

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

**Acts Of Violence
And Crime By
Students On
School Property**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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RICHMOND
1991**

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EXECUTIVE SUMMARY

The Joint Subcommittee Studying Acts of Violence and Crime by Students on School Property, established pursuant to House Joint Resolution No. 312 (1989) and continued pursuant to House Joint Resolution No. 132 (1990), was requested to determine the nature and extent of acts of violence and crime by students on school property, assess the impact on learning and school climate, and identify ways in which such acts may be prevented or appropriately handled.

The problem of violent youth and the resulting phenomenon of school violence and crime are pressing national problems. The media is replete with reports of violent crimes and other criminal activity in which youth are involved, including such acts which occur in the public schools. Although a growing number of youth are implicated in reported criminal offenses, determining the prevalence of these acts in the public schools is very difficult due to confidentiality of juveniles' criminal records and hesitancy of public school officials to disclose the existence, nature, and magnitude of the problem. Since 1981, Virginia law has required local school divisions to report annually certain crimes committed by students against school personnel to the Department of Education; however, few reports have been submitted. As a result, until the Joint Subcommittee's survey of the local school divisions and teachers, documentation of the existence and prevalence of violence and crime in the Commonwealth's public schools was nonexistent.

The members determined that numerous factors and, often, emotional and complicated issues are involved in devising appropriate and equitable solutions to school violence and crime. School officials have the difficult task and responsibility of maintaining a safe and orderly learning environment while protecting the rights of students who allegedly have committed or are engaged in violations of school board policies or the law. On occasion, these responsibilities may conflict. School officials must also exercise care in responding to student misconduct of all kinds, particularly adhering to legal requirements when disciplining handicapped students, and when applying suspension and expulsion as disciplinary measures.

The magnitude of crime and violence in Virginia's public schools is not proportionate to that of some other states; nevertheless, all areas of the Commonwealth experience the problem to some degree, and urban school divisions reported the greatest incidence. According to the survey, assaults of students by students, violations of the drug control laws, trespassing, truancy, and vandalism and property damage are significant problems for some public schools. In addition, respondents expressed grave concern and frustration concerning the leniency of the juvenile justice system in dealing with juvenile offenders and the lack of (i) student respect for authority, (ii) parental control and guidance of children, (iii) parental and community support of schools, and (iv) willingness of school administrators and local school boards to respond to such problems promptly, firmly, and consistently and to support school personnel who report such incidents.

The members recommend that the Code of Virginia be amended to clarify and strengthen the crime reporting requirements of local school divisions, clarify and extend the definition of school property to include school buses and school-sponsored activities, and require the periodic review and updating of local school board policies. The Joint Subcommittee supports the recommendations of the Department of Education's Task Force on Emergencies Related to Weapons and Violence on School Property and Medical Emergencies, particularly that local school boards be required to develop and implement standards and a protocol for responding to school emergencies and crises.

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING ACTS OF VIOLENCE AND CRIME
BY STUDENTS ON SCHOOL PROPERTY
PURSUANT TO HJR 312 (1989) AND HJR 132 (1990)
TO
THE GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA
RICHMOND, VIRGINIA
JANUARY 1991**

To: The Honorable L. Douglas Wilder, Governor,
and
the General Assembly of Virginia

I. AUTHORITY FOR THE STUDY

In 1989, the General Assembly passed House Joint Resolution No. 312 which established a joint subcommittee to study acts of crime and violence by students on school property. The study was continued for one year by the 1990 General Assembly, pursuant to House Joint Resolution No. 132. The joint subcommittee was requested to:

- Review the relevant federal and state case laws, state statutes concerning student disciplinary procedures, and criminal statutes pertaining to acts by juveniles on school property, particularly drug distribution, possession and use, possession and use of drug paraphernalia, offenses involving weapons, and other felonies;
- Review the policies of school boards to determine the feasibility of developing a statewide policy for student conduct;
- Assess the impact that acts of violence and crime committed on school property have on learning and school climate;
- Recommend ways in which schools may effectively deter criminal activity on school property and successfully prosecute juvenile offenders, including statutory and policy changes as may be necessary to ensure an orderly and safe school environment.

The members of the joint subcommittee were: Delegates Alan A. Diamonstein of Newport News; James F. Almand of Arlington; William S. Moore, Jr., of Portsmouth; Thomas W. Moss, Jr., of Norfolk; Jane H. Woods of Fairfax and Senators Mark L. Earley of Chesapeake; R. Edward Houck of Spotsylvania; Elliot S. Schewel of Lynchburg; and Stanley C. Walker of Norfolk. Delegate Alan A. Diamonstein and Senator R. Edward Houck served as Chairman and Vice Chairman, respectively.

II. THE PROBLEM OF SCHOOL VIOLENCE AND CRIME

According to the National School Safety Center, "[i]n earlier times, schools were orderly, peaceful places where students went to study and learn. The old-fashioned image of a one-room school house filled with eager students dressed in their best clothes and pouring over well-worn books echoes fond memories of days that are now, unfortunately, a part of the past."¹ Today, news reports indicate a concern for the growing number of "students who come to school carrying weapons or drugs, gang conflicts and violent crime, and school officials who now are forced to behave more like police officers than educators. In this atmosphere, learning is of secondary importance to students who must spend their time trying to avoid becoming victims."²

A. National Perspective

School disciplinary problems have changed significantly over past decades. Twenty-five years ago the worst disciplinary problems perceived by teachers included "gum chewing, talking, loud and boisterous students, and unruly behavior."³ Today, school officials describe student disciplinary problems in the public schools in the following terms of criminal activity such as:

■ Crimes Against Property

Arson - willful and malicious burning or attempt to burn property belonging to another

Bombing - use of any device containing combustible material and a fuse; threat to detonate such a device

Burglary - unlawful removal, taking or carrying away of property from a school building that is legally closed (after all employees have left and the building is secured)

Drugs/Narcotics/Alcohol - use of any illegal, controlled, or imitation substances, or alcohol

Larceny/Theft - unlawful taking of property when the school is legally open belonging to another with the intent of depriving the rightful owner of access to or use of the property

Vandalism - willful and malicious destruction of property belonging to another

■ Crimes Against Persons

Assault - unprovoked physical attack of one person on another

Fighting - equal participation in an altercation between two or more individuals

Extortion - use of mild threats or intimidation to demand money or something of value that is under the direct control of another

Sex Offenses - rape, sodomy, child abuse, child molestation, indecent exposure, sexual behavior with a consenting minor, obscene phone calls

Trespassing - unlawful presence on school property

Weapons - any object that can reasonably be used to inflict bodily injury⁴

Assessing the magnitude of the problem of school crime and violence is difficult due to the lack of a regular and systematic national compilation of victimizations in the public schools, the confidentiality of criminal records of juveniles, and the reluctance of school officials to confirm the existence of such problems in the public schools because of politically, socially, and emotionally charged local conditions and the potentially adverse publicity for schools. Although most schools are safe, there has been "an underestimation of the amount and severity of crime in public schools."⁵ According to the National Crime Survey, nearly three million attempted or completed street crimes, i. e., assault, rape, robbery, theft, took place inside schools or on school property during 1987. The more serious victimizations included an estimated 75,900 aggravated assaults; 50,980 aggravated assaults with injury; 350,000 simple assaults; 110,000 simple assaults with injury; 36,850 robberies; and 22,610 robberies with injury.⁶ In a survey of the top concerns of the nation's largest school systems, conducted by the National School Safety Center in 1988, superintendents and security officials cited weapons on school property as one of their major concerns.⁷ Recent reports on the status of public education note considerable concern about the escalation of school crime and violence in the nation. The following excerpts from news and research reports have been provided to the Joint Subcommittee by Ron Garrison, Director for Education and Law Enforcement, National School Safety Center.

Drug abuse and lack of discipline were cited as the most critical problems in public schools by participants in the "1989 Gallup Poll of the Public's Attitudes Toward the Public Schools."

Each month, 17% of teachers and students in urban schools are robbed and 9.5% are robbed in rural school districts according to a study conducted by Harvard University in 1987.

One in 15 high school senior boys (500,000) have used anabolic steroids or are using them, as reported in the Journal of the American Medical Association, December, 1988.

An overwhelming majority of educators blamed drugs, guns and lack of parental supervision for what they perceive as a frightening increase in teenage violence, according to a national survey by the American Federation of Teachers in July, 1989.

The U. S. Department of Education's Office of Education Research and Improvement, Center for Education Statistics, reported in 1987 that 44% of teachers in public elementary and secondary schools indicate that the amount of disruptive behavior increased over the previous five years; one-third of the teachers indicated they had seriously considered leaving teaching because of student misbehavior; and 27% stated that student behavior greatly interfered with learning.

Twenty-two percent of the 23,300 students, ages 10-16, polled by USA Weekend and released August 18-20, 1989, did not feel safe in their school; 40% stated that something violent happened in their schools the previous year; among 15 and 16 year olds surveyed, 41% know students who carry weapons at school; 14% have been asked to buy or use drugs while at school; 70% of the oldest students surveyed know classmates who regularly use drugs; and 10% of 10 year olds know drug users.

According to the 1990 report of the National Center for Educational Statistics, for which 25,000 eighth graders from 1,000 public and private schools were surveyed, representing 3 million eighth grade students in more than 38,000 schools across the nation, 43% reported involvement in physical conflict; 29% had experienced robbery or

theft; 31% had witnessed vandalism; 25% reported drug use; 21% had witnessed weapons at school; 40% stated that class disruptions interfere with learning; 33% reported that tardiness and cutting class was a moderate to serious problem in school; 60% do not discuss problems with a school counselor; and 62% never discuss classes with their parents.

B. Virginia's Experience

In 1981, the General Assembly enacted § 22.1-280.1 of the Code of Virginia to require public schools in the Commonwealth to report "any assaults, assault and batteries, 'unlawful woundings,' maimings, and homicides, other than involuntary manslaughter committed by a student on school personnel . . . to the division superintendent and the Department of Education." However, because of noncompliance with § 22.1-280.1 by local school divisions and the lack of aggressive enforcement by the Department of Education, the data required to be reported under this section was not available at the commencement of the study. To obtain the information, the Joint Subcommittee, with the assistance and cooperation of the Superintendent of Public Instruction, surveyed all local school divisions to request up-to-date information on the nature and magnitude of crime and violence in Virginia's public schools. In addition, the staff reviewed the current policies of local school boards to determine whether such policies include provisions for the governance of student conduct and procedures for handling student disciplinary problems. The results of the survey and review of policies are discussed in the section V.

Prior to the completion of the survey, the Joint Subcommittee reviewed the types of crimes committed by school age children and youth based on information prepared in 1988 by the Department of Correctional Education for the Joint Subcommittee Studying School Drop Out and Ways to Promote the Development of Self-Esteem Among Youth and Adults and from the reports, "*Felony Justice in Virginia, 1986*," and "*Violent Crime, 1988*," of the Department of Criminal Justice Services. It should be noted that this data does not include information on the location of such crimes. The Department of Correctional Education reported that of the children in the custody of the Department of Youth and Family Services for whom educational services were provided in 1988:

- | Almost 28% of youth are committed for *minor offenses*.
- | Nearly 57% are committed for *misdemeanor offenses*.
- | Thirty-three percent have no recorded felonies in their offense histories.
- | Among the youth in learning centers, 7.4 percent are seriously delinquent.
- | More than 50% of female youth are committed for *minor offenses*.
- | Eighty-three percent of the females are committed for *misdemeanors*.

Children in the custody of the Department of Youth and Family Services have been charged with various types of offenses which have been categorized as follows:

Level 1 - unauthorized use of auto; disturbing the peace; destroying property valued less than \$200; and shoplifting merchandise valued less than \$200

Level 2 - passing bad checks; unarmed breaking and entering; destroying property valued greater than \$200; and shoplifting merchandise valued greater than \$200

Level 3 - felonious assault; armed burglary; attempted robbery; and sale/distribution of narcotics

Level 4 - arson; murder; rape; and armed robbery

Recent reports of the Department of Criminal Justice Services indicate that juveniles were evident in all major categories of felony convictions in 1986 (Figure 1). Between 1985 and 1988 (Figure 2), the representation of juveniles among major categories of felony convictions increased.

Figure 1

Demographic Information on Offenders by Conviction Offense

	Murder	Voluntary Man-slaughter	Involuntary Man-slaughter	Armed Robbery	Unarmed Robbery	Rape/Sodomy Victim > 12	Rape/Sodomy Victim < 13	Aggravated Assault	Larceny	Burglary	Drug Crimes	Fraud	Total
Age													
15-17	4.3%	2.8%	0.0%	4.4%	4.5%	2.6%	3.1%	0.4%	1.2%	1.8%	0.1%	0.0%	1.1%
18-20	11.1	8.3	13.8	30.2	31.8	13.2	9.6	13.2	20.8	34.6	8.1	14.0	17.3
21-30	43.8	36.1	43.1	51.6	51.6	57.7	34.8	50.4	47.8	50.7	59.4	52.3	50.4
Over 30	40.9	52.8	43.1	13.8	12.1	26.4	52.6	36.1	30.2	12.9	32.4	33.7	31.2
Race													
Black	57.4	69.4	36.4	74.7	65.2	53.1	28.0	60.2	50.8	41.8	37.0	46.5	45.7
White	40.4	30.6	63.6	24.9	34.2	46.3	64.8	38.0	48.4	57.2	61.2	52.6	53.1
Other	2.2	0.0	0.0	0.4	0.6	0.7	7.1	1.8	0.8	1.0	1.8	0.9	1.2
Sex													
Female	10.6	22.2	18.0	3.1	3.7	0.7	0.0	8.4	18.2	3.5	17.4	40.0	14.8
Male	89.4	77.8	82.0	96.9	96.3	99.3	100.0	91.6	81.8	96.5	82.6	60.0	85.2
Marital Status													
Single	84.3	75.0	70.9	88.8	91.8	81.9	64.0	81.5	80.6	85.0	76.2	75.2	78.4
Married	15.7	25.0	29.1	11.2	8.2	18.1	36.0	18.5	19.4	15.0	23.8	24.8	21.6
Education													
0-8	34.2	44.4	20.2	20.9	23.6	27.1	30.1	40.8	23.0	30.6	15.4	20.6	25.6
9-11	33.8	36.1	23.0	49.3	44.5	43.6	29.1	34.1	39.0	44.5	32.4	35.3	37.5
12	24.4	13.9	43.4	24.9	27.9	22.5	34.6	20.6	27.1	20.8	35.1	28.9	26.6
13+	7.7	5.6	13.4	4.9	4.0	6.8	6.2	4.5	10.9	4.1	17.1	15.1	10.3
Employment													
Full-time	44.3	52.8	59.8	26.8	31.4	60.1	73.5	50.5	41.6	31.4	57.9	36.4	45.1
Part-time	10.6	11.1	9.9	11.2	10.9	9.3	4.2	9.7	10.0	12.8	9.2	12.8	10.6
Unemployed	43.4	36.1	30.3	62.0	57.6	30.6	22.2	39.3	47.8	55.6	32.2	49.1	43.6
Other	1.7	0.0	0.0	0.0	0.0	0.0	0.0	0.6	0.5	0.2	0.7	1.7	0.7
Drug Abuse													
Yes	20.9	5.6	8.8	32.6	35.0	24.9	6.4	14.1	24.7	29.2	47.7	19.3	26.7
No	79.1	94.4	91.2	67.4	65.0	75.1	93.6	85.9	75.3	70.8	52.3	80.7	73.3
Alcohol Abuse													
Yes	28.8	22.2	44.0	23.4	29.5	32.1	20.0	33.4	22.8	31.0	17.1	15.7	25.5
No	71.2	77.8	56.0	76.6	70.5	67.9	80.0	66.6	77.2	69.0	82.9	84.3	74.5

Source: Department of Criminal Justice Services, Felony Justice In Virginia, 1986, September 1987

