

Searching for Safe Schools: Legal Issues in the Prevention of School Violence.

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Violence in the United States has reached epidemic proportions, with a predictable spillover into public schools. The national concern over the problem of school violence has led to federal, state, and local efforts to address this issue by creating new laws and policies, which include adopting zero-tolerance approaches, conducting targeted and random searches of students and their property, using metal detectors, and preventing violence through education. In this article, we begin by examining these laws and policies. Then, we separate school district reactions to violence into three categories: tertiary, secondary, and primary prevention and describe procedures within each category. We end by proposing a framework within which school districts may develop legally correct policies and procedures to address school violence.

VIOLENCE IN AMERICAN SOCIETY has reached epidemic proportions. Especially troubling is the increasing violence among young people, with the predictable spillover of effects into the public schools. In fact, violence has become a significant aspect of the public school experience in America. The recent schoolyard murders in Mississippi, Kentucky, Arkansas, Pennsylvania, Oregon, and Colorado have focused the nation's attention on these problems; however, the levels of violence in our schools have been increasing for the past decade (Kopka, 1997). Numbing statistics reveal the extent of the problem: Violence in and around schools has become more common and more serious (Kachur et al., 1996; National League of Cities, 1995). Three million crimes are committed each year on the campuses of America's public schools (Sautler, 1995). In the two-year period from 1992 to 1994, 105 students and 12 teachers died violently at school or during school-related activities (Kachur et al., 1996). Eighty percent of these deaths were homicides; guns were used in 77% of the cases. The remaining 20% of these deaths were suicides. Furthermore, school violence, often associated with impoverished inner-city schools, has moved to suburban and rural schools (Sleek, 1998).

Teachers, students, and administrators recognize the increasing levels of violence. According to a survey issued in 1996 by the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice, 12% of students reported carrying weapons to school for protection, 28% indicated that they sometimes or never felt safe while at school, and 11% said that they stayed home from school or cut classes because of fear of violence (U.S. Department of Justice, 1996). The survey also revealed that 82% of the school districts reported a rise in violence over the past 5 years, 60% reported weapons incidents, and 75% reported having to deal with violent student-on-student attacks. A 1995 survey of public school teachers showed that 41% of them believed that violence in the schools was a very serious problem (Harris, 1995). The American public also recognizes the magnitude of the school violence problem. A Gallup Poll conducted in 1997 of attitudes toward public schools revealed that fights, violence, and gangs ranked with lack of discipline as the most significant problems facing America's schools (Rose & Gallup, 1998). The same poll revealed that, nationally, 36% of parents reported concerns about the safety of their children while they were at school.

The national concern over the problem of school violence has led to federal, state, and local efforts to address this issue by creating new laws and policies. These laws and policies include adopting zero-tolerance approaches, conducting targeted and random searches of students and their property, using metal detectors, and preventing violence through education. Our goal in this article is to examine these laws and policies. To do this, we first present an overview of federal and state laws intended to prevent and control school violence. Next, we briefly examine decisions by the U.S. Supreme Court that have had an important effect on the school-student relationship, especially as these decisions pertain to issues of student searches. Then, we separate school district reactions to violence into three categories -- tertiary prevention, secondary prevention, and primary prevention -- and describe procedures in each of these categories. Finally, we will propose a framework within which school districts may develop legally correct policies regarding violence. In sum, we will focus on legal issues and considerations in America's search for safe schools.

FEDERAL AND STATE LEGISLATION

National concern over the rise in violence in the public schools has led federal and state governments to create laws to address these issues. In this section we briefly review these efforts.

Federal lawmakers have reacted to the problems of violence by passing measures designed to make schools safer. The federal government's powers, however, are limited by the U.S. Constitution. According to the Tenth Amendment, the powers not delegated to the federal government by the Constitution are reserved to the states. Because regulation of education and crime are not powers expressly given to the federal government in the Constitution, it is a state prerogative to legislate such matters. The federal government, therefore, cannot interfere directly with the states' right to govern public schools. Thus, the federal efforts have primarily involved funding the development of state programs or withholding federal funds if states did not address the particular concerns of Congress. In this way, federal lawmakers are able to influence state legislation of educational matters by tying federal funds to legislation. Table 1 lists and briefly explains some of these federal efforts.

TABLE 1 Federal Laws Targeting School Violence

Law	Purpose
The Gun-Free School Zones Act of 1990, 18 U.S.C. [sections] 922(q) (I) (A)	This law made it a federal crime to possess a firearm in a school zone (i.e., within 1,000 feet of a public, parochial, or private school).
The Gun-Free Schools Act of 1994, 20 U.S.C. [sections] 8921	This law required that all states receiving federal funds require that schools expel any student bringing a gun to school.
Safe and Drug Free Schools and Communities Act of 1994, 20 U.S.C.	This law provided federal funding for violence prevention programs.

