may be searched as long as there are reasonable

grounds to believe that the items connected with the violation would probably be found there. Informing both students and parents of your search and seizure policies is a good idea. By doing so, you promote a positive school climate. If students are not surprised by the school's approach then they will less likely feel singled out or unfairly violated. Consistency and nondiscriminatory administration of these policies will also serve the same goal.

Consider the following Colorado car search case, *People in the Interest of P.E.A.* (1988), where the court found that the search was appropriate. Here the principal was told that two students were selling marijuana at school. After the principal conducted a search of the accused student's person, lockers and bags, and finding nothing, the principal decided to search the car of another student with whom the accused student rode to school. The security guard questioned the owner of the car as to whether there were illegal items in the car. The student responded in the affirmative but stated that it belonged to the other two students who rode with him. A search revealed a duffel bag containing marijuana.

The court stated:

.....Considering the limited ways the students could have transported the marijuana to school and concealed it on school grounds and the magnitude of the threat of having marijuana sold and distributed at the school....the connection between [the students] establishes the articulable facts and concomitant rational inferences necessary to create a reasonable suspicion.... (*People in the Interest of P.E.A., 1988*)

Many find it difficult to draw the line on how far officials can investigate or the appropriate “scope” of an investigation. The following is an example of school officials overextending the appropriate scope of an investigation. Although *In re Dumas v. Commonwealth* (1986), in our opinion, reaches the wrong conclusion, it is effective in providing guidance to schools on this issue.

In this case, a student was accused of possessing and selling cigarettes to other students on campus. An administrator searched the student and seized the cigarettes. The administrator then proceeded to search the student’s locker where additional cigarettes were found along with marijuana. The court decided that the administrator was correct in searching the student and then seizing the cigarettes found on the student’s person. However, the court felt that it was unreasonable to expect that the student would have additional cigarettes in his locker and the administrator should not have then proceeded to search the student’s locker.

This conclusion, which is inconsistent with the majority of cases pertaining to this issue, seems incorrect to us. It is not illogical that a student who had cigarettes on his person would also have cigarettes in his locker. Therefore, the simple fact that he possessed cigarettes on his person could create a *reasonable suspicion* that this student may also have additional cigarettes in his locker.

However, a clearer understanding of why this court decided this case in the manner that it did can be found in the concurring opinion. It is also here that an important lesson for schools can be learned. The concurring judge explained that because the school did not have policy to restrict the contents of its lockers, nor did it notify

students that the use of the lockers would be subject to random or periodic inspection or search, the officials were precluded from searching the student’s locker. The judge also noted other students in similar circumstances were not subjected to locker searches. The inconsistency of the officials’ actions further illustrated the inappropriateness of the search.

The judge, however, emphasized that schools have the right to restrict the use of their property and students do not possess a right to privacy in their lockers, but that the use of lockers and school property is a privilege. However, the use must be specified clearly and policies must be enforced consistently and non-discriminately. As a result, the *Dumas* (1986) case clarifies the importance of clear and specific safe school policies, which detail the school’s custodial interests as a part of its campus crime strategy. It is important for a school to have a clearly written policy, but it is imperative that this policy is communicated to the students, staff, parents and community.

Strip Search

Strip searches are searches that reveal undergarments or constitute the viewing of students’ breasts, buttocks or genitals. Removal of outer garments is not considered a strip search. These types of searches are extremely intrusive and constitute a gross invasion of privacy. Although they are sometimes warranted, school districts should contact their school attorneys and local prosecutors for guidance and training on when and how these types of searches are to be conducted. Again, informing parents and students on the policies is crucial.

Consent Searches

A student may consent to being searched. In this case, reasonable suspicion is not required. This may be useful when a teacher has a few facts, yet does not feel he or she has enough information to form a reasonable suspicion. The key to affecting a successful consent search is having unequivocal consent. To be valid, the consent must be made knowingly and voluntarily. The student must be told he or she can refuse to be searched. It is imperative that the student not feel threatened or coerced. The school official should make it clear that punishment will not occur if a student refuses to be searched. The school official should inform the student of the reason for the search. The student should provide a consent. It is not required that students sign a consent form, as the consent can be given orally. However, written consent is the preferable method of consent. A sample consent form has been provided in Appendix A of this manual.