Figure 2

**Demographic Information on Violent Felony Offenders
in Virginia (1985-1987 Average)**

	CAPITAL MURDER	MURDER	VOLUNTARY MAN SLAUGHTER	INVOLUNTARY MAN SLAUGHTER	ARMED ROBBERY	UNARMED ROBBERY	RAPE/SODOMY VICTIM >12	RAPE/SODOMY VICTIM <13	AGGRAVATED SEXUAL BATTERY	MALICIOUS WOUNDING	UNLAWFUL WOUNDING
Age											
15-20	19.0%	16.7%	8.2%	14.6%	28.7%	33.5%	15.5%	11.6%	9.5%	16.5%	12.6%
21-25	28.6	21.6	23.8	22.9	33.7	35.8	27.0	16.7	12.9	27.5	27.1
26-30	23.8	17.6	18.3	22.3	20.6	16.4	26.0	17.1	19.8	19.2	18.7
31-40	22.2	24.9	22.9	20.4	15.2	11.9	23.5	38.5	31.7	23.1	24.2
40+	6.3	19.1	26.8	19.8	1.9	2.5	8.0	16.0	26.1	13.7	17.3
Race											
Non-White	55.6	60.2	66.8	35.3	74.5	67.2	53.3	37.1	33.0	63.0	64.5
White	44.4	39.8	33.2	64.7	25.5	32.8	46.7	62.9	67.0	37.0	35.5
Sex											
Male	93.7	88.1	74.1	86.4	96.2	94.8	99.6	99.7	98.7	93.3	88.2
Female	6.3	11.9	25.9	13.6	3.8	5.2	.4	.3	1.3	6.7	11.8
Marital Status											
Single	83.9	83.0	82.2	70.1	87.2	90.1	80.1	63.7	63.8	82.5	77.4
Married	16.1	17.0	17.8	29.9	12.8	9.9	19.9	36.3	36.2	17.5	22.6
Education											
0-8	32.3	32.9	43.6	20.8	24.4	27.8	31.9	26.6	28.5	38.6	36.2
9-11	40.3	37.8	32.3	25.8	44.1	43.3	39.3	29.5	25.4	37.8	34.6
12	24.2	22.9	19.4	39.5	26.8	24.4	22.4	34.6	31.3	18.9	24.1
13+	3.2	6.4	4.6	13.9	4.7	4.4	6.4	9.3	14.8	4.7	5.1
Employment											
Full-Time	36.5	44.2	49.4	62.7	30.7	30.9	59.5	69.0	67.3	50.2	52.4
Part-Time	4.8	11.1	7.3	9.1	11.7	10.9	8.2	7.5	7.9	9.4	10.5
Unemployed	52.4	35.3	33.0	22.8	54.3	54.9	27.1	18.9	17.5	34.3	29.6
Other	6.3	9.4	10.3	5.4	3.2	3.2	5.2	4.6	7.4	6.0	7.5
Drug Abuse											
Yes	32.3	22.0	11.0	7.3	37.5	34.8	22.7	10.5	9.4	17.5	12.3
No	67.7	78.0	89.0	92.7	62.5	65.2	77.3	89.5	90.6	82.5	87.7
Alcohol Abuse											
Yes	37.7	33.8	32.0	39.7	22.9	30.9	33.9	22.0	25.4	33.8	34.3
No	62.3	66.2	68.0	60.3	77.1	69.1	66.1	78.0	74.6	66.2	65.7
Military Service											
Yes	30.2	25.5	23.8	25.4	15.5	19.0	25.4	44.4	41.4	16.2	18.2
No	69.8	74.5	76.2	74.6	84.5	81.0	74.6	55.6	58.6	83.8	81.8
Family Felony Convictions											
Yes	41.2	31.5	41.2	18.4	38.1	32.1	29.6	23.8	21.9	37.1	32.1
No	58.8	68.5	58.8	81.6	61.9	67.9	70.4	76.2	78.1	62.9	67.9
Mental Health Therapy											
Yes	42.9	31.9	24.7	18.4	24.2	25.1	38.6	46.0	46.4	25.3	21.5
No	57.1	68.1	75.3	81.6	75.8	74.9	61.4	54.0	53.6	74.7	78.5

Source: Department of Criminal Justice Services, Violent Crime in Virginia, May 1989

III. ISSUES RELATED TO SCHOOL VIOLENCE AND CRIME

A. Student Discipline

Many individuals view discipline as the foundation upon which all educational progress must rest. Discipline, however, is more than a means of maintaining control in a social environment. It is essential for the continuance of the social order. It is the means by which individuals are taught self-control and responsibility for their own behavior. It is evident that those to whom we entrust the minds of our children must be able to establish rules of conduct to facilitate and promote the growth and development of children. They must also ensure that the education of school children takes place in an atmosphere conducive to learning and consistent with community expectations and standards.

Disciplinary problems which beset the public schools today are as varied as the student population in any given school system. Therefore, evaluating modes of conduct and the procedures needed to ensure appropriate student conduct requires an assessment of the needs and concerns of each school and the school division, an examination of the causes of student misconduct, and the development of appropriate measures to maintain a harmonious learning environment.

■ Concept of In Loco Parentis

Establishing an environment in the public schools which is conducive to learning continues to be one of the primary responsibilities of school officials. Under the concept of *in loco parentis*, schools were considered to act in the place of a parent or guardian, with almost the same responsibilities and rights, for students within their charge. Although schools have no specific duty to ensure safe schools, under this doctrine schools were expected to protect students from dangerous or threatening situations. There are few states which employ the concept, although these states allow for teacher immunity from litigation by students unless claims of endangerment and injury are based on deliberate, reckless misconduct.

■ The Concept of Parens Patria

The concept of *parens patriae*, in which the state acts as the guardian of minors, enables the state to restrict parental discretion over children and impose specific mandates for schools to follow. It has been used to set school attendance policies, establish the curriculum, and create any other policies deemed appropriate by the state for the education of its citizens. However, the concept generally has not been used to ensure students the right to safe schools other than the requirement that school facilities adhere to established building and fire safety codes.

B. Suspensions and Expulsions

One of the most difficult problems facing school boards and school administrators is how to deal with student misconduct, which, today, frequently includes criminal behavior. Public schools seek to control student

behavior in many ways; however, the disciplinary procedures most often employed are suspension and expulsion. The U. S. Supreme Court, in Goss v. Lopez,⁸ established the legal foundation for the procedure to which public schools must adhere in school suspensions and expulsions. The Court opined that, because public schools are an extension of the state, life, liberty or property cannot be taken from a person without providing due process. A student's education is a property interest and his liberty interest is implicated when he is suspended, as the recording of the suspension in the student's file could have serious ramifications for future education. Any activity of the school that results in possible damage to a student's good name, honor or reputation implicates a liberty interest. The presence of a liberty interest requires that due process be provided.⁹

The requirements established in Goss are constitutional minimums for short-term suspensions. The distinction between suspension and expulsion is primarily length of time. The short-term suspension is 10 days or less, whereas the long-term suspension exceeds 10 days. In some states, long-term suspension and expulsion are virtually synonymous with long-term suspension constituting less than the amount of time between the start of the suspension and the end of the term or until the end of the school term. In Virginia, suspensions and expulsions are differentiated according to three types--short-term suspensions, long-term suspensions, and expulsions, i.e., dismissal from school attendance. Nevertheless, all suspensions and expulsions must be accorded appropriate due process. Each action requires (i) oral or written notice of the intent to suspend or expel; (ii) a statement of the specific charges against the student, the rule that was broken, and the nature of the evidence supporting the charges; and (iii) a formal or informal hearing, preferably prior to the action. Further, the student and his parent may be entitled to receive a copy of the procedures that will be followed at the hearing, and disclosure of their rights.¹⁰ The Virginia statute governing suspensions and expulsions is consistent with the Court's decision in Goss. Sections 22.1-277 through 22.1-279 state that:

Pupils may be suspended or expelled from attendance at school for sufficient cause. A pupil may be suspended for not more than ten school days by either the school principal, assistant principal, or in their absence any teacher after giving the student oral or written notice of the charges against him and, if he denies them, an explanation of the facts as known to school personnel and an opportunity to present his version of what occurred. In the case of any pupil whose presence poses a continuing danger to persons and property or an ongoing threat of disruption, the pupil may be removed from school immediately and the notice, explanation of facts and opportunity to present his version given as soon as practicable thereafter. Upon suspension of any pupil the principal, assistant principal or teacher responsible for such suspension shall report the facts of the case in writing to the division superintendent or his designee and the parent or person in loco parentis of the pupil suspended. The division superintendent or his designee shall review forthwith the action taken by the principal, assistant principal, or teacher upon a petition for such review by any party in interest and act so as to confirm or disapprove such action based on an examination of the record of the pupil's behavior. The decision of the division superintendent or his designee may be appealed to the school board or a committee thereof in accordance with regulations of the school board.

A pupil may be suspended from attendance at school for more than ten days after providing written notice to the pupil and his parent(s) or guardian of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof or, if permitted by the regulations of the school board, the

superintendent or his designee(s). If the regulations provide for a hearing by a committee of the school board, the superintendent or his designee(s), the regulations shall also provide for an appeal of the decision to the full school board, which appeal, if requested, shall be decided by the school board within thirty days.

Pupils may be expelled from attendance at school after written notice to the pupil and his parent or guardian of the proposed action and the reasons therefor and of the right to a hearing before the school board or a committee thereof in accordance with regulations of the school board. If the regulations provide for a hearing by a committee of the school board, the regulations shall also provide for an appeal of the committee's decision to the full school board, which appeal, if requested, shall be decided by the school board within thirty days. (§ 22.1-277)

School boards shall adopt regulations governing suspension and expulsion of pupils. Such regulations, which shall be consistent with the welfare and efficiency of the schools, their pupils and staff, shall set forth the grounds for suspension and expulsion from school and the procedures to be followed in such cases in the school division. The procedures set forth in § 22.1-277 shall be the minimum procedures that the school board may prescribe. (§ 22.1-278)

In the case of an expelled student under the age of eighteen years, the school board must notify the appropriate officer of the school the student attended. The school officer may develop a plan of services for such student and shall contact the department of social services, the court service unit of the juvenile and domestic relations district court, or any other public agencies of the county or city where the student resides to determine if such agency can provide appropriate services to the student. The department of social services, the court service unit or other agency which provides counseling, treatment or other services to such student shall submit reports on the progress of the student to the school officer during the period in which it provides such services. The school officer must then submit such reports to the school board. (§ 22.1-279. Chapter 797, 1990 Acts of Assembly, and Chapter 295, 1991 Acts of Assembly, repeal this section, effective July 1, 1991).

C. Disciplining Handicapped Students

Because discipline and order are acknowledged requisites for learning, school personnel have the authority and responsibility to maintain order and to curb the dangerous or disruptive conduct of all students, including the handicapped, to ensure that public education is conducted in an atmosphere conducive to learning. However, there has been considerable controversy concerning the methods of and the extent to which school personnel may discipline students, especially handicapped students. The limitations placed upon public schools in disciplining handicapped students are attributable to the rights conferred upon such students in the landmark legislation, Public Law 94-142, the Education for All Handicapped Children's Act, as amended, which established the right of handicapped students to (i) a free and appropriate public education; (ii) remain in current placement throughout the pendency of any complaint proceeding; (iii) an education in the least restrictive environment; and (iv) procedural safeguards regarding any change of educational placement.

Essential to the implementation of P. L. 94-142 is the development of an individualized education plan (IEP) for each handicapped student prior to placement. The IEP is the pivotal force behind the educational placement and

the provision of related services to which identified handicapped students are entitled under the law. Once a student is placed pursuant to his IEP, that placement may not be changed unless the parents and school agree or the regulations governing reevaluation to modify the placement are followed.

Consequently, in instances involving the disciplining of handicapped students, it has been argued successfully that long-term suspension, i.e., more than 10 days, and expulsion constitute changes in placement and may not be imposed without affording the procedural safeguards required for a change in placement under federal law. It should be noted, however, that handicapped students are not exempted from student conduct policies and may be subject to appropriate disciplinary action when their behavior presents an immediate physical danger to themselves or others. Therefore, suspension and expulsion remain legitimate penalties for handicapped students when situations warrant these sanctions and when they are executed in compliance with the procedural safeguards of P. L. 94-142. Nevertheless, public schools are still legally responsible for providing continued educational services for suspended or expelled handicapped students.¹²

Legal guidelines for disciplining handicapped students were established by the U. S. Supreme Court in *Honig v. Doe*, 108 S. Ct. 592, (1988). The guiding principles of this decision are (i) [t]here is no dangerousness, or emergency exception in the "stay-put" provision of P. L. 94-142, Education for All Handicapped Children's Act; (ii) the student must stay in his current placement during the pendency of all complaint proceedings regarding the change of placement, unless the parents or guardian agree otherwise; however, school officials may temporarily suspend a handicapped student from school for up to 10 school days without violating the Education of Handicapped Children Act if such student poses an immediate threat to the safety of others; and (iii) school officials may use the "10-day respite" to seek relief in court, initiate review of the student's IEP, and try to convince the parents or guardian to agree to an interim change in the student's placement. If the parents or guardian of a truly dangerous student adamantly refuses to agree to a change of placement, school officials may use their "normal procedures" when disciplining a handicapped student who is endangering himself or others, including the use of study carrels, timeouts, detention, or restriction of various privileges. School officials must be able to demonstrate the futility or inadequacy of administrative review when they request a state or federal court to temporarily enjoin the student from attending school. Because there is a heavy presumption in favor of the student's current placement, school officials must show that allowing the student to remain in the current placement would be substantially likely to result in injury to others or to the student.¹³

D. School Climate and Learning

The ambience of the school or "school climate" is defined as the qualities of a school, and the people in that school, which affect how people feel while they are there. It refers to the total physical and psychological environment to which people respond. Schools with positive climates are characterized by trust, respect, care, unity, a high sense of pride and ownership, communication, and collaboration between students, faculty, parents, and the community. A positive school environment is essential to learning. Increasing evidence indicates that as school climate improves, school attendance and achievement increase and student discipline and other related problems abate.¹⁴

IV. ACTIVITIES OF THE JOINT SUBCOMMITTEE

To assist with its work, the Joint Subcommittee appointed a Citizen's Advisory Task Force, representing educators, counselors, law enforcement, local school boards, community leaders, and parents. The members were Mr. Horace Downing of Norfolk, Mr. Frankie Edmonson of Portsmouth, the Honorable Leroy R. Hassell of Richmond, Ms. Sara Jane Knight of Falls Church, Sergeant Bert Peacher of Fairfax, Ms. Billie Quigley of Newport News, and Mr. Robert P. Woods of Spotsylvania.

The Joint Subcommittee and its task force worked diligently over the past two years, holding meetings and public hearings to receive public comment on the causes of school violence and crime; the magnitude of the problem; the types of offenses committed; the needs and responsibilities of students, school personnel, parents, law enforcement agencies and the community in addressing this problem; ways in which school violence and crime might be prevented; and ways in which juvenile offenders might be prosecuted successfully. The Joint Subcommittee also worked collaboratively with and participated in a seminar on school violence and crime sponsored by the Department of Education's Task Force on Emergencies Related to Weapons and Violence on School Property and Medical Emergencies.

During the Joint Subcommittee's deliberations, it was urged to consider a wholistic approach to the solution of school violence and crime. It was noted that school violence and crime is a microcosm of societal problems. Several middle school students who testified suggested that the message that drugs will not be tolerated in schools be delivered firmly and consistently and that consideration be given to "abuse and lose" legislation for use of tobacco products by minors and to increasing the number of guidance counselors and security personnel in public schools. Recurrent themes in testimony included the need for (i) alternative programs for problem students; (ii) requiring parents and guardians to assume greater control and responsibility for student conduct, e. g., imposing penalties on parents and guardians for the truancy of their children or when their children obtain access to their weapons; (iii) establishing procedures for handling emergencies and crisis situations within the schools; (iv) limiting the discretion of intake officers in disposing of certain cases; and (v) imposing harsher penalties on repeat juvenile offenders.

V. FINDINGS OF THE JOINT SUBCOMMITTEE

During the spring of 1989, the Joint Subcommittee conducted a survey of local school divisions on the nature and magnitude of crime and violence and a review of school board policies to determine how violations of conduct policies are addressed. Through written communications and public hearings, the Joint Subcommittee received testimony from teachers, school administrators, division superintendents, law enforcement agencies, court services and pupil services personnel, and uniserve representatives concerning the problem of school violence and crime.

A. Survey of Local School Divisions

With the assistance of Dr. S. John Davis, then Superintendent of Public Instruction, a questionnaire was sent to all division superintendents to obtain information concerning the type and number of crimes by students on public school property and the total number of such incidents reported to appropriate authorities between the 1984 and 1988 school years. Local school division superintendents were advised that survey results would be used for statistical purposes only to ensure the anonymity of the school division. At the conclusion of the study's first year (1989), 89 school divisions had responded to the survey. All 141 school divisions had responded at the conclusion of the second year of the study (1990).