[sections] 7107 et seq.	Grants were awarded to educational agencies, institutions of higher education, and non-profit groups.
Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. [sections] 13701	This law authorized over \$30 billion to fund more police officers, new prison construction, and community-based crime prevention efforts. It also imposed severe penalties on violent & repeat offenders,
Individuals with Disabilities Education Act Amendments of 1997, 20 U.S.C. [sections] 1400 et seq.	This law reauthorized and amended the Individuals with Disabilities Education Act.
Law	Provision related to school safety
The Gun-Free School Zones Act of 1990, (I) (A)	* This law was declared unconstitutional by the U.S. Supreme Court in U.S. v. Lopez (115 S.Ct. 1624, 1995).
The Gun-Free Schools Act of 1994, 20 U.S.C. [sections] 8921	* Expulsions had to be for a period of 1 year. * School district administrators were allowed to modify the expulsion on a case-by-case basis.
Safe and Drug Free Schools and Communities Act of 1994 20 U.S. [sections] 7107 et seq.	* Grants were intended to prevent school violence, provide training and technical assistance, fund violence education programs, and deter the use of illegal drugs & alcohol.
Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. [sections] 13701	* Crime prevention efforts were targeted at youth in high-poverty and high-crime areas. * Purpose of funding was to encourage projects involving community participation and school cooperation.
Individuals with Disabilities Education Act Amendments of 1997, 20 U.S.C. [sections] 1400 et seq.	* School district administrators can place students in special education in an interim alternative educational setting (IAES) for 45 days when they bring a

weapon to school or
a school function.

- * If a school district can convince a hearing officer that a student in special education presents a danger to self or others, the hearing officer can order the student placed in an IAES for 45 days.

An example of a federal law influencing state laws is evident in the Gun-Free Schools Act of 1994 (hereafter the GFSA). The GFSA required that all states receiving federal education funding through the Improving America's Schools Act (IASA; 1994) pass laws mandating that school districts expel, for not less than 1 year, any student who brought a gun to school. States that did not have such a law in place by 1995 faced the cutoff of all federal IASA funds. Congress thus avoided constitutional problems by creating a law that was tied to federal funding rather than imposing federal school and firearms requirements on the states. By October 1995, all 50 states had enacted legislation that met the requirements of the GFSA. In this way, the federal government has been able to exercise some amount of control over the states' legislation with respect to school violence.

States have responded to these federal laws by mandating community- or school-based prevention and education programs and by requiring that school officials expel students who carry weapons onto school grounds. It is important that administrators and educators know the legal requirements in their particular state prior to addressing the problems of school violence.

State and federal courts have also addressed the issue of school safety and violence. As we will see, the courts, while safeguarding students' rights, have generally supported federal and state efforts to ensure the safety of students and staff in the public schools. The most important of these decisions have come from the U.S. Supreme Court.

THE U.S. SUPREME COURT

The U.S. Supreme Court has not heard a case directly addressing violence in the schools. However, the high court has issued rulings in cases that have had a profound effect on the relationship between schools and students, especially those students who may present a danger to the public school setting. The most important of these decisions are included in Table 2.

TABLE 2 U.S. Supreme Court Cases on the Rights of Students and School Officials

Case	Ruling
Tinker v. Des Moines School District, 393 U.S. 503 (1969)	* School officials could not deny students freedom of expression when such expression did not interrupt the school's operations or activities and did not intrude into school affairs.

- Goss v. Lopez,
419 U.S. 565 (1975)
- * Students do not shed their Constitutional rights "at the school-house gate."
 - * Students facing temporary suspensions from public school are protected by the due process clause.
 - * These protections include the right to receive written or oral notice of the charges against them and the opportunity to present their version of what happened to cause the suspension.
- New Jersey v. T.L.O.,
469 U.S. 325 (1985)
- * Students are protected by the Fourth Amendment's protection against and seizures.
 - * School officials, however, are held to a lower standard regarding what is reasonable than are police officers in conducting searches and seizures.
 - * To be reasonable, school inception and should not exceed that which is necessary under the circumstances.
- Bethel School District v. Fraser,
478 U.S. 675 (1986)
- * Public school students have freedom of speech under the First Amendment, including the right to advocate unpopular and controversial views in school.
 - * However, this right must be balanced against the schools' interest in teaching socially appropriate behavior.
 - * Public schools may legitimately establish standards of civil and mature conduct.
- Veronia School District v. Acton,
515 U.S. 646 (1995)
- * Public school district's student athlete drug testing policy did not violate students' right to privacy or to be free from unreasonable searches.
 - * Public school students have lesser privacy expectations than the general population.
 - * Courts must balance student privacy interests

against schools' legitimate interests.