If a school official is acting as an agent for law enforcement or if law officials are conducting a search on school grounds, different rules apply. The presence of a parent, probable cause, the reading of the student's *Miranda* rights, a valid search warrant and perhaps additional legal precautions may be necessary to proceed with interrogation or a search.

Generalized Random Searches

Generalized or blanket sweep searches can be an effective preventive measure. Unlike the reasonable suspicion searches, which are an intervention mechanism, these blanket sweeps are designed to discourage students from bringing weapons, drugs and other inappropriate items to school. However, they are intrusive and must be planned and conducted with precision to assure and

maintain a positive climate in the school. The planning team should not only determine how these searches should be conducted, but also inform community members, parents and students why these searches are necessary, the goal of the searches, and the method by which they may be carried out.

What is a Generalized Search?

Usually a generalized search is conducted by school officials with the intent of discouraging the possession of illegal or inappropriate items in school. As long as the school officials are not teaming up with law enforcement, this type of search as a preventive measure is appropriate. However, the rules change when law enforcement is involved. These types of searches must be random, nondiscriminatory and as minimally intrusive as possible. The law on generalized searches is not concrete. It is important for the planning team to contact its local school district attorney when considering implementing these types of search policies. It is equally important to consider the school's particular characteristics, as these types of search plans should be narrowly tailored to the school's needs.

The case that set precedent for searches in schools, *New Jersey v. T.L.O.* (1984) does not apply to generic searches. However, some of the fundamentals established by this case can guide generic-search policies. The fundamental premise that students can not be made to leave their constitutional protections at the doorstep of the schoolhouse is important for structuring generic-search policy. The larger body of law relating to the Fourth Amendment warrantless searches provides the rules for the analysis of generic-search policies. The courts have decided that the school acts in

these matters as agents of the State as opposed to acting in the role of parents.

If the planning team determines that serious security and discipline problems exist at the school, then it may be appropriate to seek assistance from the district and school attorney to draft a suspicionless search policy. The court in, *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602, 109 S.Ct. 1402 (1989), stated “In limited circumstances, where the privacy interests implicated by the search are minimal, and where an important government interest is furthered by the intrusion would be placed in jeopardy by a requirement of individualized suspicion, a search may be reasonable in the absence of such suspicion.” *Id.*

It is important to note that these types of searches are designed as prevention tools. However, if law enforcement is involved in these types of searches, then the rules become much stricter. The method of random searches without warning is a very delicate issue, and the following considerations must be made prior to implementing these types of policies.

- An evaluation of the school’s climate and needs in conjunction with the proposed random search policies. It is imperative that the policy serves to better the climate and seeks to meet the needs.
- Consultation with legal counsel prior to implementation.
- Communication of the policy to all students, staff and parents.

Types of Generalized Searches

Drug Testing

Random drug testing of students is a controversial type of search, and the law is constantly evolving. Again, the planning team needs to first consult with the school counsel and then examine its school’s particular needs. The courts have only allowed this type of random search when a school can show a serious particular need for such testing. In fact, random drug testing has been declared unconstitutional in most situations by Colorado Courts.

However, the following is a list provided by the Colorado Attorney General’s *Colorado School Violence Prevention and Student Discipline Manual* regarding safeguards established by the courts. The Attorney General’s office recommends that schools:

- Solicit parental input.
- Investigate the scope and nature of the drug problem.
- Provide advance notice of the proposed drug testing policy to students and parents.
- Conduct drug testing for the limited purpose of discouraging use and not for punitive purposes.
- Minimize the invasiveness of the intrusion.
- Have a neutral and nondiscriminatory plan for selecting students for testing.
- Preserve the chain of custody and ensure accuracy.
- Preserve confidentiality.

Non-Suspicion/Generalized Locker Searches

It appears the key to avoiding liability when conducting generalized locker searches is notice to students that lockers are district property subject to search. The courts seem willing to allow schools to randomly search lockers when the school has fully informed

both the students and the parents of this policy. Therefore, the planning team should include a specific policy governing locker searches in student discipline manuals. The Colorado Attorney General's *Colorado School Violence Prevention and Student Discipline Manual* lists the following criteria when creating a random locker inspection program.

- The planning team should specify exactly what problems in their school they hope to solve by implementing the locker inspection program.
- Notice to both parents and students regarding the purpose, as well as the specifics of the program, is essential. Providing notice is consistent with the prevention purpose of the program.
- The program must be neutral and nondiscriminatory. The best method of assuring the program is impartial is to establish objective criteria in advance. For example, a well-thought-out and detailed lottery system is ideal.
- Execution is the final link in this chain. The inspection must be carried out in accordance with the plan. It is important that law enforcement not be involved with these types of searches because they are *school* preventive measures and not means for detecting individual violators.