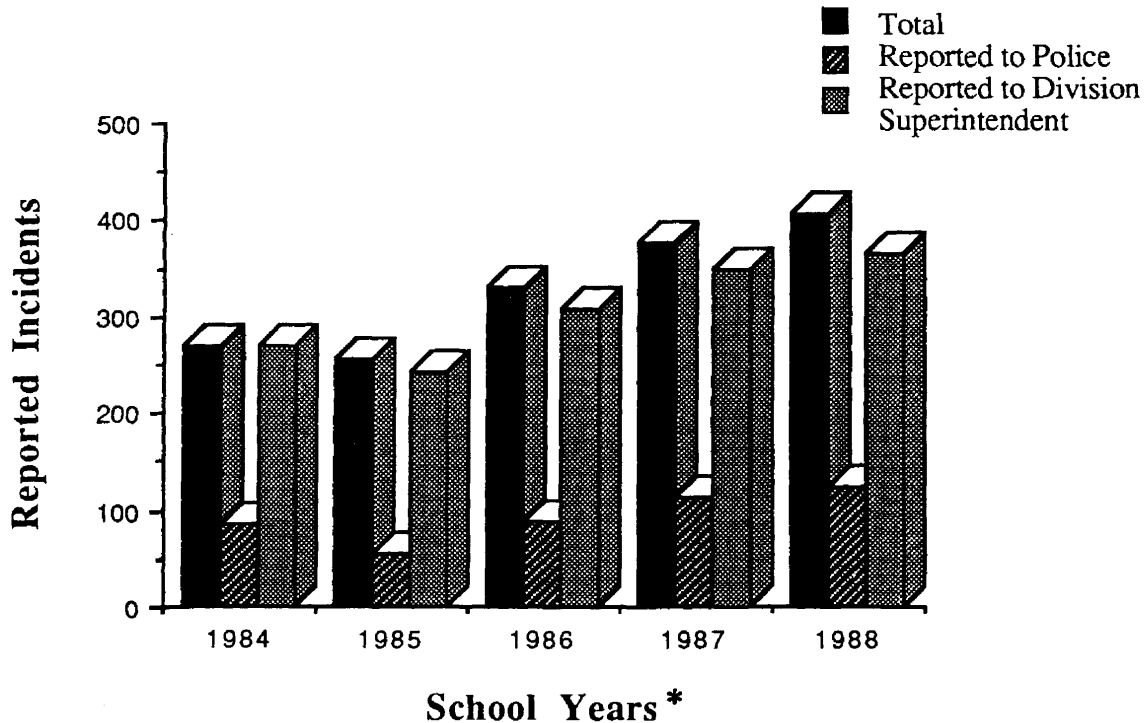
Data concerning the incidence of acts of violence and crime in the public schools had not been previously compiled, was not easily extracted, and is not verifiable for many reasons. Data reported by local school divisions was presumed to be accurate. Local school divisions vary significantly in reporting such incidents and this phenomenon has been taken into consideration. In many cases, whether such incidents are reported depends upon local school board policies, interpretation of legal terms, knowledge of the legal requirement to report certain crimes by students on school property, and shortage of personnel to whom the responsibility of tracking such incidents can be assigned. In other instances, these problems may be handled internally in the classroom or school and may not be reported to the school principal or the division superintendent. Further, some such problems may be reported to the division superintendent but are not reported to the police.

All school divisions which returned the questionnaire were counted in the total number of respondents. Data for school divisions which submitted a separate questionnaire for each school was consolidated to generate a single report for the particular school division. Due to technical features of the computer program employed to tabulate and analyze the data, questionnaires in which no response was entered to the questions, or the number of zeros entered in response to the questions exceeded 64.5 percent of the total responses, were automatically eliminated from the final analysis. Twelve questionnaires were eliminated for this reason. The percentages have been rounded to the nearest whole number; therefore, the totals in all instances may not equal 100 percent.

The results of the survey are reported in the following graphs in three categories by school year: the total number of incidents of the crime, the number reported to police, and the number reported to the division superintendent in graphs 1 through 10, 12, and 14. Due to the variations among school divisions in responding to and reporting such problems, the "total" for each school year is the actual number of times the specific crime occurred according to the respondents rather than the sum of the incidents that were reported to the police or the division superintendent. In the case of substantial fluctuations in crimes reported, the percentage increase or decrease over the previous school year is indicated. For the purposes of this report, assault is used in its legal sense, meaning threatened or actual physical injury, and school years, e. g., 1984-85, are expressed as one year.

GRAPH 1

Assaults of School Personnel by Students



* School years, e.g., 1984-85, are expressed as one year.
The percentage increase or decrease indicated is that over the previous year.

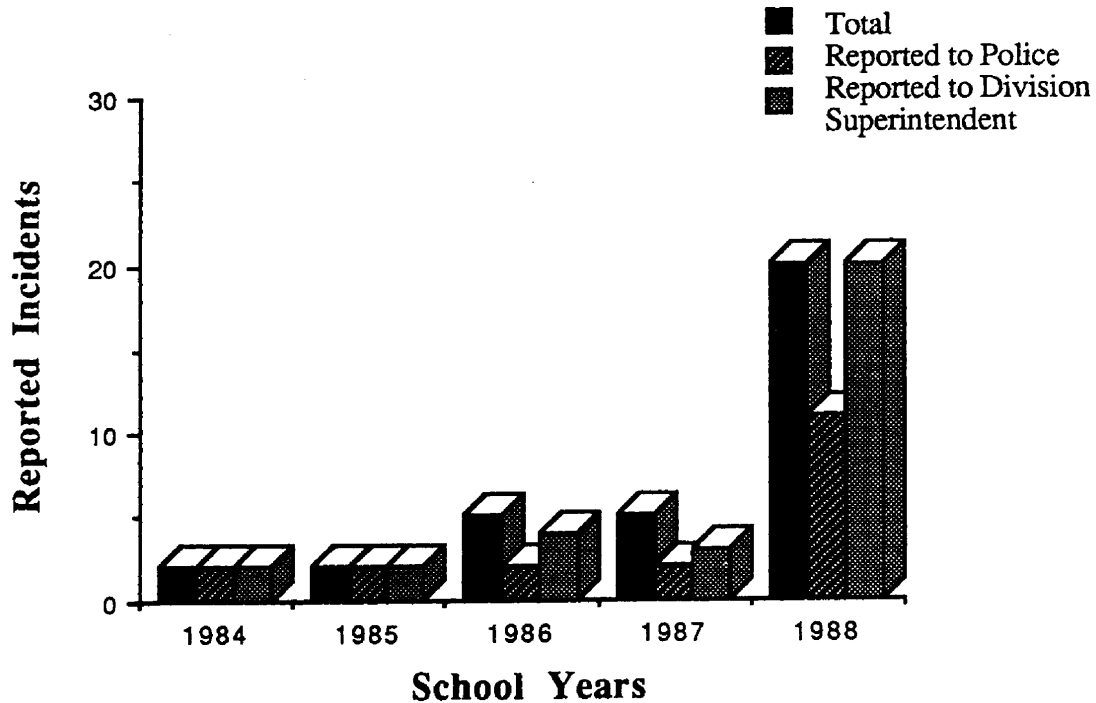
There were 270 incidents of assaults for the 1984 school year; 255 for 1985; 330 (+ 23%) for 1986; 377 (+ 13%) for 1987; 407 (+ 7%) 1988. Between 1984 and 1988 school years, assaults of school personnel by students increased 34%.

The data indicate that although assaults of school personnel by students are not generally reported to the police, there has been a steady increase in reporting such incidents to law-enforcement agencies since the 1986 school year. In the 1984 school year, 85 assaults of school personnel by students were reported to police; 56 (- 52%) in 1985; 89 (+ 37%) in 1986; 113 (+ 21%) in 1987; and 123 (+ 8%) in 1988.

The incidents usually are reported to the division superintendent. In the 1984 school year, 270 incidents were reported to the division superintendent. However, the reports decreased to 241 (- 12%) for the 1985 school year. There were 307 (+ 22%) reported assaults for 1986; 349 (+ 12%) for 1987; and 365 (+ 4%) for 1988. It is not possible to determine from the data whether the increase in reports is a result of better record keeping or a rise in the number of incidents. Likewise, it not possible to determine for the years in which reports decreased whether the decline was a result of better prevention, increased or strictly enforced disciplinary policies, unreported incidents, or an actual decline.

GRAPH 2

Assaults of School Personnel by Students With Weapon Involved



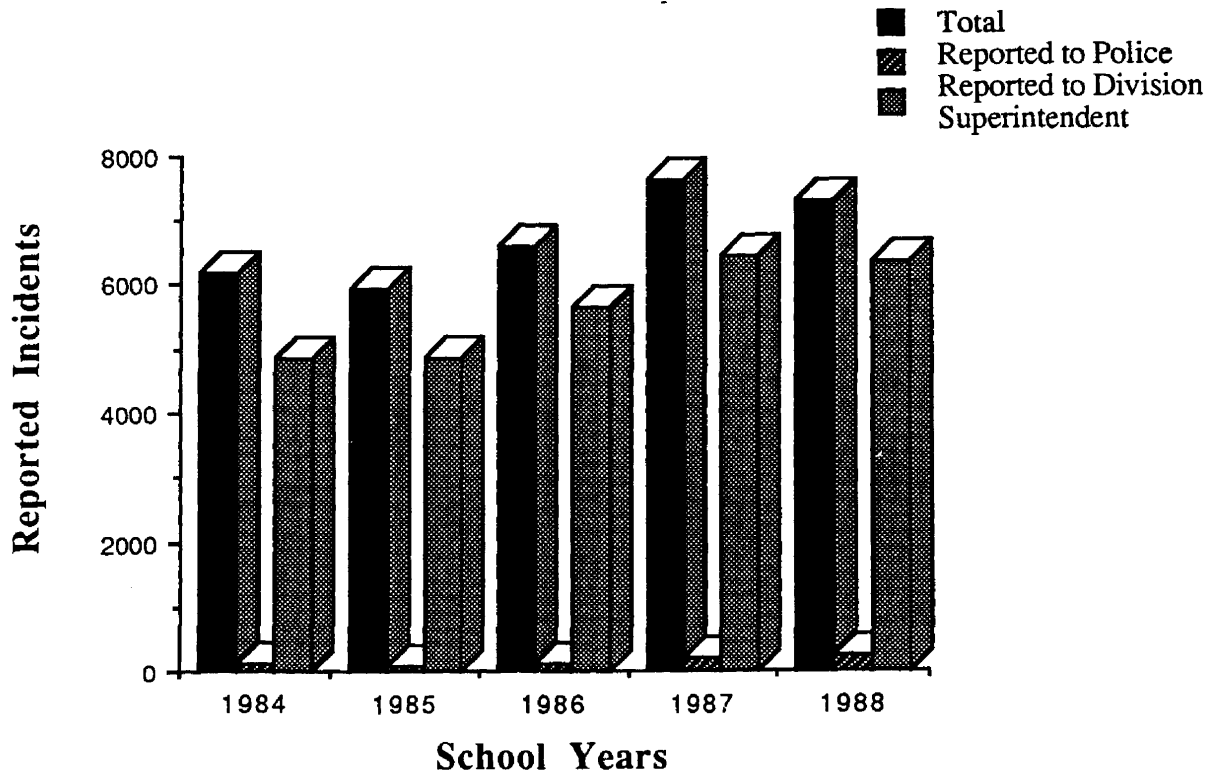
There were two reported incidents involving a weapon for the school years 1984 and 1985. In 1986 and in 1987, the number of such reports was five. However, in 1988, 20 cases were reported for an increase of 75 percent.

Cases involving the use of a weapon also are not generally reported to the police. From the 1984 to 1987 school years, only two cases each school year were reported to the police. However, reports of such incidents increased in the 1988 school year, to 11 cases.

Incidents in which a weapon was used were more likely to be reported to the division superintendent. In 1984 and 1985, two cases were reported to the division superintendent for each school year. The number of these reports doubled in 1986, and then decreased to three in 1987. In 1988, the number of such reports increased to 20 (+ 85%).

GRAPH 3

Assaults of Students by Students



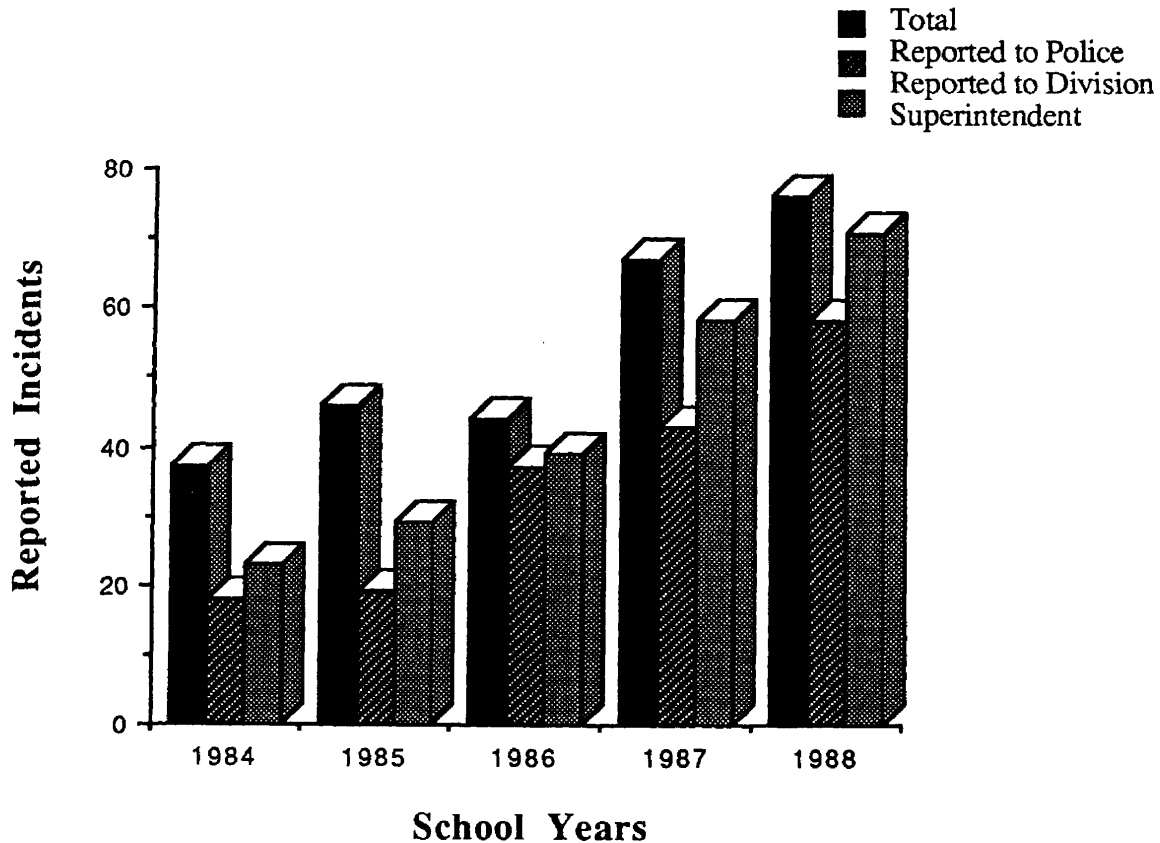
There were 6,187 assaults of students by students in 1984. The number decreased to 5,923 (- 5%) in 1985, but increased in 1986 to 6,611 (+ 10%) and to 7,621 (+ 13%) in 1987. There was a slight decrease in the 1988 to 7,308 (- 4%).

The data indicate that these incidents usually are unreported to the police, but that the trend is changing as the following statistics indicate: 138 in 1984; 100 (- 38%) in 1985; 130 (+ 23%) in 1986; 217 (+ 40%) in 1987; and 244 (+ 11%) in 1988.

Again, assaults are more likely to be reported to the division superintendent than to police, and such reports to the division superintendent increased as follows: 4,872 in 1984; 4,882 in 1985; 5,666 (+ 14%) in 1986; and 6,421 (+ 12%) in 1987. In 1988, the number decreased to 6,348.