The U.S. Supreme Court, in these cases, upheld the constitutional rights of students in public schools. However, the high court has also recognized that schools have a duty to educate students in a safe and orderly environment. In these decisions, the Court has attempted to balance the rights of students with the duties of school district personnel. For example, a student's freedom of expression is limited to expression or speech that does not interfere with the school's operation, precisely because schools have a duty to establish standards of student conduct and behavior. Similarly, a student's right to privacy gives way to a school's duty to maintain a safe environment.

The two Supreme Court decisions that directly affect how school officials may keep schools safe and orderly while safeguarding the rights of students are *New Jersey v. T.L.O.* (1985) and *Veronia School District v. Acton* (1995). In fact, James (1994) referred to the decision in *New Jersey v. T.L.O.* as a virtual blueprint for designing school safety policies. In this case, the Court noted that the interests of teachers and administrators in maintaining discipline in the classroom would be furthered by a less restrictive rule of law that would balance schoolchildren's legitimate expectations of privacy and the school's equally legitimate need to maintain an environment in which learning could take place. We now discuss these very important cases.

New Jersey v. T.L.O. (1985)

In 1985, the U.S. Supreme Court in *New Jersey v. T.L.O.* (hereafter TLO) addressed warrantless searches in the schools. A teacher in a New Jersey high school discovered two girls smoking in the school lavatory. The students were taken to the vice-principal's office. The vice-principal took a purse from one of the girls to examine it for cigarettes. In addition to the cigarettes, the purse also contained cigarette-rolling papers. Suspecting that the girl might have marijuana, the vice-principal emptied the contents of the purse. In it he found a pipe, a small amount of marijuana, a large amount of money in small bills, a list of people owing TLO money, and two letters implicating her in marijuana dealing. The girl's parents were called, and the evidence was turned over to police. Charges were brought by the police, and based on the evidence collected by the vice-principal and TLO's confession, a juvenile court in New Jersey declared TLO delinquent. The parents appealed the decision on the grounds that the search was conducted without a warrant and, therefore, illegal under the Fourth Amendment. Because the search was conducted illegally, the parents argued, the evidence was inadmissible. The case went to the New Jersey Supreme Court, which reversed the decision of the juvenile court and ordered the evidence obtained during the vice-principal's search suppressed on the grounds that the warrantless search was unconstitutional.

The U.S. Supreme Court eventually heard the case. The Court declared that the Fourth Amendment, prohibiting illegal searches and seizures, applied to students as well as adults. The Court also noted, however, that a student's privacy interests must be weighed against the need of administrators and teachers to maintain order and discipline in schools. Furthermore, the Court noted that maintaining security and order in schools required some easing of the requirements normally imposed on police.

The Court ruled that schools did not need to obtain a search warrant before searching a student; however, the Fourth Amendment's reasonableness standard, a standard lower than that of probable cause, had to be satisfied. Probable cause refers to a standard to which police are held; that is, police may only conduct a search if it is more than probable that the search will reveal evidence of illegal activities. Based on this standard, police must usually obtain a warrant prior to conducting the search. The reasonableness standard that school officials must meet holds that a reasonable person would have cause to suspect that evidence of illegal activities be present before conducting the search. If these preconditions are met, school officials may conduct the search. The reasonableness standard is much easier to meet than is the standard of probable cause.

The Court also adopted a two-part test to determine whether a search conducted by school officials was reasonable and, therefore, constitutionally valid. The two parts of this test that must be satisfied are that the search must be (a) justified at inception and (b) related to violations of school rules or policies. First, the search must be conducted as the result of a legitimate suspicion. This does not mean that school officials must be absolutely certain prior to conducting a search, but rather that there is a commonsense probability regarding the necessity of a search. A search cannot be justified on the basis of what was found during the search. Situations that justify a reasonable suspicion include information from student informers, police tips, anonymous tips and phone calls, and unusual student conduct (Yell, 1998). Second, the scope of the search must be reasonably related to the rule violation that led to the search in the first place. Because the vice-principal's search of TLO met the Supreme Court's test, it reversed the judgment of the New Jersey Supreme Court and ruled that the marijuana was admissible as evidence.

