Intergovernmental Agreements

IGA's

Illinois schools are governed by the Illinois School Code, the Illinois School Student Records Act, and other laws specific to the education setting.

- Exceptions: Some laws like the Open Meetings Act and Personnel Record Review Act apply to schools as well as
- other units of local government.

Intergovernmental Cooperation Through Formal Agreements

The authority to enter into Intergovernmental Agreements derives from three primary sources:

- The Illinois Constitution of 1970, Article VII, Section 10
- The Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et seq.
- Specific powers granted to the state, counties, townships, municipalities, units of local government, and school districts under state statutes governing those entities.

General Authority - Illinois Constitution

Illinois Constitution of 1970, Article VII

- Section 10(a): Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, **in any manner not prohibited by law or by ordinance**. . . .
- Section 10(b): Officers and employees of units of **local government and school districts** may participate in intergovernmental activities authorized by their units of government without relinquishing their offices or positions.
- Section 10(c): The State shall encourage intergovernmental cooperation and use its technical and financial resources to assist intergovernmental activities.

General Authority – Intergovernmental Cooperation Act

Intergovernmental Cooperation Act (5 ILCS 220/1 *et seq*.)

- Section 3. Intergovernmental cooperation. Any power or powers, privileges, functions, or authority exercised or which may be exercised by a public agency of this State may be exercised, combined, transferred, and enjoyed jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United Sates do not prohibit joint exercise or enjoyment **and except where specifically and expressly prohibited by law**. . . .

Specific Authority for Intergovernmental Cooperation

- Developing school discipline policies and reciprocal reporting between school districts and police departments to define different roles in responding to student misbehavior – 105 ILCS 5/10-20.14
- Missing child reports – 105 ILCS 5/2-3.73
- Mandatory reporting for incidents believed to involve child neglect or abuse (cooperation between school districts, the Department of Children & Family Services, and police) – 325 ILCS 5/1

Limitations on Authority

- Read in isolation, Section 10 of the Illinois Constitution together with the Intergovernmental Cooperation Act would appear to provide Illinois units of local government almost unfettered power to enter into intergovernmental agreements and to otherwise associate and cooperate with one another.
- However, these provisions must be read in conjunction with other Illinois constitutional provisions, Illinois case-law, and Illinois Attorney General Opinions which have narrowed and defined the scope of their ability to enter into and perform intergovernmental agreements. These opinions cite the exception language emphasized above

Examples of Statutory Limitations on Authority

Illinois Constitution of 1970, Article VII

- Section 6 ("Home Rule"): "…a home rule unit may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt."
- Section 8 ("Dillon's Rule"): "… special districts and units designated by law as units of local government which exercise limited governmental powers in respect to limited governmental subjects shall

Police Departments and School Districts

Common examples of working together

- School Resource Officers
- Reciprocal Reporting

School Resource Officers (SROs)

- School district enters into an agreement with a police department for officers to work within schools and reduce and respond to student misbehavior.
- Balancing act between school safety needs and students' constitutional rights.
  - Under controlling U.S. Supreme Court precedent, schoolchildren can have legitimate expectations of privacy in their persons and in personal possessions they bring to school.
    New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733 (1985).
  - However, school officials are given broad authority to keep schools safe, and the legality of a search by public school officials is based upon a standard of "reasonableness" rather than probable cause.
- SRO program is designed to establish a positive working relationship between the local police department and the school staff, including administrators, teachers, students, and parents.

SROs

- SRO program is governed by an intergovernmental agreement or memorandum of understanding between the municipality and school district.
- The agreement sets the terms of the level of police involvement, school and/or community involvement in dictating the terms of police work on campus, process for notifying parents prior to search or seizure, which agency maintains decision making authority, confidentiality of student records, and indemnification for both parties.

Reciprocal Reporting

Specific Authority: 105 ILCS 5/10-20.14(b)

- "The parent-teacher advisory committee in cooperation with local law enforcement agencies shall develop, with the school board, policy guideline procedures to establish and maintain a reciprocal reporting system between the school district and local law enforcement agencies regarding criminal offenses committed by students."