Metal Detectors

Metal detectors can serve a vital function in preventing school violence. However, one drawback to metal detectors can be the creation of a prison-like environment in the school. Use of metal detectors may establish a fear that the school is not safe because of the necessity of such extreme measures. Yet, after careful deliberation, the planning team may determine this type of program is necessary for the safety and welfare of its students.

It is imperative that the planning team research the school's needs and adopt effective procedures for using metal detectors. Again, advance notice must be given to students and parents on how these detectors shall be used and why they are being used. The policy should be clearly detailed as to the needs of the school and how the metal detectors shall meet those needs. The Colorado Attorney General's *Colorado School Violence Prevention and Student Discipline Manual* provides the following list of procedures:

- The administration should adopt a specific policy that details the problem and specifies how metal detectors will address the problem.
- All students and parents should be given written notice.
- School staff should request students empty their pockets prior to the search.
- School staff should request a second walk-through if the metal detector is activated.
- If the activation is not eliminated or explained, the student should be relocated to a private area where the search can be expanded. (Always have a same sex official conduct a pat down search or more extensive search of a student.)

Drug Sniffing Dogs

Drug sniffing dogs also can create a threatening climate in a school. Further, simply exposing a locker or backpack to a trained canine is not considered a search. The courts have held that the air is public and exposing it to a trained canine is not a search. *Horton v. Goose Creek Independent School District (1982)*, examined whether a campus substance abuse enforcement program that includes routine use of dogs was unconstitutional. On a random and unannounced basis, the dogs sniffed students' lockers and automobiles. Dogs

also were used in the classroom to sniff the students. The court decided that the sniffing of lockers or hallways was permissible. The court was adamant, however, that the dog sniffing of individual students was a gross invasion of their constitutional rights absent reasonable suspicion of individual wrongdoing.

Although the “public smell” doctrine is analogous to the exclusion from the Fourth Amendment coverage of things exposed to public view, subsequently opening a locker or backpack would qualify as a search. Most likely the indication from the canine that there were drugs present would warrant reasonable suspicion. We cannot emphasize enough the importance of the planning team researching the problems of the school and making an informed decision prior to implementing this type of program.

Summary

Schools can use “search and seizure” tools to help maintain a safe climate. Two keys to conducting valid searches and seizures are developing policies and procedures consistent with law and training school personnel. It is especially important to understand the standard of “reasonable suspicion.” Although this term may seem ambiguous, providing the staff with clear examples and consistent training will create the necessary confidence to use search and seizure appropriately.

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ACCOUNTABILITY AND LIABILITY

Determining who can be held liable for violent acts committed on school campuses is an important aspect of addressing violence. It is imperative that schools take all reasonable steps to prevent violence because of the consequences, including legal liability. The perpetrator of a violent act can be held both criminally and civilly liable. However, there are two additional parties that can be held civilly liable: parents and school districts.

School Liability for Victims

There has been a movement toward urging a federal constitutional right to safe schools. However, the Supreme Court has limited this by stating that there is not a federal constitutional right to be protected against a single act of negligence. The state is not required to undertake affirmative measures to protect the life, liberty and property of its citizens, absent special circumstances. Therefore, the state can not be made to protect its citizens against criminals or any “guarantee of certain minimum levels of safety and security.” *DeShaney v. Winnebago County Dept. of Soc. Servs.*, 489 U.S. 189, 195, 109 S. Ct. 998, 103 L. Ed. 2d 249 (1989) Although federal constitutional protection is limited, some cases have been successful. In order for a civil rights claim against a school for a violent act to succeed, the following three elements must be shown.

- The “existence of a continuing, widespread, persistent pattern of unconstitutional misconduct by employees of the governmental entity;
- Deliberate indifference to or tacit authorization of such conduct by governmental entity’s policymaking

officials after notice to the officials of that misconduct; and

- That the plaintiff was injured by acts pursuant to the governmental entity’s custom, i.e., that the custom was a moving force behind the constitutional violation.” *Thelma D. v. Board of Educ.*, 934 F.2d 929, 932-33, 67 Educ.L.R. 1101 (8th Cir. 1991)

In other words, it must be shown that there was an obvious danger, which was disclosed to those who make the policy and nothing was done. It must be proven that a complete indifference to the danger was displayed and that a pattern of unconstitutional behavior was condoned.