Veronia School District v. Acton (1995)

A school district in Oregon was experiencing a startling increase in drug use, rebelliousness, and disciplinary problems among its students. School officials identified student athletes as the ring-leaders in the drug problem. Following unsuccessful attempts at solving the problem through the use of educational programs, a public meeting was held. During the meeting, school officials received unanimous parent support for adopting a drug-testing program for all students participating in sports. The policy required that if a student wanted to participate in interscholastic sports, the student and his or her parents had to sign a consent form submitting to drug testing. If a student and his or her parents did not sign the consent form, the student was not allowed to participate in sports. A seventh-grade student, James Acton, who wanted to play interscholastic football, refused to sign the consent form. When the school did not allow James to play football, his parents sued the school district, alleging that their son's constitutional rights had been violated. The case, *Veronia School District v. Acton* (hereafter *Veronia*) was heard by the U.S. Supreme Court in 1995. In a six to three decision, the high court ruled in favor of the school district's drug-testing policy. Although the Court's ruling only addressed drug testing of student athletes, the decision has important implications for school districts' search and seizure policies. The Court, citing its decision in *TLO*, stated that the Fourth Amendment to the Constitution required balancing the interests of the student's privacy and the school district's legitimate interest in preserving order and safety. In making this determination, the Court noted that students in school have a decreased expectation of privacy relative to adults in the general population. The Court also considered the relative unobtrusiveness of the

drug-testing policy. The primary consideration, therefore, was regarding the special context of public schools, which act as guardians and tutors of the students in their care (Zirkel, 1995). Clearly, this decision indicated that in situations involving such preventive measures, courts will favor the needs of the school over the privacy interests of students when the procedures used are reasonable.

Discussion of the Supreme Court's Rulings

The TLO and Veronia decisions affirmed the constitutional rights of students to be free of unreasonable searches and seizures and to possess a reasonable expectation of privacy while at school. In both cases, however, the court granted a great deal of latitude to schools because they have a legitimate duty to educate students in a safe and orderly environment. The high court clearly stated that when the rights of students and those of school officials seem to conflict, the law favors the duties of school officials.

According to the TLO decision, the law permits educators to respond to school safety problems as the situation dictates, providing the actions are reasonable (James, 1994). In Veronia, the high court noted that the privacy expectations of students in public schools are less than those of the general public because school authorities act in loco parentis. In loco parentis is a concept that originated in English common law. According to this concept, when parents place their children in schools, they give a certain amount of their control of their children to school personnel. The principal and teacher, therefore, have the authority to teach, guide, correct, and discipline children to achieve educational objectives (Yell, 1998).

Nonetheless, these decisions do place some degree of restraint on school personnel. In TLO the court held that reasonable grounds must exist to lead school authorities to believe a search is necessary, and the search must be related to the original suspicion. According to Dise, Iyer, and Noorman (1994), this standard requires that school officials weigh the credibility of the information prior to making a decision to conduct a search. Court decisions following TLO have recognized situations in which searches and seizures in school environments do not give rise to Fourth Amendment concerns (i.e., searches during which even the standard of reasonable suspicion is not required). These situations include searches (a) to which a student voluntarily consents, (b) of material left in view of the school authorities, (c) in an emergency to prevent injury or property damage, (d) by police authorities that are incidental to arrests, and (e) of lost property (Valente, 1994).

The intrusiveness of the search is also a relevant factor. Considering the nature of the possible offense, the search should not be overly intrusive (e.g., a strip search to locate missing money). When these conditions are met, school officials have a great deal of leeway in conducting searches of students and their property.

In Veronia, the court stated that the interest of the school in taking the action (e.g., random searches, drug tests) must be important enough to justify the procedure. The court saw protecting students from drug use and maintaining a safe and orderly educational environment as "important -- indeed compelling" (p. 2395).

These decisions are extremely important because they give school officials guidance in using procedures such as targeted and random searches, drug testing, and surveillance. For legal purposes, we have divided such procedures into three

categories. In the next section we summarize tertiary, secondary, and preventive procedures.

PREVENTIVE PROCEDURES

In this section we will discuss school district reactions to violence, specifically focusing on tertiary, secondary, and primary prevention procedures. Tertiary prevention procedures are procedures that are applied to a problem that is already out of control. These procedures are responses to crises and are used when the problem has already become severe and protracted (Kauffman, in press). When applied to schools, these problems are a clear threat to its functioning and safety. The goal of tertiary prevention, then, is to keep the problem from engulfing the school and individuals therein. These procedures generally are used to remove the offending student or students from the school environment before they commit violent acts again. Tertiary procedures are reactive; school officials wait until incidents have occurred, identify the violators, and apply disciplinary procedures (James, 1994). Secondary prevention procedures are used to keep the problem from becoming severe. Such procedures are designed to arrest the problem and, if possible, reverse or correct it (Kauffman, 1999). When applied to violence in the schools, secondary prevention procedures are used to curb violence or drug use before it occurs. In effect, school officials monitor student behavior for warning signs of trouble and devise plans to respond, hopefully prior to an outbreak of violent behavior (James, 1994). Finally, primary prevention includes those procedures that focus on reducing the risk of violence by addressing educational and safety needs (Kauffman, in press). When applied to schools and potential violence, preventive procedures are those procedures that focus on educating students to avoid violence. Such procedures include conflict resolution programs and school-wide behavior management systems.