Other relevant statutes

- Illinois School Student Records Act (105 ILCS 10/6(a)(6.5)
- Juvenile Court Act (705 ILCS 405/1-7(A)(8)
- Freedom of Information Act 95ILCS 140/2.15(d)

Reciprocal Reporting

The Police Department may provide copies of law enforcement records to the Appropriate School Official for persons under 18 years of age, who are enrolled in a school within the School District, pursuant to 705 ILCS 405/1-7(A)(8), only if the student has been arrested or taken into custody for one of the following offenses:

- unlawful use of weapons under 5/24-1 of the Criminal Code of 1961, as
- amended;
- a violation of the Illinois Controlled Substances Act;
- a violation of the Cannabis Control Act;
- a forcible felony as defined in 5/2-8 of the Criminal Code of 1961, as
- amended;
- a violation of Methamphetamine Control and Community Protection Act;
- A violation of Section 1-2 of the Harassing and Obscene Communications
- Act; or
- a violation of one of several sections of the Criminal Code of 2012.

Reciprocal Reporting

As with SRO program, reciprocal reporting will be governed by intergovernmental agreement.

The IGA will:

- Identify appropriate school officials and appropriate law enforcement representatives to exchange records
- Confirm the responsibilities of the parties
- Acknowledge the confidential nature of the records

- The IGA may also address indemnification

Hypothetical: Bobby Sunshine

One morning a teacher walking to school through the student parking lot smells what he thinks is marijuana. The teacher reports this to the school dean and the dean goes to the parking lot to investigate.

QUESTIONS:

- Does the dean have to limit her search because the reported smell is in the school parking lot?
- If the dean contacts a SRO for assistance, does the SRO have to operate under different search standards?
- Is this a school discipline matter, a law enforcement matter, or both?

Hypothetical: Bobby Sunshine

- Bobby returns to school following a suspension. During Bobby's first day back another student taunts Bobby due to his absence. Bobby retaliates by punching that student in the nose.
- Is this a school discipline issue, a law enforcement issue, or both?
- If the police department prosecutes the case and wants to obtain Bobby's school discipline records:
  - How should it go about requesting the school records?
  - Can it obtain the records?

QUESTIONS

SRO

TRIAD Approach

- **Teacher –** Presenting topics on specific areas, i.e. – drug, law, driving, behavior.
- **Counselor –** To provide advise on law enforcement/ youth related issues (not a social worker)
- **Law Enforcement Officer** – Public Safety or Resource for students/staff.

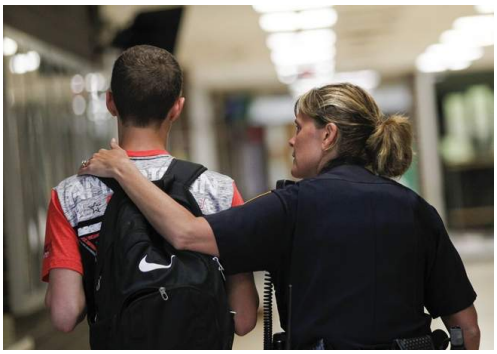
TRIAD Approach - TEACHER

The SRO can teach Law Related Education (LRE) to students:

- Juvenile Rights
- Substance Abuse
- Internet Safety
- Bill of Rights
- Science – Forensics/DNA etc
- Math – Accident investigations.
- Conflict Resolution
- Bullying
- Domestic Violence Awareness

TRIAD Approach - COUNSELOR

The SRO is a resource for faculty, students and parents, providing informal counseling and/or advice.



TRIAD Approach LAW ENFORCEMENT OFFICER

- Any criminal or law related issue that arises on campus is the SRO's responsibility.
- SRO's work closely with school administration in these issues.
- The SRO is charged with proactively addressing the crimes that occur on campus, both through education and through special projects or programs.