GRAPH 4

Assaults of Students by Students Weapon Involved



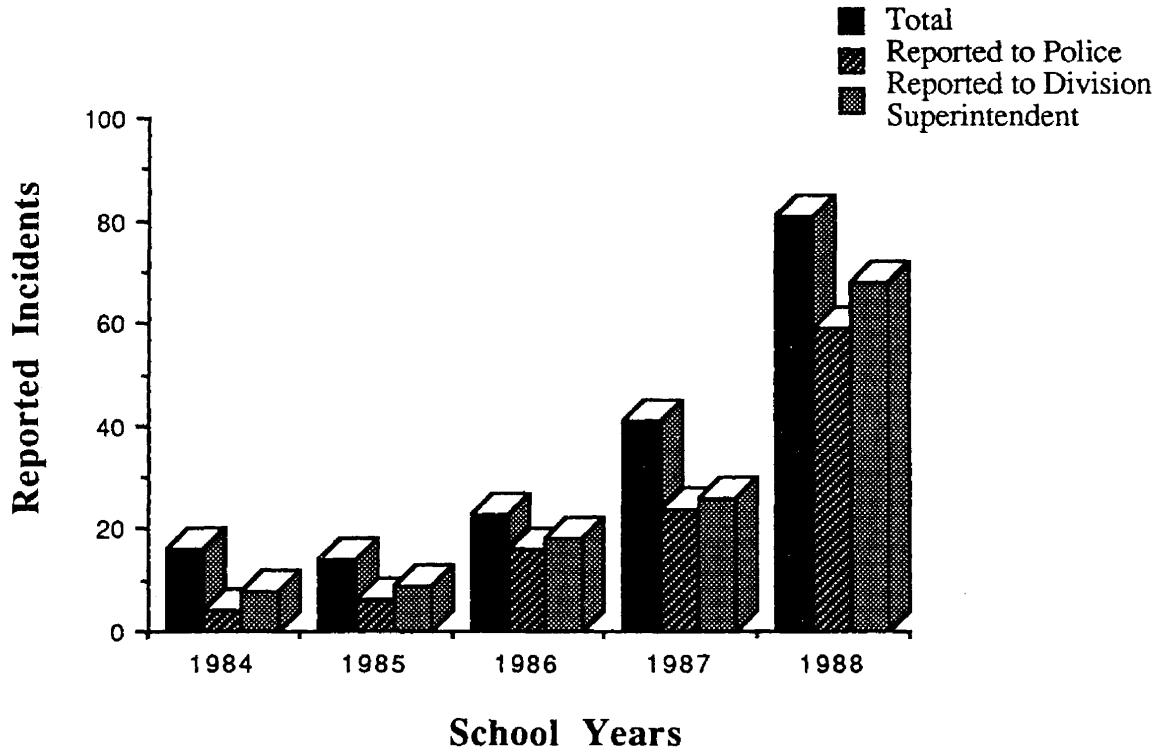
Although instances in which weapons are involved in assaults of students by students are substantially less than those without weapons, there has been a gradual increase in such incidents. In 1984, there were 37; 46 in 1985; 44 in 1986; 67 in 1987; and 76 in 1988. Since the 1984 school year, there has been a 51 percent increase.

There is a consistent lack of reporting such incidents to police. The total assaults reported was as follows: 18 in 1984; 19 in 1985; 37 in 1986; 43 in 1987; and 58 in 1988. The number of such reports has increased 69 percent since the 1984 school year.

As indicated by the data, these incidents are more often reported to the division superintendent. In 1984, 23 incidents were reported; 29 in 1985; 39 in 1986; 58 in 1987; and 71 (+ 18%) in 1988. Since the 1984 school year, reports to the division superintendent increased 68 percent.

GRAPH 5

**Assaults of School Personnel or Students
by a Third Party**



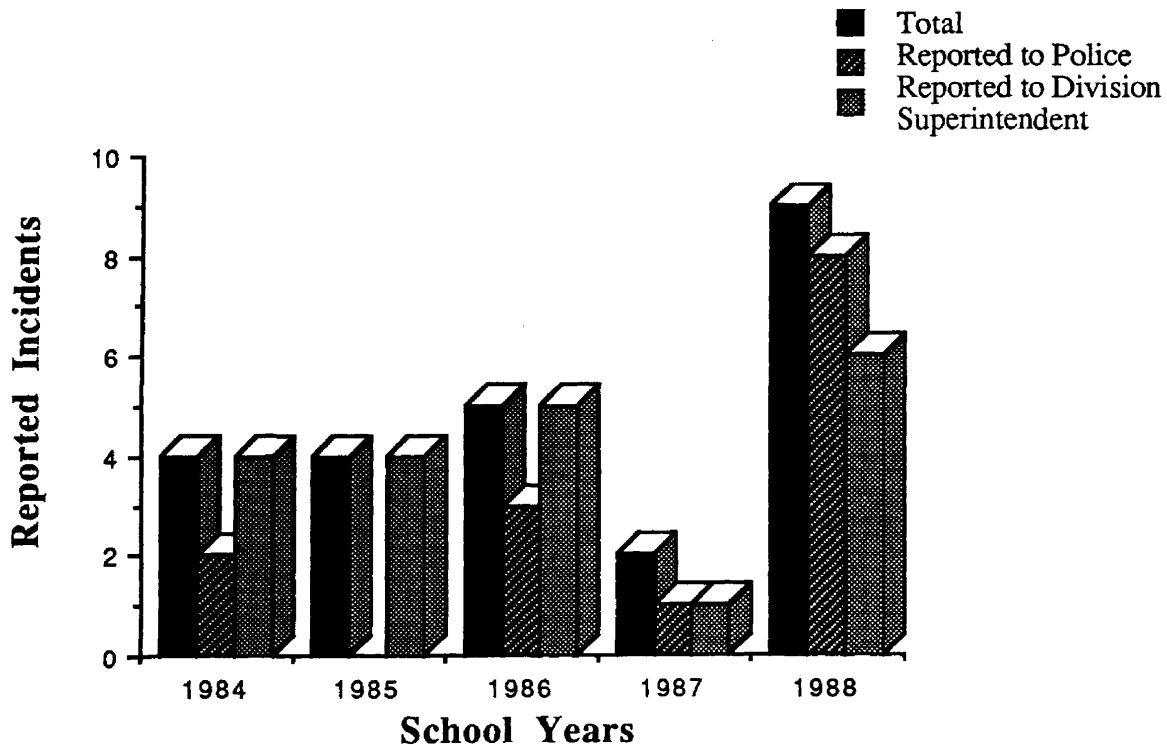
Assaults of school personnel or students by a third party, i. e., not a student or other school personnel, are increasing. In 1984, 16 incidents were noted. In 1985, the number decreased to 14. However, in 1986, the number of reports was 23 and has doubled each school year thereafter: 41 in 1987 and 81 in 1988.

Again, such incidents usually are not reported to police. There were only four incidents reported to police in 1984. In 1985, the number increased to six. In 1986, the number nearly tripled, increasing to 16. In 1987, 24 such incidents were reported to police. There were 59 in 1988, an increase of 59 percent over the prior school year. A 93 percent increase in reports occurred over the five-year period for which data was requested.

More often, these incidents were reported to the division superintendent. In 1984, there were eight incidents reported; in 1985, nine incidents; 18 in 1986; 26 in 1987; and 68 (+62%) in 1988. Reporting to the division superintendent increased by 88 percent over the five-year period.

GRAPH 6

**Assaults of School Personnel or Students by a Third Party
With Weapon Involved**



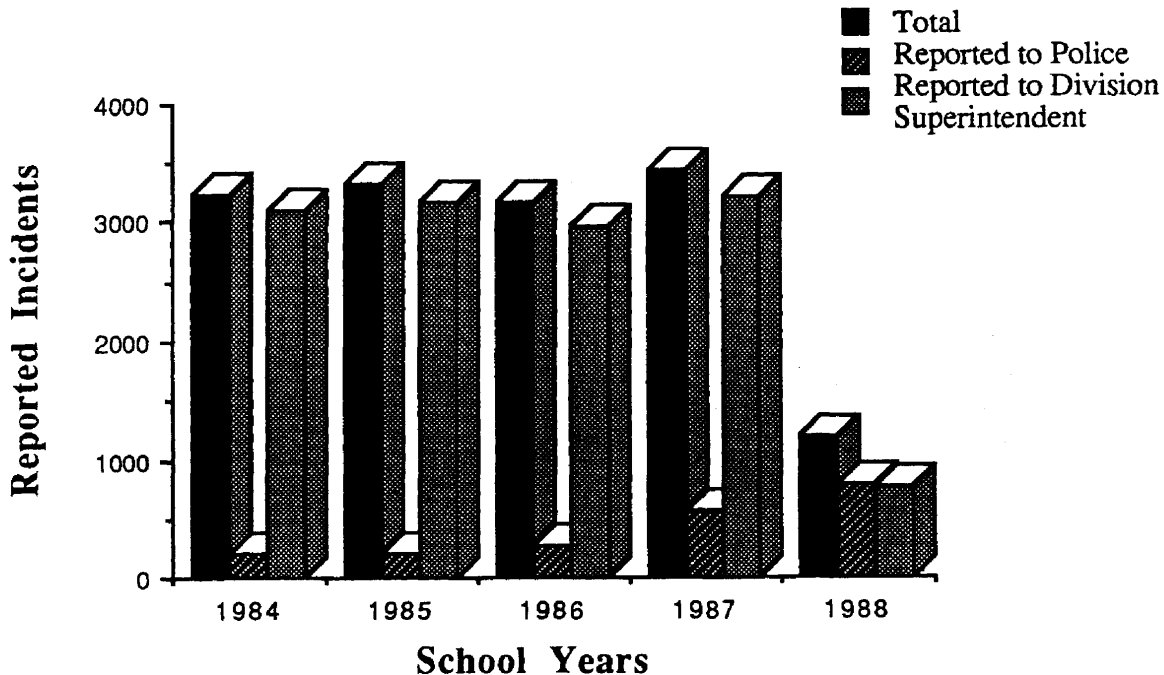
The data indicate that few assaults of school personnel or students by a third party involve weapons. There were four such incidents in 1984 and 1985, and five in 1986. In 1987, the number decreased to two, but increased to nine in 1988. The data indicate some growth in these incidents.

The pattern of not reporting these acts of violence and crime to police is evident. In 1984, two such incidents were reported to police; in 1985, none; in 1986, three incidents; but the number of such reports decreased to one in 1987. These reports increased again in 1988 to eight.

The data reveal that such assaults are more frequently reported to the division superintendent than to police. In 1984 and 1985, four incidents were reported each school year. In 1986, five incidents were reported. Only one incident was reported in 1987, but the number increased to six in 1988.

GRAPH 7

Trespassing



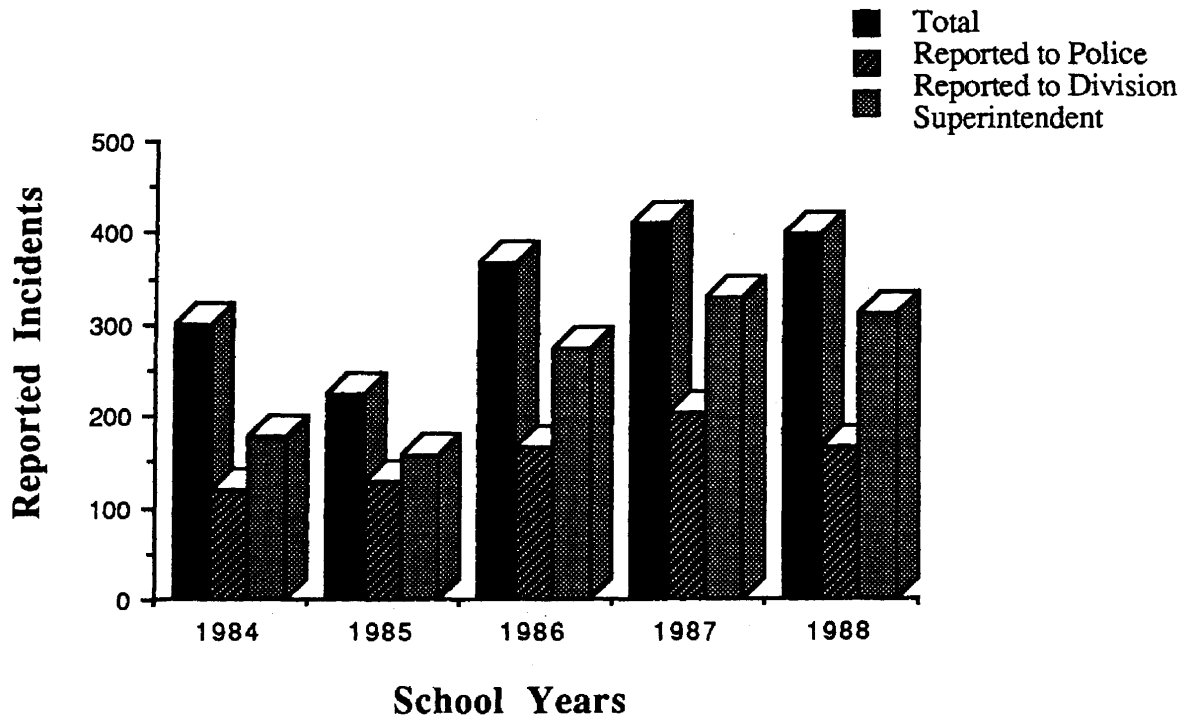
Of the school divisions responding, there were 3,239 incidents of trespassing during the 1984 school year. In 1985, the number of such incidents increased to 3,334, and declined in 1986 to 3,171. In 1987, there were 3,446 incidents, and, in 1988, trespassing incidents dropped to 1,180 (- 192%).

Trespassing is reported less often to the police, although the data indicate that the reporting of such incidents to police is increasing. In 1984, there were 195; in 1985, 205 incidents; 263 in 1986; and 557 (+ 53%) in 1987. The number of reports of trespassing increased to 797 (+ 30%) in 1988.

The data show that trespassing is generally reported to the division superintendent. In 1984, there were 3,095 reports; 3,166 in 1985; 2,967 in 1986; 3,224 in 1987; and 775 (- 316%) in 1988. According to the data, reporting of trespassing to the division superintendent has decreased substantially (- 299%) since the 1984 school year.

GRAPH 8

Unlawful Weapons Possession



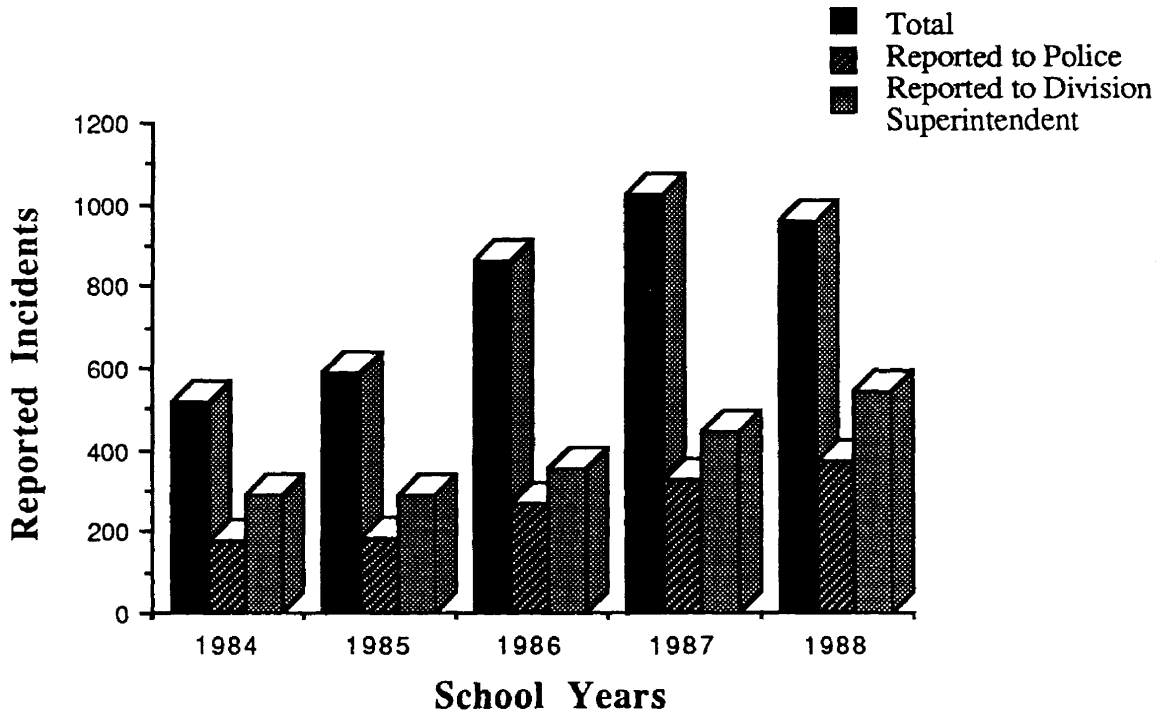
Unlawful weapons possession by students has increased during the five-year period for which data was requested for this survey. In 1984, there were 298; in 1985, 224; in 1986, 366 (+ 39%); 410 (+ 11%) in 1987; and 399 in 1988.