Tertiary Prevention

Zero-Tolerance Policies. Zero tolerance refers to policies in which any violation of a specified type (e.g., violence, drug use) results in a severe consequence (e.g., expulsion, arrest). Such policies grew out of the drug enforcement policies of the 1980s and in the 1990s began to be adopted by school districts across the country (Skiba & Peterson, 1999). Within the context of the GFSA, zero tolerance is the requirement that local education agencies expel from school for a period of not less than 1 year any students who bring a gun to school (20 U.S.C. [sections] 8921 (b)(1)). GFSA does allow case-by-case modification of the mandatory expulsion by school officials.

All 50 states have enacted zero-tolerance legislation to comply with the GFSA. Some states have taken additional measures in an attempt to toughen the consequences of violating their respective laws. For instance, Arkansas treats violent incidences on school grounds, buses, or bus stops as felonies (Arkansas Code Annotated). In Illinois, minors aged 14 to 16 who carry a weapon to school will have their cases transferred from juvenile to criminal court (Bogos, 1997).

In addition to bringing firearms to school, some states have included additional offenses in their zero-tolerance laws that result in mandatory expulsion. For example, possession of illicit drugs or alcohol in Hawaii (Pipho, 1998), drug possession in Massachusetts (Shepherd & DeMarco, 1996), and rape or arson in

Michigan (Michigan Compiled Laws Annotated) are now legal grounds for mandatory expulsion. Massachusetts (Massachusetts General Law Annotated) and a few other states have also broadened the definition of weapons to include knives (Colorado Code).

Additionally, most states have included various modifications of the GFSA in order to make their respective laws more practical. Colorado's law explicitly states that if a student immediately reports to school personnel that he or she possesses a firearm, the 1-year expulsion may be waived (Colorado Code). Although the media quickly highlights cases in which rationality, not school safety, is jeopardized, school boards and school administrators often have the discretion to change the mandatory consequences. For example, recently in South Carolina, a fifth-grade student was expelled for bringing a butterknife in her school lunch box (Roberts, 1998). The school board reviewed the expulsion and decided that the student's action did not constitute an ongoing threat. They reduced the expulsion to a year's probation, although the expulsion was left on her permanent record. However, as Pihlo (1998) mentions, with respect to GFSA, case-by-case exceptions cannot be used to avoid overall compliance with the 1-year expulsions.

Unlike New Jersey, where expulsions under zero-tolerance laws require placement in alternative programs, pending a Board of Education hearing (Kopka, 1997), most states do not require schools to provide education to students in general education who were removed for violating zero-tolerance laws. In the highly publicized case of *Doe v. Superintendent of Schools of Worcester* (1995), the Supreme Judicial Court of Massachusetts ruled that the state did not have to provide an alternative education to a student who brought a lipstick case that contained a small knife blade. The court reasoned that neither the federal nor state Constitution guarantees a federal right to education. According to the court, the Commonwealth of Massachusetts has an obligation to educate its children, but students do not have a fundamental right to an education. By bringing a weapon to school, the student forfeited her right to a public education. The expulsion had followed the school's procedural guidelines and, as per Massachusetts State law, the student was expelled for 1 year for bringing a weapon to school. Thus, the school had fulfilled its obligation to provide an education to the student (Rubinstein, 1996).

A second type of tertiary prevention is the targeted search of a student and his or her property. Targeted searches are searches of a particular student who is suspected of committing a crime or violating a school rule. As we saw in *TLO*, school officials should base their decisions to conduct targeted searches on reasonable suspicion. Targeted searches include strip searches and searches of a student's property. The more serious the violation, the wider the scope and the greater the intrusiveness of the search allowed (James, 1994). For example, if a student is suspected of carrying a weapon, reasonable grounds for a strip search would exist because of the seriousness of the situation. However, suspicion of stealing candy from another student would not be reasonable grounds for such an intrusive search.