Tort Law

Although there is only limited protection afforded to victims through the federal constitution, many states have established tort laws that require “in addition to an intellectual climate, a physical environment harmonious with the purposes of an educational institution.” *Eiseman v. State of New York*, 109 A.D.2d 46, 489 N.Y.S.2d 967, 25 Educ.L.R. 876 (1985). See generally Chapter 8 *infra*. The tort law right to safe schools has been well established in the majority of states. Now tort law permits a third party, in this case schools, to be held liable for the injuries sustained by victims of crime and violence. This is especially true in closed campuses or where the schools have an absolute right to control students’ behavior. *School Crime and Violence: Victims’ Rights*, pg. 18. Some states such as California have gone as far as to make safe schools a state constitutional right. But even where such an express right has not been

created, the following demonstrates what some believe to be the right to a safe school.

- To be protected against foreseeable criminal activity.
- To be protected against student crime or violence which can be prevented by adequate supervision.
- To be protected against identifiable dangerous students.
- To be protected from dangerous individuals negligently placed in school.
- To be protected from administrators, teachers and staff negligently selected, retained or trained.

California provides even more extensive protections. National Conference of State Legislation, *Select School Safety Enactments*, (1994-200).

Statutory Remedies

There is now contention that under Title IX of the Education Amendments of 1972, victims of school violence may seek remedies from the school. The *Franklin v. Gwinnett County Public Schools*, 80 U.S.L.W. 4167 (1992) case established that in addition to any appropriate relief, victims are entitled to money damages. In the *Franklin* case, a coach sexually harassed a student. The court held the student was entitled to money damages. Title IX is most often enforced through administrative compliance procedures. Yet, where applicable, Title IX allows for money damages for victims of sexual harassment and abuse.

Victims' Rights law has been developed extensively for students, staff and parents. It is important for schools and communities to realize that preparation is critical in preventing violence and protecting students in the school environment. (NSSC, 1992)

Parents' Liability for their Children

Once a child enters the juvenile justice system, parents or legal guardians are required to attend all juvenile court proceedings concerning the juvenile. The court can then impose specific requirements on the parents as deemed necessary. Often, the courts not only require parents to pay for court proceedings but also to attend counseling or other programs that may assist the juvenile in changing his or her inappropriate behavior. Often parents find themselves missing work, becoming financially strained, and becoming emotionally drained once their youth is involved in the system. Therefore, it is beneficial for parents to work in conjunction with the school to prevent their child from entering into the system.

Not only can parents find themselves responsible to the system for their juvenile's actions but also to third parties. The courts in Colorado can award damages to school districts up to \$3500 per minor under 18 years old. 13-21-107(2) C.R.S. (2000) In the most severe cases, parents can be criminally prosecuted for providing their youth access to handguns.

Summary

School districts must take measures to protect themselves from constitutional, statutory and tort claims. They do this by sufficiently training staff, proactively addressing dangerous conditions and students, and continually evaluating the school climate and effectiveness of safety procedures. The school cannot simply put a program into place and then rest. It must continually evaluate and revise its policies where necessary. Informing parents of their potential liability can help encourage parent participation. If parents are made aware that their lack of concern can cost them, it may stimulate their involvement in both their child's life and in school.

CONCLUSION

Issues of school safety and violence prevention are at the forefront of national concern. It is the responsibility of each school and each community to maintain or create an environment where students and teachers are safe and free to learn and teach. Legal issues are critical to the understanding and development of a safe school environment, yet often laws and new legislation are intimidating and misunderstood.

With a better understanding of current laws and liability issues, schools can make more informed decisions about dealing with school safety and security regarding drugs, alcohol, firearms and behavior disruptions. When laws are understood, school officials will know how to structure their safe school plans. They will be able to create policies on how to legally share and obtain information and develop an interagency team for constructively intervening with problem behaviors.

They will be aware of the legal tools at their disposal for enforcing discipline policies and performing searches and seizures. Finally, schools, parents and students will understand what their roles or responsibilities may be if questions of liability for crimes should arise.

The purpose of this document has been to provide school administrators, teachers and school safety planners with a concise guide on laws related to safe-school planning. As laws are more fully understood and implemented, schools will have a greater impact on the actual and perceived safety of the school. As the climate of the school improves, so will school safety and academic performance.