Incidents of unlawful weapons possession routinely are unreported to police; however, the number of reported incidents remained relatively unchanged notwithstanding the 25 percent increase in such incidents during the survey period. In 1984, there were 120 incidents; in 1985, 127; 166 (+ 24%) in 1986; and 204 (+ 19%) in 1987. In 1988, the number of reported incidents decreased to 165 (- 24%). It cannot be ascertained from the data whether the decrease in the number of unlawful weapons possession reported to the police is the result of better enforcement of school policies, effective deterrents, better monitoring, or the lack of adequate reporting.

Although the data indicate that school divisions report unlawful weapons possessions more often to the division superintendent than to police, all such incidents are not reported to the division superintendent. In 1984, 178; in 1985, 158 (- 13%); in 1986, 272 (+ 42%); and in 1987, 328 (+ 17%). In 1988, the number decreased to 311.

GRAPH 9

Theft or Vandalism of Property in Excess of \$100



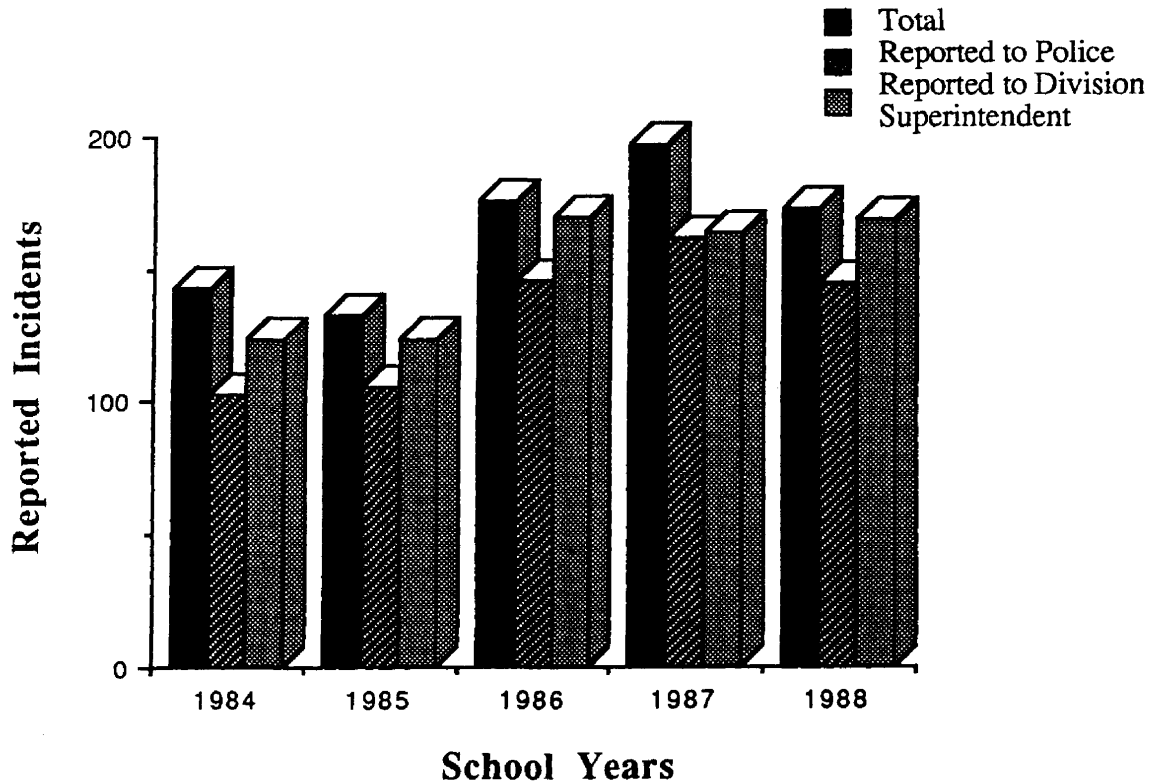
The data indicate that crimes involving theft and vandalism of property in excess of \$100 increased each school year between 1984 and 1987 then decreased during the 1988 school year. In 1984, there were 514 incidents; in 1985, 589 (+ 13%); and 859 (+ 31%) in 1986. Such crimes rose significantly in 1987 to 1,023 (+ 16%), then dropped to 956 in 1988. It is not possible from the data to determine the factors which contributed to the sharp increase in 1987 and to the decline in such crimes in 1988.

The data reveal that few of these crimes were reported to the police. In 1984, 176 were reported to police. In 1985 and 1986, school divisions reported 180 and 266 (+ 32%) cases, respectively. There were 329 (+ 19%) incidents reported in 1987. In 1988, the number rose by 12% to 373.

The data reveal that school divisions report crimes of theft and vandalism to the division superintendent more often than to police. In 1984, 290 incidents were reported to the division superintendent. In 1985, 285 were reported; 351 (+ 19%) in 1986; 443 (+ 21%) in 1987; and 544 (+ 19%) in 1988.

GRAPH 10

**Illegal Drug Transactions
Sale, Gift, or Trade**



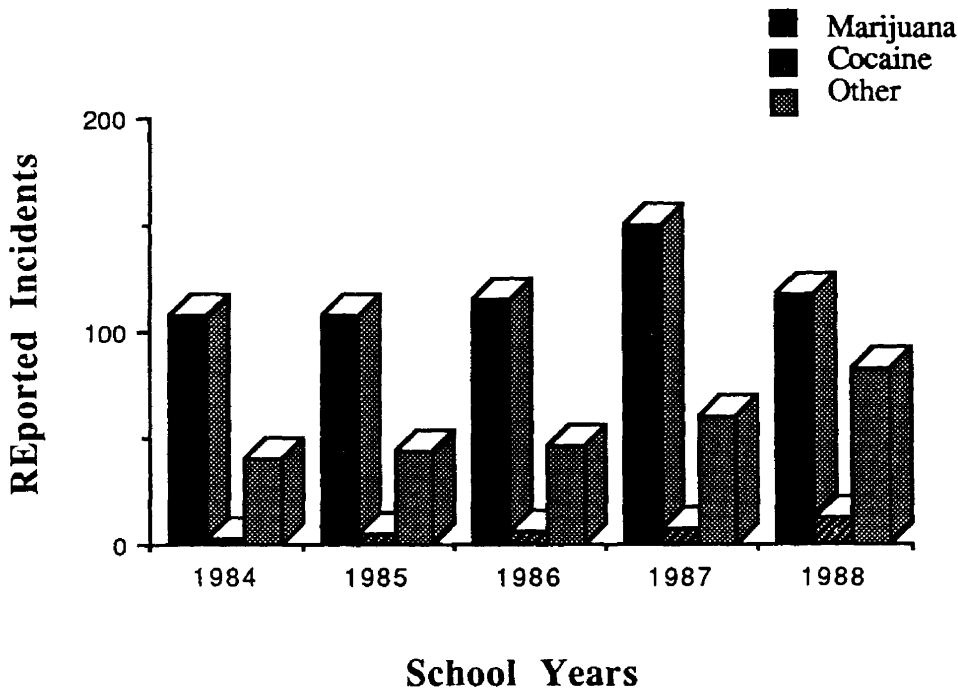
During the 1984 school year, school divisions reported that 143 drug transactions were known to have occurred on school property. In the 1985 school year, 133 known drug transactions occurred. The number of known drug transactions increased to 176 (+ 24%) during 1986 and to 197 (+ 11%) in 1987. In the 1988 school year, there were 173 known drug transactions which occurred on school property.

The respondents noted that the police were notified of 103 cases in 1984 and of 106 in 1985. In 1986, the police were notified of 146 (+ 27%) such cases, and of 162 (+ 10%) cases in 1987. In 1988, 145 (- 12%) cases were reported to the police.

In 1984-85 and 1985, the division superintendent was notified of 124 incidents of illegal drug transactions which occurred on school property. In 1986, 170 (+ 27%); in 1987, 164; and in 1988, 169 such incidents were reported. The data revealed that school divisions report illegal drug transactions to the division superintendent more often than to police.

GRAPH 11

Illegal Drug Transactions by Type of Drug



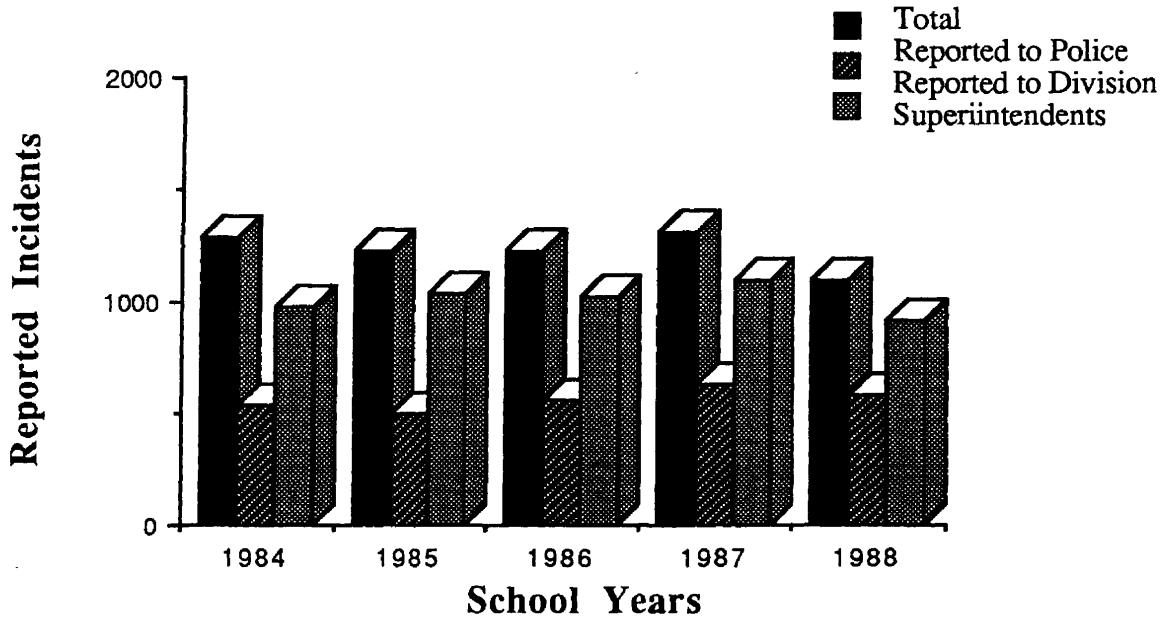
Marijuana - Marijuana remains the drug of choice. During the 1984 school year, marijuana accounted for 107 of the 143 known illegal drug transactions which occurred on school property. In the 1985 school year, there were 108 cases; 115 in 1986; and 150 (+ 23%) during the 1987 school term. This figure decreased to 117 (- 28%) marijuana transactions, representing 68 percent of the known illegal drug transactions during the 1988 school year.

Cocaine - Three cocaine transactions occurred on school property during the 1984 school year, representing two percent of the known drug transactions. Five such transactions took place in 1985. Six transactions were reported in 1986; seven in 1987 and 13 (+ 46%) in 1988, representing 7.5 percent of the known cases. The number of known cocaine transactions has increased by 77 percent since the 1984 school year.

Other Drugs (PCP, LSD, Crack, and Synthetic Drugs) - There were 40 such transactions known to have occurred on school property during the 1984 school year. The figure rose to 44 during 1985; 46 in 1986; 60 (+ 23%) during 1987; and 82 (+ 27%) cases in 1988. Over the five-year period for which information was requested, illegal drug transactions on school property more often involved the sale, gift, or transfer of marijuana. However, the data reveal a continual growth in the number of such transactions involving other drugs, e. g., PCP, LSD, crack, and synthetic drugs.

GRAPH 12

Possession of Drugs



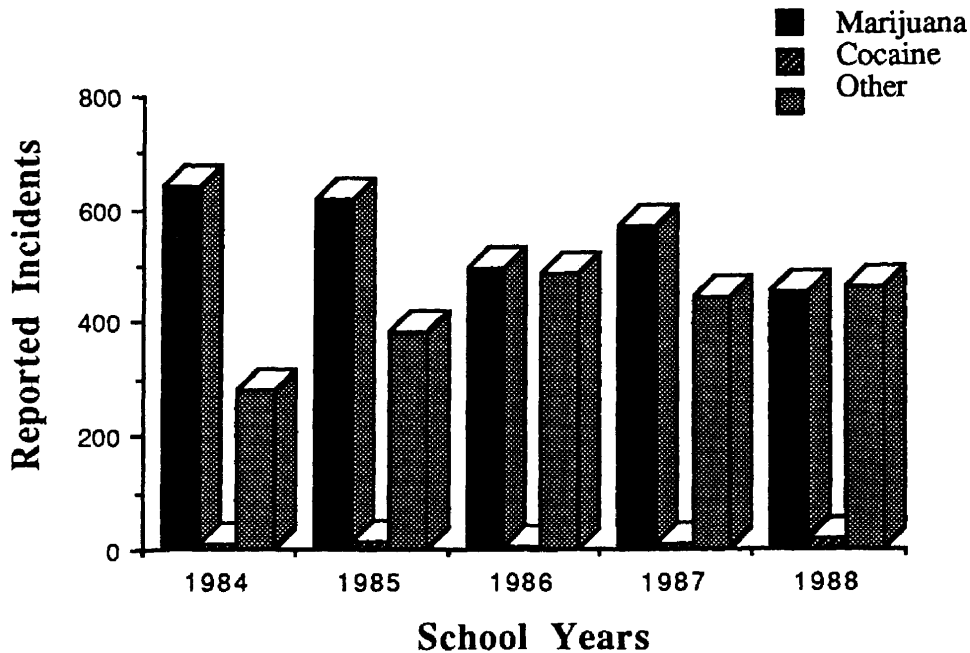
Of all the offenses covered by the survey, the incidence of drug possession offenses and the response to the offense by school officials remained most constant. During the 1984 school year, survey respondents indicated there were 1,283 cases of drug possession; 1,232 in 1985; 1,223 in 1986; 1,304 in 1987; and 1,090 in 1988. The data indicate a decline (-18%) in drug possession on school property over the five-year period for which data was requested.

Possession of drugs was reported to police as follows: 539 cases in 1984; 503 in 1985; 564 (+ 11%) in 1986; 631 (+ 11%) in 1987; and 583 in 1988.

Possession of drugs was reported to the division superintendent as follows: 974 cases in 1984; 1,036 cases in 1985; 1,027 in 1986; 1,093 cases in 1987; and 914 (- 20%) in 1988.

GRAPH 13

Possession of Drugs by Type of Drug



Marijuana - In 1984, marijuana represented 642 cases; 616 in 1985; 497 (- 24%) in 1986; 572 in 1987; and 453 (- 26%) in 1988.

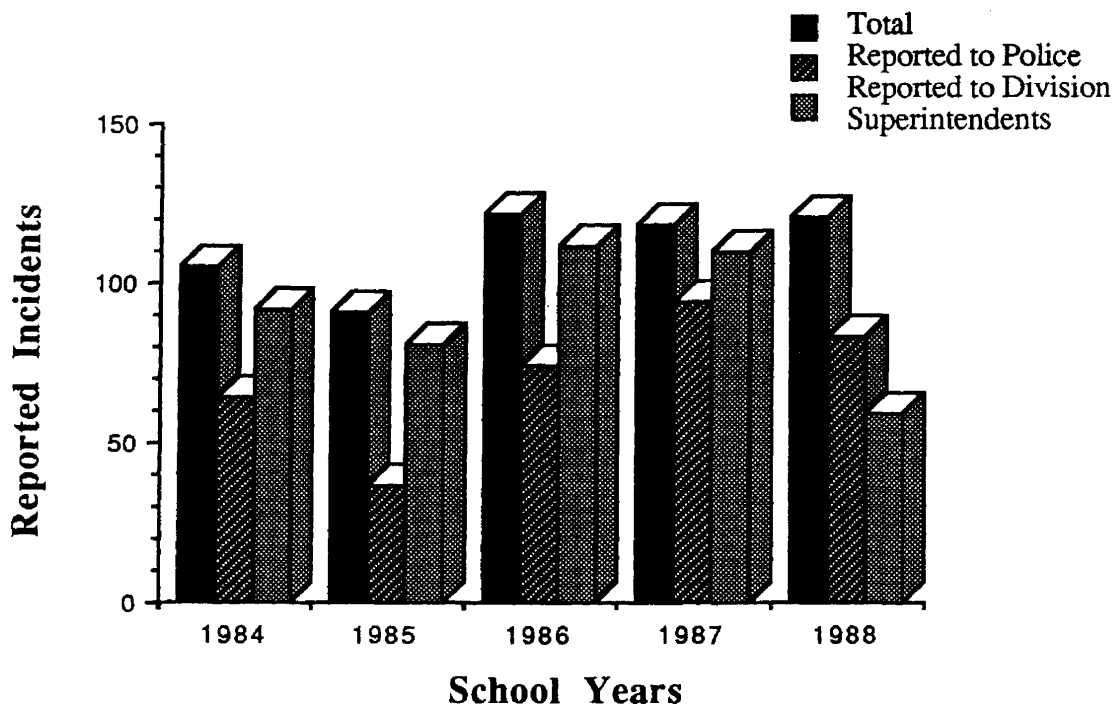
Cocaine - Cocaine was represented in nine cases in 1984; 15 cases in 1985; six cases in 1986; 11 cases in 1987; and 19 cases in 1988.