Strip Searches. Strip searches of students are extremely intrusive. Courts will, therefore, carefully scrutinize such searches. For example, in a decision by the U.S. Court of Appeals for the Seventh Circuit, *Cornfield v. Consolidated High School District No. 230* (1993), a high school student classified as seriously emotionally disturbed brought a suit alleging that a strip search conducted by the teacher and dean was a violation of his constitutional rights. Suspecting that the student was

hiding drugs, the dean phoned the student's mother, who refused to consent to a search of the boy. The teacher and dean then escorted the student to the boys' locker room, where they conducted a strip search and physically inspected his clothing. No drugs were found. The student sued the school district, teacher, and dean. The district court ruled in favor of the defendants. On appeal, the circuit court affirmed the decision of the district court, stating that the strip search met the Fourth Amendment standard of reasonableness for searches conducted by school officials. The court noted that prior drug-related incidents involving the student combined with the personal observations of the teacher and aide created a reasonable suspicion that the student was concealing drugs. According to Maloney (1993), this ruling indicates that students, with or without disabilities, who are known to be actively using or dealing drugs can be subjected to similar search procedures. Because of the highly intrusive nature of these types of student searches, they should only be a last resort and only be conducted using the least intrusive means. Furthermore, the search must be based on reasonable suspicion (Miller & Ahrbecker, 1995). When strip searches are necessary, they should be conducted by persons of the same gender as the student and in a private area in the presence of school personnel also of the same gender as the student.

Targeted Searches of Students' Property. Although the U.S. Supreme Court has not heard a case involving targeted searches of student property, the court did uphold searches of government offices, desks, and file cabinets based on reasonable suspicion (*O'Connor v. Ortega*, 1987). Lower courts, using this decision as precedent, have upheld school officials' targeted or random searches of student lockers, if the searches are based on reasonable suspicion (*In the Interest of Isaiah B.*, 1993; *People v. Overton*, 1969). Searches by school authorities may also extend to students' cars and locked briefcases (*State of Washington v. Slattery*, 1990), as well as objects in which contraband may be hidden, such as backpacks (*People v. Dilworth*, 1996).

When school officials use tertiary prevention procedures, such as targeted searches of students and their property, they do not have to wait until the illegal behavior affects the school before taking action. School officials are legally permitted to act in response to reasonable suspicion that a student is violating or may have violated school rules or committed an illegal act. That is, they only need reason to believe that the safety or order of the school environment may be threatened by student behavior.

There is, however, another class of procedures that in many situations do not require reasonable suspicion prior to being undertaken. We refer to these as secondary procedures. Secondary procedures include random searches, use of metal detectors, and surveillance. It is legally useful to consider such searches separately from targeted searches and other tertiary procedures because the standard that school officials must meet in using secondary procedures is lower. In the next section, we briefly examine the legality of secondary prevention procedures when used by school officials.

Secondary Prevention

Secondary prevention procedures involve school officials' attempts to seize weapons or contraband materials before they can be used. These procedures typically consist of random searches of students' belongings or property (e.g., lockers, automobiles,

desks, backpacks). The use of metal detectors and various means of surveillance also fall into this category. Furthermore, the use of metal detectors to search students, even though there is no suspicion or consent to a search, is permitted (Illinois v. Pruitt, 1996). To keep weapons, drugs, and contraband off school property, random searches of students and their property are now common occurrences in public schools, especially at the secondary level (Dise et al., 1994). Secondary procedures, like tertiary procedures, are governed by the Fourth Amendment to the U.S. Constitution, which prohibits unreasonable searches and seizures. Unlike tertiary procedures, secondary procedures are directed at all students or are conducted randomly and therefore do not require reasonable suspicion.

A decision that has great importance for school districts conducting random searches was *In the Interest of Isaiah B.* (hereafter *Isaiah B.*, 1993). In this decision, the Wisconsin Supreme Court ruled that a student did not have reasonable expectations of privacy in his school locker. The court based its decision largely on the existence of the Milwaukee Public Schools policy regarding student lockers. According to the school policy,

School lockers are the property of Milwaukee Public Schools. At no time does the Milwaukee School District relinquish its exclusive control of lockers provided for the convenience of students. School authorities for any reason may conduct periodic general inspections of lockers at any time, without notice, without student consent, and without a search warrant.
(*Isaiah B.*, p. 639)

Unless prohibited by state law, Miller and Ahrbecker (1995) suggested that schools develop policies regarding locker searches, such as the Milwaukee Public Schools policy, that notify students and parents that there is no reasonable expectation of privacy in a student locker and that both random and targeted searches of the locker may be conducted without student or parental consent. Bjorklun (1994), likewise, concluded that random locker searches may be conducted without individualized suspicion.