APPENDICES

Appendix A – Forms and Checklists

Appendix B – Select Juvenile Record Sharing Enactments

Appendix C – Select School Safety Enactments

Appendix D – References

APPENDIX A – FORMS AND CHECKLISTS

CHAIN OF CUSTODY CHECKLIST

- Write down the following inventory information for the seized item:
 - Description of item seized.
 - Date and time of the seizure.
 - Source of seized item (from whom and location obtained).

- Name of the person who seized the item.

- Name of the person who witnessed the search.

1. Place each item in a separate sealed envelope marked with inventory information.
2. Secure evidence in locked storage area with restricted access.
3. Do not leave evidence unattended before it is placed in locked storage area.
4. Transfer evidence to police in sealed envelope in timely manner.

**STUDENT CONSENT TO SEARCH
FORM**

I, _____ voluntarily consent to a search by a school
Student full name

official and/or school security guard of _____
List place to be searched and item sought.

I authorize the school official and/or security guard to seize any item that violates a criminal law or school rule or provides evidence of a criminal law or school rule violation. My voluntary consent is not the result of fraud, duress, fear or intimidation.

School Official Name and Title

School Official Signature

Date

Student Name

Student Signature

Date

CHECKLIST FOR SEARCHING STUDENTS

1. Remove student to private area.
2. Closely observe student during removal and search.
3. Have another school official present during procedure.
4. Have school officials of same gender as student conduct and witness search.
5. Offer student opportunity to surrender item.
6. Search student for item connected to criminal law or school rule violation.
7. Seize any item that violates a criminal law or school rule or provides evidence of a criminal law or school rule violation.
8. For each item seized, prepare a chain of custody checklist.

APPENDIX B – SELECT JUVENILE RECORD SHARING ENACTMENTS



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JUVENILE RECORD SHARING Schools and Juvenile Justice Agencies Select State Legislative Enactments 1994-2000

This compilation presents examples of recent state enactments and is not inclusive of all legislative actions, such as budget appropriations. This list has also been reduced in length by CSPV. For a complete listing, or information on specific issues, such as school uniforms, justice system responses or guns, contact NCSL's Denver office at 303/830-2200.

California SB 199 (1999): Allows access to juvenile court files by school superintendents, law enforcement, social services, child protective agencies, any other person or agency providing treatment or supervision to the juvenile or any other person who successfully petitions the court for access. Provides for the names of other juveniles to be removed from the record for confidentiality purposes and provides for exceptions to the sharing of information if the juvenile or other juveniles connected to the case will be put in danger as a result. Requires the court to notify the school superintendent if an enrolled student has been found guilty of crimes involving alcohol, illegal drugs, tobacco, gambling, assault, larceny, vandalism, weapons possession or a sex offense. Requires the superintendent to notify the principal of the school and the principal to notify the counselor working with the student. Gives principal discretion to disseminate this information to teachers in direct contact with the student. Provides for a fine of \$500 if "authorized" individuals share this information with "unauthorized" individuals. Explicitly states the purpose of this law to be the effective treatment and rehabilitation of the juvenile by providing better, more efficient and more comprehensive information to the parties involved with the juvenile.

Colorado Sess. Laws, HB 1119 (2000): Allows law enforcement agencies to share information concerning a student with the student's principal and to obtain truancy and disciplinary records from schools. Requires that information be kept confidential and grants civil and criminal immunity for good faith compliance. Requires courts notify schools upon the adjudication of sex offenses. Requires the state to design a process for exchanging information on juvenile delinquency and dependency cases. Specifies guidelines for disclosure of information and records by a criminal justice agency or a children's assessment center to a school. Provides for disclosure of disciplinary and truancy information by a school to a criminal justice agency. Makes other changes regarding disclosure of juvenile delinquency records.

Florida Laws, SB 0358 (2000): Provides for the integration of substance abuse and mental health service with juvenile justice, child protection, school and health care systems. Prohibits the use of juvenile records for anything other than employment background screening.

Georgia Laws, Act 831 (1998): Sec. (2)(c):Permits inspection of juvenile records by the juvenile court that has jurisdiction over the child; counsel; certain public institutions or agencies to which the child is committed; law enforcement; the court that convicted the child; penal institutions; a parole board; and school officials.