Other Drugs (PCP, LSD, Crack, and Synthetic Drugs) - Possession of other illegal drugs, e. g., PCP, LSD, crack, and synthetic drugs, was present in 283 cases in 1984; 385 (+ 27%) cases in 1985; 487 (+ 21%) in 1986; 445 in 1987; and 462 cases in 1988.

Over the five-year period from which the study data was drawn, several patterns relating to the possession of illegal drugs appear to emerge. According to the data, marijuana continued to be involved in most of the reported cases. Also, the data reveal an increasing number of cases involving cocaine, crack, PCP, LSD, and other synthetic drugs. However, while the increase in reports of cocaine possession and transactions has not increased at the rate as that of other drugs, it is important to note that cases of cocaine possession and transactions more than doubled during the years for which data was provided.

GRAPH 14

Possession of Drug Paraphernalia



Survey respondents noted that during the 1984 school year, there were 105 cases of possession of drug paraphernalia. In 1985, there were 91 cases, and 122 in 1986. In 1987, the number decreased to 118, but increased to 121 in 1988. While the number of incidents occurring and reported to the police remained relatively unchanged over the five-year survey period, the number of incidents reported to the division superintendent decreased dramatically, from 92 incidents in 1984 to 54 in 1988.

Possession of drug paraphernalia was not often reported to police. In 1984, there were 64 reported cases and this number decreased to 37 (- 73%) in 1985. In 1986, there were twice as many, 74, reported cases, and 94 in 1987. The number of such incidents reported to police dropped to 83 in 1988.

Possession of drug paraphernalia is not consistently reported to the division superintendent. The data reveal that, in 1984, 92 cases were reported; 81 in 1985; 112 in 1986; 110 in 1987; and 59 in 1988.

■ **Written Responses:**

School division superintendents were asked to respond in writing to nine questions. The results of their responses have been summarized as follows:

■ If an incident involving school personnel was not reported to the Department of Education as required by § 22.1-280.1 of the Code of Virginia, state the reason. The most frequent responses were:

- Superintendent unaware of statutory requirement to report
- Sheriff will not take out warrant
- Incidents involved special education students
- Condition of local, social and political climate
- Lack of staff for the maintenance of reports
- Internal reporting not required by local school board
- No reason not to report
- No incidents of violence or crime on school property during 1984-1989
- All incidents are reported
- No response or the question was not applicable to the school division
- Incident was not serious enough to report
- Problem was handled internally
- Incident was result of minor misunderstanding

■ Rank the reasons for not reporting to appropriate law-enforcement personnel specific occurrences of violence or crime on school property by students.

- Not required to report such incidents to law-enforcement personnel
- Administrative policies of local school division
- Unresponsiveness of juvenile justice system
- Lack of appropriate legal remedy
- Not serious enough to report
- Handled within the school
- Violation of school policy, but not state law, e. g., possession of rolling papers, NoDoz, heart pills, and Tylenol #3
- No physical evidence

■ Does the policy manual of the school division include a statement that provides a procedure for reporting criminal offenses such as assaults, woundings, and homicides committed by a student with school personnel as a victim?

YES - 83%

NO - 17%

■ Do the standards or policies of the school division governing student conduct include a requirement that certain offenses involving physical injury be reported to law enforcement and/or school officials?

YES - 85%

NO - 15%

■ Specify the type of treatment, service, or other action taken with respect to the perpetrator in response to the offenses for which information is requested. The following types of treatment, service, or action is taken most often:

- 46% Rehabilitative treatment by the private sector
- 45% Parental counseling
- 41% Counseling provided by private sector
- 36% School administrative disciplinary action
- 32% Counseling by school personnel
- 24% Rehabilitative treatment by the public sector
- 24% Counseling provided by public sector
- 24% Arrest by law-enforcement agents
- 22% Rehabilitative treatment by parents
- 17% Disciplinary action by parents
- 16% Other legal restraints by law-enforcement agencies
- 11% Arrest requested by school
- 11% Other legal restraints requested by school
- 10% Rehabilitative treatment by school
- 10% Other legal restraints requested by parents
- 6% Arrest requested by parents
- 6% Disciplinary action by the private sector, e. g., denial of access to premises or services
- 4% Other legal restraints by the private sector, e. g., request court order
- 0% Arrest by private sector

In addition, psychiatric evaluation and examination, police investigation, expulsion, suspension, restitution by parents and students, and seeking criminal charges against such students are other methods which were noted.

■ Do the unlawful activities for which information was requested frequently involve the same perpetrator(s)?

YES - 39%

NO - 61%

■ Rank the following disciplinary problems facing your school division in order of seriousness.

- Truancy
- Alcohol abuse and offenses
- Property damage and offenses
- Drug abuse and drug offenses
- Weapons possessions
- Gang activity

Another disciplinary problem noted was fighting, which was reported more frequently than weapons possession, apathy and indifference, disrespect for authority, trespassing, and disruptive behavior.

■ What obstacles exist to the prevention and control of violence and crime in your school division? The most frequent responses were:

- Lack of parental control, support, and involvement in the education of children
- Lack of morals instilled at home
- Leniency of courts on juveniles who commit violent and criminal acts, the failure of the court to impress such juveniles with the gravity of the offense and the significance of the court's involvement, and the failure of courts to support truancy charges

Other responses included:

- Lack of security fencing and the requirement that doors not be locked
- Lack of alternative programs for potential school dropouts
- Lack of funding to employ personnel to identify potential problems, to help with truancy problems, and to provide counseling
- Prevalence of drugs and the lack of methods to detect the presence of drugs
- Rural areas lack adequate police patrol
- Lack of sufficient information regarding community discord
- Students lack conflict resolution skills

In addition, school officials raised concerns about the extent to which teachers of emotionally disturbed primary and elementary students are expected to accept physical abuse as a part of the job.

■ School division superintendents or their designees were asked to share additional comments, including comments on alternative methods of deterrence and prevention, or punishment and treatment used in the school division. The most frequent responses were:

- In-school suspension
- Restitution by students and parents for vandalism of school property
- Saturday detention program
- Work/clean-up detail
- Development of positive attitudes and self-esteem by students
- Threat of corporal punishment deterred violence
- Alternative education/school for underachievers or troubled students
- Close cooperation between sheriff and school officials
- Conflict resolution program
- Insight awareness program
- Drug education
- Hold parents more accountable for the actions of their children

- Require more stringent penalties for juvenile offenders
- Use of state police dogs, unannounced, on a periodic basis
- Peer counseling
- Require parents to spend the day with their child when disciplinary problems are experienced
- Assertive discipline

B. Survey of Teachers Through Uniserve Regions

During the course of its study, the Joint Subcommittee determined that it was essential to ascertain the perspectives of classroom teachers concerning school violence and crime in order to achieve a complete understanding of the scope and nature of the problem. However, the members were advised that most teachers were reluctant to comment publicly on such problems for fear of retribution by division administration. To obviate this problem, members, with the assistance and cooperation of the Virginia Education Association, surveyed the uniserve regions which each represent thousands of teachers. Uniserve regions are the geographical divisions of the state which have been established by the V. E. A. for providing technical assistance and disseminating information to members. Uniserve officers were requested to compile the teacher responses to the questionnaire within their region and submit them to the Joint Subcommittee. Of the six uniserve regions surveyed, the Central Virginia, Dominion, Salem, Tidewater, and Blue Ridge regions responded.

Of the responses received, the problem of assault and battery appears to be minimal, but it was indicated that fights between students occurred on a regular basis and could number in the thousands each year. Although uniserve officers encourage teachers to report incidents of violence and crime, many teachers do not because they believe that no action will be taken by the school administration, or that they will be blamed for these incidents. Trespassing also was noted as a moderate to severe problem in some school divisions. The possession of unlawful weapons is on the rise, including knives, which abound at the high school level. Theft and vandalism were cited as major problems in three of the uniserve regions. Illegal drug transactions were cited as a huge problem in one region and a problem that is largely ignored in the "better schools."

Of the uniserve officers responding, two indicated that teachers are apprised of school board student conduct policies at the beginning of the school year, and one indicated that teachers are apprised of such policies only when the policy manual is updated. According to the responses received by uniserve officers, three regions have a school safety plan or procedure which must be followed in the event of an emergency; however, the responses reveal that teachers are not usually trained concerning the procedures to be followed in handling school disciplinary problems and violations of school board policies. When training is provided, it is insufficient and inadequate.

When asked to rank disciplinary problems in order of severity, teachers cited (i) lack of respect for authority, (ii) lack of parental support, and (iii) abusive language as those most often faced in the classroom or school. Teachers were also asked to cite any obstacles to the prevention and control of

crime and violence in the school. They believe that school boards do not deal with student conduct problems as firmly as they should and that the lack of parental concern and support for schools impedes efforts in addressing school violence and crime. Finally, teachers were asked to note the ways in which the following entities can assist in the prevention and control of crime and violence in public schools.

The responses were:

- Gen. Assembly -- enact stricter trespassing laws and prohibit, by statute, acts of crime and violence in public schools
- appropriate more funds for innovative programs for at-risk students, elementary guidance counseling, and general operation of schools
- Bd. of Education -- submit appropriate recommendations to the General Assembly
- monitor the reports of division superintendents more closely
- Dept. of Education -- survey teachers to determine their personal experiences
- monitor the reports of division superintendents more closely
- Local School Bds. -- implement stricter drug control policies
- act consistently in refusing to allow repeat offenders to return to the school system
- do not tolerate threats and violence
- Division Supts. -- take more assertive action and provide firmer measures in dealing with offenders
- require that incidents be reported directly to the division superintendent
- Administrators -- take more assertive action and provide firmer measures in dealing with offenders
- encourage teachers to report and pursue charges against perpetrators
- do not tolerate threats and violence
- Teachers -- take appropriate legal action against the offender

- Police -- encourage reporting of acts of school violence and crime and the pursuit of criminal action
develop individualized relationships with schools
- Courts -- respond firmly to charges and impose stricter penalties for offenders
- Parents -- improve ties/relationship with children and their schools
- Students -- respect authority
accept responsibility and accountability for one's actions
- Public -- support public schools and respect for the law
- Church -- support public schools and respect for the law
continue to provide youth programs and prayer, and efforts to strengthen the family unit
- Civic Groups -- support public schools and respect for the law

In addition, teachers were asked to express their opinions concerning the education of chronic or violent juvenile offenders, how first and repeat violations of school board student conduct policies should be handled, and any other comments and thoughts about the problem of school violence and crime. Teachers responded that chronic and violent offenders should be removed from the regular classroom and placed in alternative education classes or provided close 24-hour supervision and/or have certain restrictions imposed. Teachers responded that violations of school board student conduct policies should be dealt with through mandatory expulsion with rehabilitative services provided, review of alleged violations by a disciplinary review board, or by consistent application of enforcement of school board rules and the imposition of appropriate penalties.

Comments which were offered focus on the necessity to handle disciplinary problems and violations of school board student conduct policies consistently, appropriately, firmly, and with dispatch. It was also noted that posting guards at the door is not a solution to the problem of school violence and crime; rather, the attitude that "such problems do not exist at our school," must be changed.

C. Review of Local School Board Policies

In response to the charge under House Joint Resolution 312 to " . . . review the policies of school boards which govern student conduct to determine the feasibility of developing a statewide policy for student conduct . . . and recommend such statutory and [education] policy changes as may be necessary to ensure an orderly and safe school environment," the Joint Subcommittee requested each school division to submit a copy of its policies. Of the 141 school divisions, the staff received responses from 103, (76 counties and 27 cities and towns). A review of the school board policies that were submitted indicate that:

- All of the respondents have written policies which govern some aspect of student conduct.
- Only one school board does not have (or did not submit) policies governing substance abuse, drug distribution, etc., on school property.
- A few of the school boards set out the board's position on discipline and its expectations of students relative to their conduct on school premises, and include the responsibilities of the school board, school administrator, teachers and staff, parents, and students in ensuring a safe learning environment.
- Many of the policies did not include provisions for disciplining handicapped students as established by *Honig v. Doe*, 108 S Ct. 592, (1988).
- Many school board policies do not reflect changes concerning student searches required by case law, e. g., *New Jersey v. T. L. O.*, 105 S. Ct. 733 (1985).
- Few school board policies state that certain violations will be reported to law enforcement agencies.
- Some school boards have policies for elementary, middle, and secondary school levels.
- One school board does not allow students to make up work missed while suspended from school, in detention, or during unexcused absences.
- One school board specifically prohibits the use of academic [grade] and group punishment.
- Most school board policies prohibit the following violent or criminal acts on school property:
 - class/school activity disruption by students and nonstudents
 - alcohol, tobacco and drug use, and the sale, possession and distribution of controlled substances and drug paraphernalia
 - vandalism
 - possession and use of weapons and firearms
 - trespassing
 - fighting/assault
 - burglary, larceny, extortion, blackmail, robbery, bomb threats

- School board policies most often include the following disciplinary measures:
 - verbal reprimand, e. g., elementary school students
 - admonition/warning
 - counseling
 - corporal punishment
 - social adjustment classes, i. e., behavior modification
 - detention
 - exclusion from classes
 - suspension from extracurricular activities as participant or spectator
 - work/special assignments
 - probation
 - referral to school services/community agencies, i. e., substance abuse
 - reimbursement from parents/students for property damage
 - conference with student
 - notification of parents
 - search and seizure
 - suspension from school transportation services
 - suspension, i. e., 10-day and long-term
 - expulsion
 - interrogation
 - arrest

- Many school board policies lack clarity and specificity concerning the disciplinary action that will be applied for certain violations.

- A few of the school board policies cited the board's authority to establish rules governing student conduct to and from school; however, such policies did not clearly delineate the limits of the school's authority and that of parents, or the circumstances in which the school would have authority.

- Some school boards referenced the Code of Virginia concerning acts prohibited by law and cited the statutory authority for its right to discipline students.

- Many school board policies do not have provisions which require parental notification of student disciplinary problems and involvement in the resolution of such problems.

- Some school boards govern the activities of adult students and post-graduates, [adults who return for additional or vocational education and training].

- A few school boards classify offenses by level of severity and provide for the application of commensurate disciplinary measures.

- The effective/revised date for school board policies ranged from 1981 to 1989.

VI. RECOMMENDATIONS

On the basis of the findings from the survey of local school divisions and classroom teachers through the uniserve regions, and the review of school board policies, the Joint Subcommittee recommends that:

◆ ***Section 22.1-280.1 of the Code of Virginia be amended to clarify the reporting requirement of certain offenses committed by a student against school personnel.***

Discussion: The Joint Subcommittee determined upon review of testimony and findings of its survey that there was considerable confusion and inconsistency in the interpretation of the crimes required to be reported under § 22.1-280.1. The members determined also that few, if any, school divisions were in compliance with the law and that the Department of Education had not heretofore aggressively sought compliance. This was substantiated when the Department was unable to produce, at the Joint Subcommittee's request, any such data which had been reported by local school divisions. The Joint Subcommittee recommended and the 1990 General Assembly enacted legislation to clarify the types of crimes which are required to be reported; strengthen the statute to ensure compliance with the law, e. g., avoiding unreported assaults because "medical treatment was not required;" and provide consistency in reports.