QUESTIONS

Classroom Issues

School Staff

- Maintaining and keeping a close working relationship with the school administrator is paramount.
- By sharing information properly the instructor can develop valuable information (students/activity)
- Maintain a copy of the student handbook. Make copies of specific common issues that need to be addressed with students
  - Discipline issues
  - Gangs
  - Clothing restrictions
  - Tardy/Truancy

Students

Differences that impact students

- Maturity
- Socio-Economic Status
- Previous Experiences
- Previous Failures
- Traumatic Experiences

Students

Student Perceptions

- Extremely perceptive. Do not lie.
- Credibility. Ask & Answer
- Encourage them to call or talk to you outside the instructor/student setting.

Creating positive classroom

- Honest & Open
- Be Approachable
- Allow opportunities for students to talk
- Keep an Interest
- Listen to everything before formulating a response
- Leave the door open for future conversations.

Listen

Listen … (actively listening)

- to words being communicated
- paying attention
- without interrupting
- without judging

Dealing with students

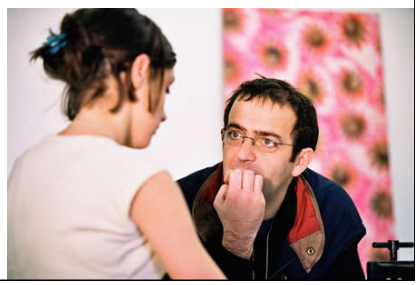
<u>Interactive Classrooms</u>

- **Asking question to get answers**
- **Getting a question and giving answers**
- **Be interactive in the presentation**

Dealing with students

Interactive Classrooms

- **Asking a question without getting a story.**
- **Knowing the difference between**
  - **"One time" or "I" its not a question.**



The Story Teller

Dealing with them in a polite way.

- 'Thank you, but I'll talk to you after class about that.'
- 'We will address that at a later time.'

Setting the Tone

- Model respectful behavior.
  - **Remain Calm**
- Encourage youths by letting them know when you notice their efforts to practice positive behaviors.
- Use your intuition. Identifying the likely hidden message helps the you figure out the best way to respond.

Setting the Tone

- Avoid lectures, shaming, and blaming children.
- These tactics increase disrespect
- Practice mutual respect.
  - That means remembering to respect your own needs as well as the students' needs.

Discipline in the Classroom

Disruptive Student

- **There are reasons for them.**
- **Use I-Statements to address them.**
- **Give Praise when appropriate**
- **Encourage contributions**

Discipline in the Classroom

- **Disruptions**
- **Talking**
- **Distractions**
- **Disrespect**

How to deal with students

Tactics to engage non participating students

- Ask them a question.
- Ask them to assist with a task.
- Make them the center of attention through positive activities.

Age Appropriate Methods

Middle School

- **Live for the moment.**
- **Keenly interested in their bodies**
- **Risk Takers**
- **Do not think long term**
- **See life beyond black and white**

High School

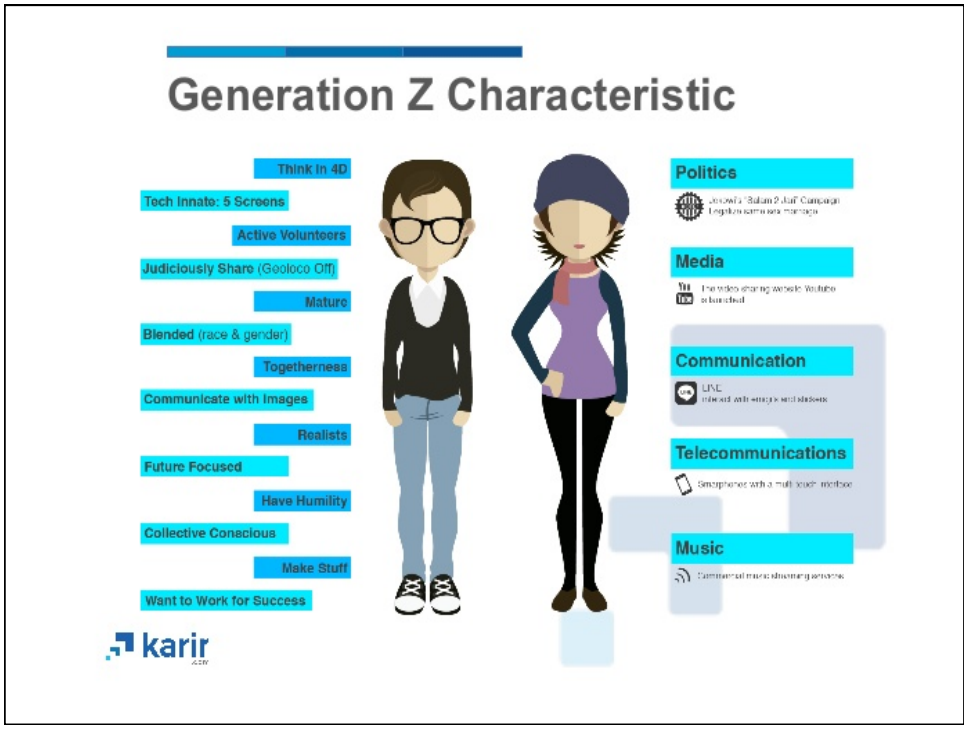
- Need to continue learning
- Need to be allowed to make independent decisions
- The need to understand the word citizen and how it applies to them.
- Exploring of issues.