Illinois Laws, PA 665 (1999): Gives Serious Habitual Offender Comprehensive Action Program (SHOCAP) committee members access to student school records to identify serious habitual juvenile offenders and matching those persons with community resources.

Kentucky Acts, Chap. 358 (1996): Sec. 34 (1-3): Requires the court to notify a child's school when the child is adjudicated as a youthful or violent offender or convicted of a felony-level offense. Prohibits disclosure of a student's juvenile records except to certain public or private school personnel.

Louisiana Acts, Act 515 (1999): Mandates court to notify school within 24 hours after a minor registered in that school has been adjudicated delinquent for a felony offense. Permits principals to use such orders in disciplinary actions.

Maryland Laws, Chap. 112 (1995): Requires the notification of school superintendents of certain police and juvenile court records for an enrollee. Requires confidentiality regarding the records and prohibits their use, except to provide appropriate educational programming and services to the child and to maintain a safe and secure school environment.

Missouri Laws, SB 944 (2000): Requires schools to report to law enforcement any incidents involving student possession of weapons or controlled substances on school property. Requires school superintendents to report incidents of student sexual misconduct or assault to the new superintendent when a student transfers to another district. Authorizes school districts to disclose education records to law enforcement and juvenile justice authorities if necessary to serve notice to the juvenile prior to adjudication. Requires law enforcement authorities to notify school districts when a petition is filed against an enrolled pupil for certain acts, including sexual misconduct and sexual assault. Allows juvenile divisions of the circuit courts and Departments of Social Services, Mental Health, Health and Elementary and Secondary Education to share information regarding youth for whom they provide services, subject to confidentiality requirements.

Montana Laws, Chap. 564 (1999): Requires the court to notify school districts of a youth's suspected criminal activity or drug use under certain circumstances. Permits the school district to disclose educational records that pertain to violations of juvenile or criminal laws.

Oregon Laws HB 2744 (1999): Establishes the Juvenile Justice Information System, an electronic information system administered through the Oregon Youth Authority, to be developed and administered according to the Criminal Justice Information Standards program. Requires the youth authority to adopt rules governing the administration of the system, including but not limited to: confidentiality; state and county roles and costs; and county reporting requirements.

Pennsylvania Laws, SB 1561 (2000): Allows interagency sharing of juvenile records upon agreement between the district school superintendent and juvenile probation officer.

Texas H.B. 1749 (1999): Permits school districts to prohibit certain expelled students from enrolling in the same school as their victims. Authorizes the disclosure of information contained in the educational system by establishing the terms under which an interagency agreement must be written before an exchange of certain information between the educational and juvenile justice information systems may take place.

Virginia Acts, Chap. 835 (1994): Requires superintendents to make academic records available to detention centers and jails.

APPENDIX C – SELECT SCHOOL SAFETY ENACTMENTS



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SELECT SCHOOL SAFETY ENACTMENTS (1994-2000)

Legislative responses to school violence are multifaceted and involve several systems including education, juvenile justice, mental health and health. This compilation presents examples of recent state enactments and is not inclusive of all legislative actions. For example, most budget appropriations, records sharing and gun safety enactments are contained in separate documents. It has also been shortened by CSPV. For more information on specific issues, contact NCSL's Denver office at 303/830-2200.

- CA **1999 Cal. Stats., A.B. 566** Authorizes programs established under the School Learning and Safe Neighborhoods Partnerships Program to be conducted upon the grounds of a community park or recreational area if the park or recreational area is adjacent to the school site.
- CA **1999 Cal. Stats., A.B. 1154, Chap. 872** Requires the existing School/Law Enforcement Partnership to look into the cost of providing cellular telephones to public school teachers statewide for maintaining classroom safety. Authorizes after school programs established under the After School Learning and Safe Neighborhoods Partnerships Program to implement flexible attendance schedules for middle and junior high school students.
- CA **1998 Cal. Stats., A.B. 1428, Chap. 319** Establishes the After School Learning and Safe Neighborhoods Partnerships Programs to create incentives for establishing after school enrichment programs for pupils in kindergarten and grades 1 to 6, inclusive, at participating school sites.
- CO **2000 Colo. Sess. Laws, SB 0186** Requires the state department of education to grade each school on safety and discipline.
- CO **1999 Colo. Sess. Laws, SB 0133** Requires local school boards to adopt a conduct and discipline code, including procedures for dealing with disruptive students in the classroom, grounds for suspension, initiating expulsion for students deemed "habitually disruptive," and due process procedures for removed students. Requires written reports. Specifies that any student enrolled in a public school, including those with disabilities, may be declared "habitually disruptive" for purposes of suspension or expulsion.
- CO **1999 Colo. Sess. Laws, H.B. 1037, Chap. 134** Permits school districts to prohibit certain expelled students from enrolling in the same school as their victims.