Secondary procedures include the use of random searches, surveillance cameras, and metal detectors. These procedures are legally proactive because they serve as a deterrent (James, 1994). School officials attempt to seize contraband and weapons before they are used. Unlike tertiary procedures, the TLO standard of reasonable suspicion is not as directly applicable in situations involving random property searches and other secondary procedures. That is, school officials do not necessarily need reasonable suspicion to conduct, for example, random locker checks. Rather, school officials must balance their legitimate need to search lockers with the privacy rights of students. When conducting searches of students and their property, it is important that school district officials adhere to established guidelines and policies that correspond with the case law. Students have diminished expectations of privacy while at school; nevertheless, school officials must notify students and their parents that student property may be subjected to random searches and that surveillance measures will be used and that the purpose of such measures is to ensure that students are educated in a safe and orderly environment. As James aptly states,

"School officials must announce their intentions to make custodial interests (of the school) a part of a proactive campus safety plan that is communicated to students (and their parents) and consistently enforced" (p. 200). Procedural suggestions for using tertiary and secondary procedures are included in Table 3.

TABLE 3 Developing Tertiary and Secondary Prevention Policies

1. Draft a school district policy regarding tertiary and secondary procedures.
 - a. Describe reasons for and purposes of the policy (e.g., need to protect students and maintain a safe and orderly educational environment).
 - b. State that lockers are the property of the school and that students have reduced expectations of privacy in lockers. The policy should also address reduced privacy regarding student property on school grounds (e.g., automobiles, backpacks). Students and their parents should sign an acknowledgement form.
 - c. Describe circumstances that will lead to targeted and random searches of students and their property.
 - d. Specify procedures that will be followed if contraband is found in targeted or random searches (e.g., conduct more intrusive search, call police).
 - e. Specify possible sanctions and situations in which the police will be notified.
 - f. Notify public regarding school district policy.
2. Prior to conducting targeted searches or seizures:
 - a. School officials must have reasonable suspicion (e.g., tips from informants).
 - b. The scope of the search must be reasonable given the student's age and nature of the offense.
3. Document targeted and random searches of students and their property and have witnesses sign the record. In the case of targeted searches, the record should indicate how the search was justified at inception and that it was reasonably related to the violation (i.e., not overly intrusive).

Primary Prevention

Primary prevention strategies are designed to reduce the risk of violence by educating students about violence and how it may be avoided or prevented. Such procedures include school-wide discipline plans, social skills training, conflict resolution programs, and parent training programs. A comprehensive examination of effective violence prevention programs is beyond the scope of this article; however, the legal importance of including such programs in safe school efforts cannot be overemphasized.

For extensive discussion and brief evaluations of 84 violence prevention programs, we refer readers to *Safe Schools, Safe Students: A Guide to Violence Prevention*

Strategies (Drug Strategies, 1998). A compilation of best practices that address the prevention of school violence is available in *Early Warning, Timely Response: A Guide to Safe Schools* (Dwyer, Osher, & Warger, 1998).

Schools' efforts to decrease violence have been guided in part by legislation and litigation. Federal and state laws have mandated violence prevention strategies ranging from proactive education programs designed to reduce the risk of violence to reactive policies implemented in order to remove known or potential threats. The courts have consistently safeguarded students' rights while granting school officials the means to ensure school safety. We next examine how to best develop school-based policies and procedures within a legally sound framework.

RECOMMENDATIONS FOR DEVELOPING SCHOOL DISTRICT POLICIES AND PROCEDURES

School district responses to school violence must begin with establishing a priority that recognizes school violence as a significant problem and develops policies and procedures to address these problems. The policies should include careful planning and implementation of tertiary, secondary, and primary prevention procedures. In this section we offer several important considerations for developing legally sound school district plans to address school violence.

1. Know the law. Prior to developing policies and procedures regarding school violence, school district personnel must be aware of federal laws, state laws, and regulations addressing these issues. All 50 states have laws regarding issues of school violence. In some states, these laws mirror the federal requirements, although other states have laws that go far beyond the federal requirements. Developing school policies that are in line with state laws and regulations is essential.
2. Make prevention of violence a publicly announced priority. Few issues affect the public as profoundly as the issue of school violence (Kyle & Hahn, 1995). School districts should publicly announce the measures they take to address these problems. Publicly announcing the formation of policies and procedures increases the likelihood of community cooperation and support. In the event of crisis situations, previously announced policies can help minimize both negative publicity and legal liability. School district policies and procedures can be made available through newsletters, pamphlets, school manuals, and mailings to parents, as well as presentations to the school board and community groups. The general information provided should include programs to train school personnel, school programs to prevent violence, school safety plans, and crisis response procedures.
3. Involve the community. School violence is a community problem. The district team should reach out to the community for assistance with violence prevention efforts. For example, the team could bring in local law enforcement, staff from child and family service agencies and mental health service agencies, student and parent groups, and other influential groups in the community.
4. Assess the physical safety of district schools and implement correction procedures. School district officials should conduct safety audits of all schools and develop comprehensive plans for maintaining security. Law enforcement officials should be used in assessing and developing these security measures. Safety audits should be conducted annually and be used for both evaluation and planning purposes. These