Getting Young
People to open up

Communicating across lines

Understanding Generation Z

- After the Millenials
- People born between mid 1990's to Mid 2000's
- widespread usage of the Internet from a young age;
- comfortable with technology, and interacting on social media websites for a significant portion of their socializing.
- Great Recession has given the cohort a feeling of unsettlement and insecurity.



Gen Z

- **Less Focused**
- **Better Multi-Taskers**
- **Bargains**
- **Early Job Starters**
- **More Entrepreneurial**
- **High Expectations than Millenials**
- **Big on Individuality**
- **Global Thinking**

Questions

Legal Issues
Surrounding SRO's in School

TLO vs New Jersey

New Jersey vs T.L.O

- T.L.O. was a 14-year-old female student at a New Jersey high school.
- A teacher found T.L.O. and another student smoking cigarettes in the girls' restroom in the school building in violation of school rules.
- The teacher brought the two students to a school administrator, who questioned each of them.
- The second student admitted to smoking cigarettes. T.L.O. denied the allegations.
- The administrator then accused T.LO. of lying to him, and demanded to see her purse in an attempt to find the cigarettes.

New Jersey vs T.L.O

- Among other things, when the administrator opened her purse, he found a pack of cigarettes, and cigarette rolling paper.
- Due to the fact that the administrator knew that cigarette rolling paper is used to smoke marijuana he now suspected T.L.O. of marijuana use.
- He further searched T.L.O.'s purse, and found a small plastic bag containing a grass-like substance and items that could be drug paraphernalia, including a pipe, a wad of money, a piece of paper with the names of students who apparently owed T.L.O. money, and a letter that appeared to implicate T.L.O. in dealing marijuana.
- The administrator contacted the police who, in turn, contacted T.L.O.'s mother. Her mother brought T.L.O. to the police station, where she confessed to selling marijuana.
- She was subsequently charged.

New Jersey vs T.L.O

- The Juvenile Court denied T.L.O.'s motion to suppress (keep out) her confession and the evidence from the search.
- Her lawyer argued that the search of her purse was a violation of the Fourth Amendment. T.L.O. was found delinquent, and was put on probation for one year.

New Jersey vs T.L.O

Addressed three specific areas in schools:

- Legal Technicalities impending Sound Action
- Incompatible Theory (***loco parentis***)
- School Safety

New Jersey vs T.L.O

SCOTUS Ruled: New Jersey v. T.L.O.

- May investigate, interrogate, search students based on reasonable suspicion
- No school official ever needs search warrant
- Miranda rights do not apply in situations in which school officials are pursuing disciplinary action

New Jersey vs T.L.O

SCOTUS ruled:

- In ***loco Parentis*** is not necessary to an understanding of school discipline.
- The schools right to maintain safety, order and discipline derives directly from the constitutional right of the student to an education.