◆ ***The Standards of Quality be amended to require each local school board to update its policy manual in 1990 and thereafter, every five years or as necessary; to place a copy of the policy manual in a public library in the respective school division in addition to the library of each school; and to announce annually the places where the policy manual is available to the public.***

Discussion: A review of local school board student conduct policies revealed that many of these policies are not routinely updated. It is essential that such policies be stated clearly; include the specific disciplinary action that will be taken for first and repeat violations; note which violations are required to be reported to law enforcement agencies; cite the appropriate state or federal statute or regulation, case decision, local ordinance, or other regulatory authority for the establishment and enforcement of policies and rules which govern student conduct to and from school, on school property and buses, and at school sponsored activities; and be relevant, consistent with changes in school law, and legally sufficient. Extreme care must also be taken to ensure that the limits of the authority of public schools and of parents or local law enforcement agencies do not conflict and that individual rights are not compromised or abridged, e. g., student conduct to and from school, and before and after school hours.

Of particular importance is the need to revise school board policies to appropriately reference and apprise school personnel, parents, and students of the legal guidelines for disciplining handicapped students established by the U. S. Supreme Court in *Honig v. Doe*¹⁵ and that the legality of searches of students must be based on the "reasonableness" of the search in light of all the circumstances as established in *New Jersey v. T. L. O.*, 105 S. Ct. 733 (1985).¹⁶

There is also a need to consider requiring better notice to current and new families, students, and school personnel of student conduct policies, especially at the beginning of each school year, as policies are revised or changed. The systematic dissemination of such information and procedures for handling school emergencies to all school personnel would better enable them to appropriately respond to and dispose of student disciplinary problems when they occur. The Joint Subcommittee believes that the best practice is to provide for and encourage parental involvement in the resolution of student disciplinary problems. This approach may serve to generate parental interest, participation, and support of the school as well as provide some disincentive to students to engage in future misconduct. The Joint Subcommittee recommended and the 1990 General Assembly enacted legislation to require local school divisions to review and revise the policy manual in 1990, and, thereafter, at least every five years or as needed, to ensure that the policy manual is up-to-date. This provision also requires school divisions to place a copy of the policy manual in a public library within the division in addition to the library of each school, and to announce annually to the public where such copies may be found.

◆ ***The Code of Virginia be amended to include disruption of any school operation or school-sponsored activity as disorderly conduct.***

Discussion: School-sponsored functions may be violently disrupted by students and other persons outside of the school community who may frequent such activities. Often alcohol or drugs may be involved in such altercations, resulting in injury and property damage in some instances. Some school authorities have been advised by legal counsel that the school cannot proceed against such perpetrators if the injured party refuses to bring suit. The Joint Subcommittee recommends amending the Code to provide that disorderly conduct shall include disruption of any school operation or school sponsored activity if done willfully or while under alcohol or drug induced intoxication. Further, school officials responsible for the school operation or activity shall be authorized to eject the disrupter. House Bill 665 (1990), recommended by the Joint Subcommittee and passed by the General Assembly, provides that disorderly conduct shall include disruption of any school operation or school sponsored activity if done willfully or while intoxicated, whether alcohol or drug induced. The offense is classified as a Class 1 misdemeanor.

◆ ***The Code of Virginia be amended to conform the school trespass statute to the general trespass statute concerning posted property.***

Discussion: Public schools have a tremendous problem with persons who are not affiliated with the school or who do not have official business at the school frequenting school grounds and property today than was the case several years ago. The presence of such persons has a negative impact on the school climate. All too often such persons are involved in illegal activities or disruptive behavior and their presence on school property is increasingly associated with the rise of assaults of school personnel and students by third parties. School officials expressed that to approach such persons to request they vacate the school premises, as the school trespass statute currently requires, places them in jeopardy.

The Joint Subcommittee recommended House Bill 664 (1990) to eliminate the requirement that the offender first be asked to vacate the premises before an offense of trespassing can be found to have occurred if the property is posted. The bill also provides that if such person remains on or each time he re-enters the posted premises after having been directed to vacate it shall constitute a separate offense of trespassing. The bill was carried over to the 1991 session, but it was not passed.

◆ *The Code of Virginia be amended to prohibit firearms or stun weapons on any school property and school buses.*

Discussion: Acts of school crime and violence may occur at any time and place on school property. On many occasions, such acts may occur as students travel to and from school and on school buses. Information derived from the survey indicates that a growing number of assaults on school property involve weapons, particularly in assaults of students by students. According to testimony, such incidents also occur on school buses and on the premises of other facilities on school grounds. Under the current statute, the prohibition of guns on school property applies only to public buildings on school property. Because school grounds and certain facilities, e. g., school buses and other mobile units, temporary or auxiliary classrooms, athletic field and areas for extracurricular activities, exhibitions and displays, which may be located on school property or leased by public schools are not classified as public buildings, some school officials feel constrained and prohibited from handling these problems when they occur in such places.

It is recommended that the Code be amended to extend the prohibition of carrying handguns and stun weapons into a public building or on school property to apply to school grounds and school buses owned or operated by the school. The Joint Subcommittee believes that this amendment would lessen misinterpretation and strengthen the authority of school officials to deal effectively with such problems. In 1990, the General Assembly passed House Bill 318 and Senate Bill 79, which adds weapons prohibited under the concealed weapons statute to those which may not be carried onto school property, buildings and grounds, the portion of any property used for school functions and open to the public, and school buses. The penalty for violation of the law was increased from a Class 2 to a Class 1 misdemeanor, and it authorizes a warrantless arrest of any person who commits the offense outside the presence of the arresting officer.

◆ *The Code of Virginia be amended to increase the penalty for willful and malicious destruction of public property and property in certain educational establishments to felony status.*

Discussion: Vandalism of school property is one of the most difficult disciplinary problems confronting public schools and it results in the waste of critical tax dollars to public education. The impact of such waste is made more poignant given the need for additional funds to meet the escalating costs for school construction, instructional materials and resources, special education, and compensatory programs in the face of increasing fiscal exigency.

Restitution, if required, rarely ever is sufficient to cover fully the cost of repair or replacement. Moreover, such damage to public property, any property, belies a lack of respect for authority and for the property and rights of others which contributes to the problem of school crime and violence. The Joint Subcommittee recommended Senate Bill 177 (1990), which was enacted to provide that the willful and malicious destruction of public property and property in libraries, reading rooms, museums, and educational institutions shall be punishable as a Class 6 felony if the damage is \$1,000 or more. If the damage to such property is less than \$1,000, the penalty shall remain a Class 1 misdemeanor.

■ The Joint Subcommittee supports:

◆ *The recommendation of the Department of Education's Task Force on on Emergencies Related to Weapons and Violence on School Property and Medical Emergencies that the Board of Education require all school divisions to develop and implement procedures for responding to emergency situations and acts of violence and crime on school property and at school sponsored functions.*

◆ *The recommendation of the Department of Education's Task Force on Emergencies Related to Weapons and Violence on School Property and Medical Emergencies that the Board of Education require all local school boards to provide on-going training concerning the basic elements of school and juvenile law and in the management of acts of crime and violence and emergencies for all school personnel.*

Discussion: Although Virginia, to a great extent, has been spared the horrendous experience of dealing with school hostage situations, mass homicides, and the terror of snipers, unfortunately, some school divisions have experienced other equally tragic school crises, e. g., abduction and murder of students, youth suicides, vehicular and drug overdose deaths, assaults on school personnel, student and staff criminal convictions, sexual assault, hijacking of school buses. The safety and well-being of faculty, staff, students, and the community would be better served if each local school board were required to establish and implement standards and a protocol for responding to school emergencies or crises. In addition, ongoing training of all school personnel concerning such policies and procedure, the basic elements of school and juvenile law, and the management of violent acts and emergencies is essential if the standards and protocol are to be implemented effectively. The establishment of linkages and relationships with local human and emergency services agencies and the participation and support of parents, students, and the community in the development of the standards and protocol is advisable to ensure success. Further, local school boards must be diligent at all times to keep school personnel, parents, students, and the community informed of any changes in the standards, protocol, and school board policies. Local school boards are encouraged to devise innovative and inexpensive ways of disseminating such information and providing community outreach to promote public awareness and understanding of school board policies.

◆ *The recommendation of the Virginia State Crime Commission that the Code of Virginia be amended to authorize imposition of an enhanced penalty for knowingly using a minor to assist in the distribution of controlled substances.*

Discussion: The survey revealed an increase in the presence of drugs on school property. Frequently, drugs are a factor in incidents of crime and violence involving minors. The drug trade is a lucrative enterprise, undeniably, an irresistible inducement for many children for whom dreams deferred are dreams denied. Unfortunately, some adults in the drug trade understand the economic and social milieu which perpetuates this phenomenon extremely well and seize the opportunity to engage such students in the distribution of drugs. Such adults also are aware that minors who are prosecuted for violating the drug control laws are less likely to be convicted and sentenced, particularly to long prison terms. Thus, the use of minors in the drug trade acts as a shield to provide some measure of security from prosecution for adult drug dealers.

The act of knowingly using minors in the drug trade is unconscionable and reprehensible. The involvement of minors in the drug trade ultimately results in a downward spiral for a lifetime or death for such youth, and in a tragic and unnecessary loss of human potential for society. Therefore, the Joint Subcommittee supported House Bills 233 and 382, which substantially enhances the penalty for adults who use minors in drug distribution, and House Bill 392, which establishes drug-free school zones, as recommended by the Virginia State Crime Commission.

◆ *The study of the feasibility of increasing the penalties or granting judges greater latitude to provide more stringent alternatives for acts of crime and violence committed by repeat juvenile offenders.*

Discussion: Testimony indicated that the same students are usually involved in many of the disciplinary problems noted by public school personnel. School personnel expressed frustration in dealing with students who regularly violate student conduct policies, for whom the constant intervention of law enforcement agencies is warranted because of the seriousness of the violation, or with whom court services personnel are quite familiar because of their frequent interaction with the juvenile justice system.

It is acknowledged that confidentiality requirements which limit access to information pertaining to juvenile offenders provide an necessary mechanism to protect the identity of such juveniles and is premised on the likelihood of their rehabilitation. However, school personnel expressed concern that confidentiality requirements may jeopardize the safety of staff and other students, particularly when proper care and precaution cannot be taken regarding students who have committed violent crimes and other felonious acts.

Often, student disciplinary problems are related to violent or criminal activities in the community which are carried over to and erupt in violence within the school setting. The return of such students to the regular classroom is potentially disruptive of the learning environment and may provide the catalyst for a very dangerous situation. School personnel and law enforcement agencies that must respond to disciplinary problems in the public schools believe that stricter penalties on repeat juvenile offenders and appropriate instructional alternatives are needed, as well as placing greater responsibility for student conduct on parents.

The Joint Subcommittee is mindful of the fact that the responsibility of balancing the rights of students to a safe and orderly educational environment and the rights of those students who allegedly have engaged in violent or criminal behavior creates an untenable dilemma for school officials. This problem requires prompt attention. Therefore, the Joint Subcommittee supports the previously cited.

VII. CONCLUSION

Generally, acts of school crime and violence are mere reflections of the community, and public schools in Virginia are no exception. The Joint Subcommittee found that although the magnitude of crime and violence in Virginia's public schools is not of the proportion of other states, all areas of the Commonwealth experience disciplinary problems and acts of crime and violence to some degree, and urban school divisions reported the greatest incidence. According to the survey data, trespassing, truancy, vandalism and property damage, assaults of students by students, and violations of the drug control statutes are significant problems for many public schools in the Commonwealth. In addition, respondents expressed grave concern and frustration regarding the leniency of the juvenile justice system in dealing with juveniles who commit criminal acts and the lack of (i) student respect for authority, (ii) parental control and guidance of children, (iii) parental and community support of schools, and (iv) the willingness of school administration to deal with such problems and to support school personnel.

The Carnegie Council on Adolescent Development stated in its 1989 report, *Turning Points: Preparing American Youth for the 21st Century*, that "[a]bove all, schools must be safe places . . . Stopping violence, drug dealing and carrying weapons in and around schools is a matter of the utmost urgency in our society." The Joint Subcommittee agrees. It believes that education is best provided in an atmosphere free of fear, disruption, threats, violence, and crime. It is the consensus of the members that local school boards must make a greater effort to ensure that education takes place in an atmosphere which is conducive to learning and conveys its encouragement to and support of school personnel and students who report or are victims of school crime and violence. Local school boards in the Commonwealth must remain resolute in their commitment to the fair, prompt, and just disposition of violations of law and school board student conduct policies. School divisions must be required to comply fully with the provisions of § 22.1-280.1 of the Code of Virginia in order that policymakers and state officials might appropriately respond to disciplinary problems before they erupt or evolve into dangerous and unmanageable situations. Also, the support of parents and all segments of the community must be solicited and directed to assisting students in becoming competent, responsible young adults, maintaining safe schools, and rectifying those conditions in schools which undermine the mission of public education.

The Joint Subcommittee acknowledges the Department of Education, the Superintendent's Task Force on Emergencies Related to Weapons and Violence on School Property and Medical Emergencies, the Virginia Education Association, and the division superintendents of the several local school divisions for their cooperation and assistance during the course of its study.

The Joint Subcommittee expresses its appreciation to the members of its Citizens Advisory Task Force, which worked diligently with the Subcommittee and without remuneration, and to all other interested parties who participated in developing appropriate initiatives to ensure that public education in the Commonwealth is conducted in an atmosphere free of disruptive behavior and acts of crime and violence.

Respectfully submitted,

Alan A. Diamonstein, Chairman
R. Edward Houck, Vice Chairman
James F. Almand
Mark L. Earley
William S. Moore, Jr.
Thomas W. Moss, Jr.
Elliot S. Schewel
Stanley C. Walker
Jane H. Woods

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APPENDICES

Appendix A

House Joint Resolution No. 312 (1989)

Appendix B

House Joint Resolution No. 132 (1990)

Appendix C

Proposed and Enacted Legislation

Chapter 291, 1990 Acts of Assembly

Chapter 517, 1990 Acts of Assembly

Chapter 627, 1990 Acts of Assembly

Chapter 635, 1990 Acts of Assembly

Chapter 744, 1990 Acts of Assembly

House Bill 664 (1990), Carry Over

Appendix A
1989 REGULAR SESSION
HOUSE JOINT RESOLUTION NO. 312

Establishing a joint subcommittee to study acts of crime and violence by students on school property.

Agreed to by the House of Delegates, February 6, 1989
Agreed to by the Senate, February 23, 1989

WHEREAS, the public schools of the Commonwealth have the responsibility for the education of our children, and such education should occur in an atmosphere free of crime, fear and violence; and

WHEREAS, although the ambience of public schools should be one conducive to learning, unfortunately, the academic environment and extracurricular events of some schools are often disrupted by persons engaged in drug trafficking, possession and use, vandalism, assaults, robbery, disturbing the peace, trespassing and other criminal acts; and

WHEREAS, according to recent news reports, an increase in handguns and knives, sophisticated weapons designed for use in the military, law-enforcement and the martial arts have been confiscated from school-age children; and

WHEREAS, a recent Kappan article noted that the "level of violent crime perpetrated by juveniles is three times greater today than it was in 1960, and that it is generally acknowledged that the level of crime in schools has always reflected the criminal activity in the surrounding community"; and

WHEREAS, classroom discipline and safe schools are essential to quality, effective education for all school children; and

WHEREAS, too often, the health and safety of students, teachers and other staff persons are threatened by the criminal behavior of some students, but school officials are legally constrained from pursuing certain potentially effective courses of action to deter such behavior; and

WHEREAS, school officials are required to protect the rights of students engaged in unruly or criminal activity on school grounds, and to enforce state and local laws and school board policies governing student conduct, which sometimes creates a dilemma for school officials; and

WHEREAS, because balancing the rights of such students and effectively enforcing current state and local criminal statutes where juveniles are concerned raises significant legal questions, it is necessary that an appropriate mechanism be developed to assist schools in the deterrence and prosecution of such juveniles; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee to study acts of crime and violence by students on school property is established. The joint subcommittee shall review the relevant federal and state case laws and statutes concerning student disciplinary procedures, criminal statutes pertaining to drug distribution, possession, use and paraphernalia, concealed weapons, other felonious acts, and the prosecution of juveniles. The joint subcommittee shall review the policies of school boards governing student conduct to determine the feasibility of developing a statewide policy for student conduct, assess the impact of the problem of acts of violence and crime on school property on learning and school climate, recommend ways in which schools may effectively deter criminal activity on school property and successfully prosecute juvenile offenders, and recommend such statutory and policy changes as may be necessary to ensure an orderly and safe school environment.

The joint subcommittee shall consist of nine members to be appointed as follows: two members of the House Committees on Education and for Courts of Justice, and one member of the House Committee on Appropriations, to be appointed by the Speaker of House of Delegates; and two members of the Senate Committee on Education and Health, and one member each of the Senate Committees for Courts of Justice and on Finance, to be appointed by the Senate Committee on Privileges and Elections.