audits should address building security, school-wide discipline, student troublemaker identification, supervision practices, staff screening processes, campus intruder and visitor procedures, school and district communication, and crisis response plans (Stephens, 1994). For resources addressing the characteristics of safe schools and suggestions for making schools safe, readers are referred to Dwyer et al. (1998), Stephens (1994), and Walker and Gresham (1997).

5. Form school district and individual school teams. One of the most important elements for establishing legally sound policies and procedures is to designate a school district team to address school violence. Moreover, these teams should be given the resources and the responsibility for identifying and implementing prevention plans for the district. The teams should be comprised of school district administrators, teachers, security personnel, community representatives (e.g., law enforcement personnel), parents, and others. Kyle and Hahn (1995) suggest that the teams that develop district policy should include representatives from the school district's legal department or someone knowledgeable about federal and state laws.

The primary tasks of the team should be to (a) designate a leader, (b) review the seriousness of violence in the school district, (c) assess the level of school district readiness for dealing with violence, (d) develop a district policy for implementing violence prevention plans, (e) provide training for school district employees, (f) formulate an action plan addressing crisis intervention when a serious incident occurs, and (g) oversee the creation of teams in each of the schools to implement the school district policies and procedures.

6. Conduct district-wide training of all staff. School districts could face a lawsuit if they fail to train administrators, teachers, and staff in preventing and minimizing the effects of violent incidences (Kyle & Hahn, 1995). Administrators, teachers, school staff, and other members of the district and school teams should receive ongoing professional development in preventing violent behavior and intervening effectively and safely. Training should include (a) understanding the characteristics of safe and unsafe schools, (b) managing and disciplining students in the classroom, (c) identifying and responding to warning signs of possible violent behavior, (d) using safe and effective intervention procedures, and (e) responding to violence after it has occurred.

7. Implement prevention programs. We mentioned the importance of violence prevention through educational programs. School district efforts should be directed at identifying those students at risk of developing behavioral problems and teaching them positive social interaction skills. Programs such as conflict resolution and peer mediation should be a part of these efforts. Violence prevention efforts must involve schools in developing school-wide discipline plans. These plans should include (a) specifying expected behaviors, (b) communicating these expectations, (c) developing procedures for correcting problem behavior, and (d) establishing a commitment from all school staff to implement the discipline plan (Walker, Colvin, & Ramsey, 1995).

8. Develop crisis procedures for responding to violent incidents. Despite efforts to prevent violence from occurring, schools must be prepared to react to such incidents if they occur. School districts, therefore, must have crisis-response procedures in place. Crisis plans should include (a) a clear chain of command, (b) an effective communication system involving both internal and external notification procedures, (c) a process for securing external emergency support (e.g., law enforcement,

trauma consultants, counselors), (d) staff training in safe and effective interventions during and following the crisis, (e) investigative procedures, and (f) public relations considerations (Dwyer et al., 1998; Kyle & Hahn, 1995).

9. Use law enforcement and the courts to address violence when it occurs. State laws address violent incidents. These laws prohibit juvenile possession of certain weapons and drugs; therefore, a student caught with either drugs or weapons is likely to face charges in a juvenile or adult court system (Shepard & DeMarco, 1996). School district officials should know what legal relief is available when incidences of violence occur. Law enforcement authorities should be called in when violent incidents occur. Furthermore, law enforcement and the courts can act to obtain court orders that may serve to prevent violent incidents.

10. Formatively evaluate school district policies and procedures. It is extremely important that violence prevention be an ongoing effort. Therefore, in the initial planning stages, the school district team should address procedures for formative evaluation of the plan. A member of the school district team could be given responsibility to (a) conduct safety audits, (b) develop a system to ensure that the plan is being implemented with fidelity and consistency, (b) monitor and track incidents of violent behavior, and (d) implement procedures whereby schools can review and revise their violence prevention plans.

SUMMARY

We have attempted to provide legally sound guidelines to effectively prevent violence in the schools. These guidelines are outlined by federal and state legislation and are continuously clarified by litigation. Future court cases and new federal and state laws will continue to redefine the legal framework; therefore, school district officials should monitor such developments and revise their violence prevention strategies when necessary.

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