Riley v. California (2014)

- The case included an earlier California court ruling that upheld David Riley's conviction on gang-related weapons offenses that police uncovered after stopping his car for expired tags and finding guns under the hood and incriminating photos and video on his cellphone. The ruling was overturned.
- Cellphones generally cannot be searched by police without a warrant during arrests, the court ruled 9-0. The decision was hailed as a victory for privacy rights.
- The justices acknowledged the need to investigate crimes but came down strongly on the side of an individual's privacy.
- "Modern cellphones, as a category, implicate privacy concerns far beyond those implicated by the search of a cigarette pack, a wallet or a purse," Chief Justice John Roberts wrote for the court.
- "We cannot deny that our decision today will have an impact on the ability of law enforcement to combat crime," he said. "Privacy comes at a cost."

Riley v. California (2014)

The Impact for School

- Principals on occasion and when warranted – confiscate and search cellphones if students are suspected of wrongdoing.
- Principals might now refrain from searching a student's cellphone as part of an investigation and might not find evidence of the next act of violence, cheating or vandalism, giving educators a chance to prevent it.

Now this has not specifically named a School and the burden of proof is much lower for a School Administrator. There are still potential legal issues if an unwarranted search were to be done on a students cellphone.

K9 Searches in Schools

Florida v. Jardines (2013)
Burlison v. Springfield Public School (2010)

- SCOTUS have upheld that public places or buildings (public and private) to which the drug dog and its handler are lawfully admitted. In other words, it is not a "search" within the context of the Fourth Amendment when a K-9 unit is invited into the school for a random drug search.
- A three-judge panel of the U.S. Court of Appeals for the 8th Circuit, in St. Louis, held unanimously that that the five-minute dog-sniff of student belongings in a high school classroom while students were not present did not violate the Fourth Amendment protection against unreasonable searches and seizures.

Medlin vs Bass

Medlin V. Bass (1990, NC) 398 Se 2nd 460

Medlin v. Bass

- Plaintiff, as guardian ad litem for her minor daughter, sought to recover from defendants compensatory and punitive damages allegedly sustained as the result of sexual assaults upon the minor plaintiff by defendant Vann J. Bass, principal of the school which the minor plaintiff attended.
- She alleged that on one occasion defendant Bass sexually assaulted the minor plaintiff

Dangerous Situations

Medlin V. Bass (1990, NC) 398 Se 2nd 460

- Covers deliberate indifference to safety & civil rights.
- There may be no duty to intervene in a ***dangerous*** situation, but to ignore it altogether may be actionable.

Dangerous situations

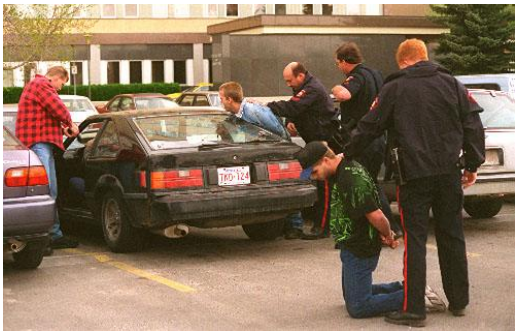
Court ruling found:

- Give proper warning of danger
- Take reasonable steps to protect the juvenile from harm.
- Institute action to avoid repetition of the problem.
- Document thoroughly

Use of Police officers with Special Circumstances

In re Boykin 1968 237 N.E. 2nd 460

- Established precedent to utilize the services of a police officer when safety demanded it.



Use of Police Officers

New York V. Overton (1967) 20 NY 2d 360

- L.E.O.'s summoned to school and search a student prior to the principal asking him to.
- The principal stated because of his frequent work with the officers, they worked as partners and was planning to have him search the student anyways.

Prohibited Groups

Hughes V. Caddo Parish Schools

(1945) 65 Ct. 562

- **Secret Societies**

  Specify prohibited activities
- Supreme Court ruled that such rules were constitutional
- Actions could include suspension and expulsion.

Prohibited Groups

Katz V. U.S. 389 U.S. 347

- Conspirators, gang members can be treated differently then other persons without disparate treatment to discrimination.
- Extra suspicion attaches to gang members
- Individual suspicion as to one member extends to conspirators.
- All gang members should be assumed to be dangerous.