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- FL** **2000 Fla. Laws, SB 0852** Requires one-year expulsion and referral to the juvenile justice system for any student in possession of a firearm or other weapon on school property or for making a threat or false report regarding the safety of school property. Gives superintendents discretion to modify expulsion on a case by case basis. Allows local school boards to assign expelled students to a “second chance” school or disciplinary program during the period of expulsion. Expands circumstances under which teachers, principals and bus drivers are exempt from liability.
- IL** **1999 Ill. Laws, H.B. 878, PA 0491** Creates the Task Force on School Safety to identify and review all school safety programs in the state, recommend successful programs, and study alternative education programs. Requires the State Board of Education to work with the Task Force to develop a set of uniform criteria to be implemented in school safety plans and a school safety assessment audit to distribute to public schools. Establishes reporting procedures for violent acts on school grounds and requires the State Board of Education to compile statistics regarding attacks on school personnel. Requires law enforcement to detain a minor if found to have possession of a firearm on school property.
- MO** **2000 Mo. Laws, S.B. 944** Requires school districts to report annually on expulsion and suspensions of longer than 10 days. Prohibits readmittance of a student that was suspended for more than 10 days for school violence. Expands the definition of “unlawful use of a weapon” to include carrying a firearm onto school property. Allows student involvement in school-sanctioned events involving firearms, as long as an adult lawfully transports the firearm onto school property. Requires one-year suspension for any student possessing an unauthorized weapon on school property. Requires school superintendents to report incidents of student sexual misconduct or assault to the new superintendent when a student transfers to another district and exempts the reporting superintendent from civil liability.

APPENDIX D – REFERENCES

- Attorney General State of Colorado; Colorado School Violence Prevention and Student Discipline Manual (revised, 2000)
- Colorado Revised Statutes
- Commentary, Violence in U.S. Schools: THE PROBLEM AND SOME RESPONSES, by R. Craig Wood, M.Ed., J.D. and Mark D. Chestnutt, J.D.
- Thelma D. v. Board of Educ., 934 F.2d 929, 932-33, 67 Educ.L.R. 1101 (8th Cir. 1991).
- DeShaney v. Winnebago County Dept. of Soc. Services, 489 U.S. 189, 195, 109 S. Ct. 998, 103 L. Ed. 2d 249 (1989).
- Eiseman v. State of New York, 109 A.D.2d 46, 489 N.Y.S.2d 967, 25 Educ.L.R. 876 (1985). *See generally* Chapter 8 *infra*.
- NTAC, Safe School Initiative: An Interim Report on the Prevention of Targeted Violence in Schools, October 2000
- National Conference of State Legislatures, Select Juvenile Record Sharing Enactments (1994-2000)
- National Conference of State Legislatures, Select School Safety Enactments (1994-2000)
- National School Safety Center's Handout on, Working Together to Create Safe Schools.
- Passing Through the "Schoolhouse Gate": Constitutional Implications of Preserving Student Safety, by David B. Rubin 1993
- Policy Parameters, A School Board Policy Newsletter, Colorado Association of School Boards, Volume 14, Number 2, June 2000
- Safe Communities~Safe Schools, Some Emerging Lessons and Recommendations, Attorney General's Office November 16, 2000
- School Crime and Violence: Victims' Rights pg. 18
- School Violence and the Law: The Search for Suitable Tools, Bernard James, Pepperdine University, National School Safety Center.

Information Sharing

- James, Bernard. (1995, Spring). *Information Sharing Promoted by FERPA (Legislative Update)*. Westlake Village, CA: National School Safety Center.
- National School Safety Center (NSSC). (2000, March). *School Safety Leadership Curriculum Guide (Thirteenth Printing)*. Westlake Village, CA: Author.
- Thomerson, Julie. (2001, May). *School Violence: Sharing Student Information*. Denver, CO: National Conference of State Legislatures.
- U.S. Department of Justice. (2000). *Establishing and Maintaining Interagency Information Sharing*. Washington DC: Author.