Tinker v. Des Moines ISD, 1969

Tinker v. Des Moines ISD, 1969

- When 15-year-old John Tinker, his sister Mary Beth, 13, and Christopher Eckhardt, 16,
  - wore black armbands to their Iowa public schools in December 1965 to protest the Vietnam conflict.
- School officials enacted a no-armband policy.
  - School then enforced its no-armband rule while allowing;
  - the wearing of other symbols, including the Iron Cross.

Tinker Standard

The Decision that the Supreme Court established what become known as the ***Tinker* Standard,** considered to be the high watermark of students' First Amendment rights.

Tinker v. Des Moines ISD, 1969

- School officials may not silence student expression just because they dislike it.
- They must reasonably forecast, based on evidence and not on an "undifferentiated fear or apprehension of disturbance," that the student expression would lead to either
  - (a) a substantial disruption of the school environment, or
  - (b) an invasion of the rights of others.

The **Tinker Standard** was the law of the land until the SCOTUS ruled on two cases in the

FRASER STANDARD

(*Bethel School District. No. 403 v. Fraser*, 1986)

Fraser Standard

- SCOTUS ruled that school officials could punish high school senior Matthew Fraser for giving a speech before the student assembly that contained lewd references.[6]

- the court majority stated that "the constitutional rights of students in public school are not automatically coextensive with the rights of adults in other settings."[7] Instead, the high court set up a balancing test: "the freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against society's countervailing interest in teaching students the boundaries of socially appropriate behavior."[8]

Fraser Standard

SCOUTUS added: "Surely, it is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse."[9]

Fraser Standard

Despite the ruling in the case, courts are still divided in how they apply the *Fraser* standard.

- Some courts apply *Fraser* to all vulgar or lewd student speech even if the speech is student-initiated.
- Other courts only apply *Fraser* to vulgar student speech that is in some way school sponsored.

Fraser Standard

The question is significant because school officials consider a large amount of student speech offensive or vulgar even if the expression also contains a political message.

For example:
What standard applies if a student wears a T-shirt with a

- vulgar, or
- political message?

One court confronted this issue when a junior high school student wore a T-shirt to class bearing the words "Drugs Suck!"[10]

Fraser Standard

- The student argued that the shirt conveyed an, "anti-drug message" and did not cause a disruption of the school environment.
- The school responded that the shirt was inappropriate for the school environment because the word *sucks* has a vulgar connotation.

Fraser Standard

SCOTUS, ruled the on a broad application of the **Fraser Standard,** stating.

- Teachers and administrators must have the authority to do what they reasonably believe is in the best interest of their educational responsibilities, as we cannot abandon our schools to the whims or proclivities of children.

The SCOTUS ruled that . . .

- School Officials had an interest in protecting their young students from exposure to vulgar and offensive language.

Hazelwood Standard

The *Hazelwood* Standard
***Hazelwood School District v. Kuhlmeier*, 1988**

Hazelwood Standard

- SCOTUS ruled that students' First Amendment rights were not violated when a school principal censored two student articles on controversial topics -- pregnancy and divorce -- in the school newspaper, *The Spectrum*.
- The principal had ordered the stories removed from the paper because he believed the story….
- One story on teen pregnancy was inappropriate for some of the younger students…based on..
  - sexual activity and
  - birth control.

Hazelwood Standard

The Principal also censored a paper on Divorce.

- Because the writers did not afford the parent of one of the students mentioned in the article a chance to respond to certain comments.

Hazelwood Standard

- SCOTUS discussed the First Amendment concept of a public forum -- places such as a public park or street where the government has less leeway to regulate speech than in others -- and asked whether the school officials had by policy or practice opened up a "public forum" or "forum for student expression" by allowing students to make content decisions.
- SCOTUS states that "educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.“

Hazelwood Standard

SCOTUS ruled that…

- "a school must be able to set high standards for the student speech that is disseminated under its auspices -- standards that may be higher than those demanded by some newspaper publishers or theatrical producers in the 'real world.'"
- In addition, the ruling contains broad language on what type of speech school officials may censor, including any speech that might "associate the school with any position other than neutrality on matters of political controversy."

Hazelwood Standard

SCOTUS then defined school-sponsored expression equally broadly which included…

- "school-sponsored publications, theatrical productions, and other expressive activities that students, parents and members of the public might reasonably perceive to bear the imprimatur of the school . . . whether or not they occur in a traditional classroom setting, so long as they are supervised by faculty members and designed to impart particular knowledge or skills to student participants and audiences."

Since the ruling, courts have applied the Hazelwood standard not only to school-sponsored newspapers, but also to the selection of school band songs, school assignments, and even student campaign speeches.[13]

Hazelwood Standard

- SCOTUS still said that if *Hazelwood* applies, it does not end the inquiry. A reviewing court must still review whether the school officials' actions were "reasonably related to a legitimate pedagogical interest."

- A New Jersey Appeals Court determined that a school principal acted unreasonably when he ordered the removal of two reviews of R-rated movies from a junior high school newspaper.[14]
- As the court wrote, "when censorship of a school-sponsored publication has no valid educational purpose, the First Amendment is directly implicated and requires judicial intervention."

Questions

Juvenile Incident Procedures

SRO/JO Process

- SRO's will not handle disciplinary issues.
- In the event they witness an incident in which there is a discipline infraction, they should involve a School Staff member.
- The SRO will not involve themselves in disciplinary issues unless requested by the Staff Administration (Principal/Assistant)

SRO/JO Process

- All interactions with students at school in which investigatory action may be taken, will adhere to District 64 policy.
- An School Administrator will be consulted before any action is taken. (i.e. – exigent circumstances)

Incident

In the event you as the SRO need to investigate an incident involving a student at school:

1. Contact the Principal or Assistant Principal
2. Detail the nature of the incident under investigation
3. The Principal/Asst. Principal will make every attempt to contact the students parents prior to the Officer speaking to the juvenile. (i.e. – exigent circumstances)

Incident

- The interview of the students

Key Considerations:

- Nature of the incident
- Emotional State of the youth
- Your tone and demeanor
- Their ability to understand
- Their level of empathy

Incident

Safety/Follow up Considerations:

- Do not interview students alone, have an administrator/teacher/social worker/officer present
- When the interview is concluded do not leave the student alone in a room.
- Follow up with parents/social worker
  - Provide details if warranted
  - Provide closure if possible

ARREST

Arrest

Arrests of juveniles can be a traumatic event.

Considerations:

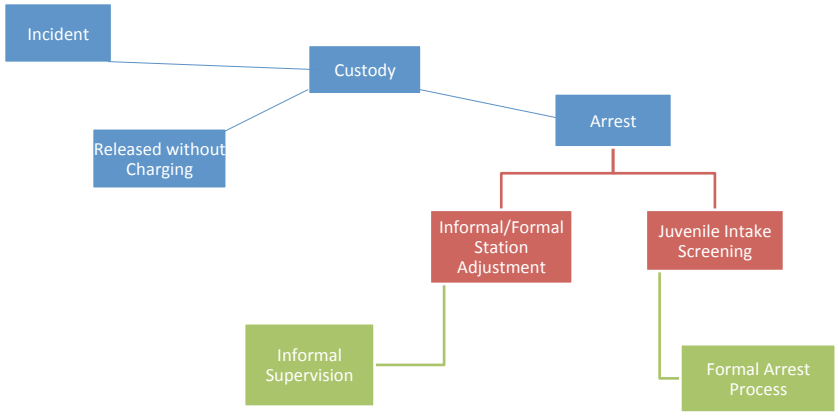
- Follow your agency arrest procedures
- Make a good faith attempt to minimize visual exposure of the arrestee to other students
- Make parents aware of where they should go
- Be aware of the youths emotional state during the entire arrest process.

Arrest

In the event an incident an "arrest" is necessary.

- Case report
- A referral to a non-criminal court is the preferred method (balanced restorative justice approach).
  - Adjudication Court (citation)
  - Peer Jury
  - Informal Station Adjustment

Juvenile Arrest Flow Matrix



QUESTIONS