The joint subcommittee shall provide opportunity for the contribution of parents, students, the public, division superintendents, school administrators, judges, teachers and other school personnel, law-enforcement officials, and social services professionals to its deliberations on this matter.

All agencies of the Commonwealth shall provide assistance upon request as the joint subcommittee may deem appropriate.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1990 Session of the General Assembly pursuant to procedures of the Division of Legislative Automated Systems for the processing of documents.

The indirect costs of this study are estimated to be \$15,650; the direct costs of this study shall not exceed \$10,720.

Appendix B

1990 REGULAR SESSION
HOUSE JOINT RESOLUTION NO. 132

Continuing the Joint Subcommittee Studying Acts of Violence and Crime by Students on School Property.

Agreed to by the House of Delegates, February 13, 1990
Agreed to by the Senate, February 27, 1990

WHEREAS, the public schools of the Commonwealth have the responsibility for the education of our children, and such education should occur in an atmosphere free of crime, fear and violence; and

WHEREAS, classroom discipline and safe schools are essential to quality, effective education for all school children; and

WHEREAS, the Joint Subcommittee Studying Acts of Violence and Crime by Students on School Property determined that the academic environment and extracurricular events of some schools are often disrupted by persons engaged in drug trafficking, vandalism, assaults, trespassing, and weapons violations; and

WHEREAS, although school personnel are concerned about the threat posed by the criminal behavior of some students, school officials must manage such incidents with restraint, balancing the rights of the perpetrators and the school community; and

WHEREAS, the joint subcommittee determined that a review of school board policies indicate the need to require school boards to update such policies and ensure public notification of their availability; and

WHEREAS, the problems of school violence and crime are serious, and the joint subcommittee deliberated at length on the issues assigned to it for review, but lacked sufficient time to complete its work; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying Acts of Violence and Crime by Students on School Property is continued. The membership of the joint subcommittee as appointed pursuant to House Joint Resolution No. 312 of 1989, shall continue to serve. Vacancies shall be filled according to the requirements in House Joint Resolution No. 312. The joint subcommittee shall continue to examine the issues it continued for further study and any related issues which it might be assigned, recommend ways in which schools may effectively deter criminal activity on school property and successfully prosecute juvenile offenders, and recommend such statutory and policy changes as may be necessary to ensure an orderly and safe school environment.

The joint subcommittee shall provide an opportunity for the contributions of parents, students, the public, division superintendents, school administrators, judges, teachers and other school personnel, law-enforcement officials, and social services professionals.

All agencies of the Commonwealth shall provide assistance upon request as the joint subcommittee may deem appropriate.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1991 Session of the General Assembly pursuant to procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The indirect costs of this study are estimated to be \$ 13,255; the direct cost of this study shall not exceed \$ 8,100.

Appendix C

CH. 291]

ACTS OF ASSEMBLY

1

CHAPTER 291

An Act to amend and reenact § 22.1-253.13:7 of the Code of Virginia, relating to Standards of Quality, policy manual.

[H 777]

Approved March 26, 1990

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-253.13:7 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-253.13:7. Standard 7. Policy manual.—A. The General Assembly and the Board of Education recognize the need to apprise the local school boards of the laws and regulations governing operation of local school divisions.

B. The Board of Education shall, in a timely manner, make available to local school boards copies of current Virginia school laws, Board regulations and revisions, and copies of relevant Opinions of the Attorney General of Virginia.

C. Each local school board shall maintain and follow an up-to-date policy manual which . *The policy manual shall be reviewed in 1990 and, if needed, revised. Thereafter, all policy manuals shall be reviewed and revised at least every five years, or more often if needed. The policy manual shall include, but not be limited to:*

1. Valid copies of Article 3 (§ 22.1-306 et seq.) of Chapter 15 of Title 22.1, concerning grievances, dismissals, etc., of teachers, and the implementation procedure prescribed by the General Assembly and the Board of Education; and

2. A cooperatively developed procedure for personnel evaluation appropriate to tasks performed by those being evaluated.

D. Each local school board shall ensure that the policy manual include the following policies, which shall be developed giving consideration to the views of teachers, parents, and other concerned citizens.

1. A system of two-way communication between employees and the local school board and its administrative staff whereby matters of concern can be discussed in an orderly and constructive manner;

2. A policy for the selection and evaluation of all instructional materials purchased by the school division, with clear procedures for handling challenged controversial materials;

3. The standards of student conduct and attendance and enforcement procedures designed to provide that public education be conducted in an atmosphere free of disruption and threat to persons or property and supportive of individual rights;

4. A policy for school-community communications and community involvement; and

5. Guidelines to encourage parents to provide instructional assistance to their children in the home, which may include voluntary training for the parents of children in grades K through 3.

An up-to-date copy of the school division policy manual shall be kept in the library of each school *and in any public library* in that division and shall be available to employees and to the public. *An annual announcement shall be made in each division advising the public that the policy manual is available in such places.*

CHAPTER 517

An Act to amend and reenact §§ 22.1-65 and 22.1-280.1 of the Code of Virginia, relating to reporting certain offenses to school authorities; sanctions.

[H 776]

Approved April 4, 1990

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-65 and 22.1-280.1 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-65. Punishment of division superintendents.—A division superintendent may be assessed a reasonable fine, suspended from office for a limited period or removed from office by either the Board of Education, *upon recommendation of the Superintendent of Public Instruction* or the school board of the division for sufficient cause. A division superintendent may appeal to the appropriate circuit court any decision of the Board of Education or school board to assess a fine against him or to suspend or remove him from office and shall be entitled to a trial de novo on such appeal of whether there was sufficient cause therefor.

§ 22.1-280.1. Reports of certain acts to school authorities.—A. Any assaults, assault and batteries, *attempted or actual physical injury, including "unlawful woundings,"* maimings, and homicides, other than involuntary manslaughter, committed by a student on school personnel ~~brought to the attention of~~ *shall be reported to the school administrator principal or his designee*. Similar reports shall be made to the principal or his designee on all incidents involving the death, shooting, stabbing, cutting, or wounding of any person or any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity. The principal or his designee shall be reported ~~semiannually~~ *submit a report of all such incidents* to the superintendent of the school division. The division superintendent shall *annually* report all such incidents to the Department of Education for the purpose of recording the frequency of such incidents on forms which shall be provided by the Department. A division superintendent who knowingly fails to comply or secure compliance with the reporting requirements of this section shall be subject to the sanctions authorized in § 22.1-65.

B. A statement providing a procedure and the purpose for the requirements of subsection A shall be included in the policy manual of all school divisions.

The Board of Education shall promulgate regulations to implement this section including, but not limited to, the reporting date and the format of the reports.

CHAPTER 627

An Act to amend and reenact § 18.2-415 of the Code of Virginia, relating to disorderly conduct.

[H 665]

Approved April 6, 1990

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-415 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-415. Disorderly conduct in public places.—A person is guilty of disorderly conduct if, with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

A. In any street, highway, public building, or while in or on a public conveyance, or public place engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed ; ~~provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title ;~~ or

B. Willfully or being intoxicated, whether willfully or not, *and whether such intoxication results from self-administered alcohol or other drug of whatever nature*, disrupts any meeting of the governing body of any political subdivision of this Commonwealth or a division or agency thereof, or of any school, literary society or place of religious worship, if ~~such the~~ disruption (i) prevents or interferes with the orderly conduct of ~~such the~~ meeting or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, ~~such the~~ disruption is directed ; ~~provided, however, such ;~~ or

C. *Willfully or while intoxicated, whether willfully or not, and whether such intoxication results from self-administered alcohol or other drug of whatever nature, disrupts the operation of any school or any activity conducted or sponsored by any school, if the disruption (i) prevents or interferes with the orderly conduct of the operation or activity or (ii) has a direct tendency to cause acts of violence by the person or persons at whom, individually, the disruption is directed.*

However, the conduct prohibited under subsection A, B or C shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this title.

The person in charge of any such building, place, conveyance ~~or~~ , meeting , *operation or activity* may eject therefrom any person who violates any provision of this section, with the aid, if necessary, of any persons who may be called upon for such purpose.

The governing bodies of counties, cities and towns are authorized to adopt ordinances prohibiting and punishing the acts and conduct prohibited by this section, provided that the punishment fixed therefor shall not exceed that prescribed for a Class 1 misdemeanor. A person violating any provision of this section shall be guilty of a Class 1 misdemeanor.

CHAPTER 635

An Act to amend and reenact §§ 16.1-246, 18.2-308.1 and 19.2-81 of the Code of Virginia, relating to a prohibition against carrying designated weapons on school property; taking children into immediate custody; arrest without a warrant; penalty.

[S 79]

Approved April 6, 1990

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-246, 18.2-308.1 and 19.2-81 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-246. When and how child may be taken into immediate custody.—No child may be taken into immediate custody except:

A. With a detention order issued by the judge, the intake officer or the clerk, when authorized by the judge, of the juvenile and domestic relations district court in accordance with the provisions of this law or with a warrant issued by a magistrate; or

B. When a child is alleged to be in need of services and (i) there is a clear and substantial danger to the child's life or health or (ii) the assumption of custody is necessary to insure the child's appearance before the court; or

C. When, in the presence of the officer who makes the arrest, a child has committed an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law and the officer believes that such is necessary for the protection of the public interest; or

C1. When a child has committed a misdemeanor offense involving (i) shoplifting in violation of § 18.2-103 or (ii) carrying a weapon on school property in violation of § 18.2-308.1 and, although the offense was not committed in the presence of the officer who makes the arrest, the arrest is based on probable cause on reasonable complaint of a person who observed the alleged offense; or

D. When there is probable cause to believe that a child has committed an offense which if committed by an adult would be a felony; or

E. When a law-enforcement officer has probable cause to believe that a person committed to the Department of Youth Services as a child has run away or that a child has escaped from a jail or detention home; or

F. When a law-enforcement officer has probable cause to believe a child has run away from a residential, child-caring facility or home in which he had been placed by the court, the local department of public welfare or social services or a licensed child welfare agency; or

G. When a law-enforcement officer has probable cause to believe that a child (i) has run away from home or (ii) is without adult supervision at such hours of the night and under such circumstances that the law-enforcement officer reasonably concludes that there is a clear and substantial danger to the child's welfare; or

H. With a temporary detention order issued in accordance with § 37.1-67.1 by a special justice appointed pursuant to § 37.1-88, who shall receive no fee, or by a magistrate.

§ 18.2-308.1. Carrying firearm, stun weapon, or other weapon on school property prohibited.—If any person carries about his person any (i) pistol or any other firearm designed or intended to propel a missile of any kind or any, (ii) stun weapon or taser as defined in this section, or (iii) other weapon designated in subsection A of § 18.2-308 into any public building upon (i) the property of any public, private or parochial elementary, junior high middle or high school, including buildings and grounds, (ii) that portion of any property open to the public used for school-sponsored functions or extracurricular activities while such functions or activities are taking place, or (iii) any school bus owned or

operated by any such school, he shall be guilty of a Class 2 / misdemeanor.

The exemptions set out in § 18.2-308 shall apply, *mutatis mutandis*, to the provisions of this section. The provisions of this section shall not apply to persons who carry such weapon or weapons as a part of the curriculum or other programs sponsored by the school or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

As used in this section:

"Stun weapon" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge that exceeds the equivalency of a five milliamp sixty hertz shock and (ii) used for the purpose of temporarily incapacitating a person; and

"Taser" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge or shock through the use of a projectile and (ii) used for the purpose of temporarily incapacitating a person.

§ 19.2-81. Arrest without warrant authorized in certain cases.— Members of the State Police force of the Commonwealth, the sheriffs of the various counties and cities, and their deputies, the members of any county police force, the members of any duly constituted police force of any city or town of the Commonwealth, the Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.1-185, regular game wardens appointed pursuant to § 29.1-200, and the special policemen of the counties as provided by § 15.1-144, provided such officers are in uniform, or displaying a badge of office, may arrest, without a warrant, any person who commits any crime in the presence of such officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-712 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. Such officers may arrest, without a warrant, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged. Additionally, any such officer may arrest, without a warrant, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant for such offense is on file. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or § 18.2-103, (ii) *carrying a weapon on school property in violation of § 18.2-308.1*, (iii) assault and battery or (iv) destruction of property in violation of § 18.2-137 ; when such property is located on premises used for business or commercial purposes and . when *any* such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

CHAPTER 744

An Act to amend and reenact §§ 16.1-246, 18.2-308.1 and 19.2-81 of the Code of Virginia, relating to a prohibition against carrying designated weapons on school property; taking children into immediate custody; arrest without a warrant; penalty.

[H 318]

Approved April 9, 1990

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-246, 18.2-308.1 and 19.2-81 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-246. When and how child may be taken into immediate custody.—No child may be taken into immediate custody except:

A. With a detention order issued by the judge, the intake officer or the clerk, when authorized by the judge, of the juvenile and domestic relations district court in accordance with the provisions of this law or with a warrant issued by a magistrate; or

B. When a child is alleged to be in need of services and (i) there is a clear and substantial danger to the child's life or health or (ii) the assumption of custody is necessary to insure the child's appearance before the court; or

C. When, in the presence of the officer who makes the arrest, a child has committed an act designated a crime under the law of this Commonwealth, or an ordinance of any city, county, town or service district, or under federal law and the officer believes that such is necessary for the protection of the public interest; or

C1. When a child has committed a misdemeanor offense involving (i) shoplifting in violation of § 18.2-103 or (ii) carrying a weapon on school property in violation of § 18.2-308.1 and, although the offense was not committed in the presence of the officer who makes the arrest, the arrest is based on probable cause on reasonable complaint of a person who observed the alleged offense; or

D. When there is probable cause to believe that a child has committed an offense which if committed by an adult would be a felony; or

E. When a law-enforcement officer has probable cause to believe that a person committed to the Department of Youth Services as a child has run away or that a child has escaped from a jail or detention home; or

F. When a law-enforcement officer has probable cause to believe a child has run away from a residential, child-caring facility or home in which he had been placed by the court, the local department of public welfare or social services or a licensed child welfare agency; or

G. When a law-enforcement officer has probable cause to believe that a child (i) has run away from home or (ii) is without adult supervision at such hours of the night and under such circumstances that the law-enforcement officer reasonably concludes that there is a clear and substantial danger to the child's welfare; or

H. With a temporary detention order issued in accordance with § 37.1-67.1 by a special justice appointed pursuant to § 37.1-88, who shall receive no fee, or by a magistrate.

§ 18.2-308.1. Carrying firearm, stun weapon, or other weapon on school property prohibited.—If any person carries about his person any (i) pistol or any other firearm designed or intended to propel a missile of any kind or any, (ii) stun weapon or taser as defined in this section, or (iii) other weapon designated in subsection A of § 18.2-308 into any public building upon (i) the property of any public, private or parochial elementary, junior high middle or high school, including buildings and grounds, (ii) that portion of any property open to the public used for school-sponsored functions or extracurricular activities while such functions or activities are taking place, or (iii) any school bus owned or

operated by any such school, he shall be guilty of a Class 2 / misdemeanor.

The exemptions set out in § 18.2-308 shall apply, *mutatis mutandis*, to the provisions of this section. The provisions of this section shall not apply to persons who carry such weapon or weapons as a part of the curriculum or other programs sponsored by the school or any organization permitted by the school to use its premises or to any law-enforcement officer while engaged in his duties as such.

As used in this section:

"Stun weapon" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge that exceeds the equivalency of a five milliamp sixty hertz shock and (ii) used for the purpose of temporarily incapacitating a person; and

"Taser" means any mechanism that is (i) designed to emit an electronic, magnetic, or other type of charge or shock through the use of a projectile and (ii) used for the purpose of temporarily incapacitating a person.

§ 19.2-81. Arrest without warrant authorized in certain cases.— Members of the State Police force of the Commonwealth, the sheriffs of the various counties and cities, and their deputies, the members of any county police force, the members of any duly constituted police force of any city or town of the Commonwealth, the Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.1-185, regular game wardens appointed pursuant to § 29.1-200, and the special policemen of the counties as provided by § 15.1-144, provided such officers are in uniform, or displaying a badge of office, may arrest, without a warrant, any person who commits any crime in the presence of such officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-712 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. Such officers may arrest, without a warrant, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged. Additionally, any such officer may arrest, without a warrant, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant for such offense is on file. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or § 18.2-103, (ii) *carrying a weapon on school property in violation of § 18.2-308.1*, (iii) assault and battery or (iv) destruction of property in violation of § 18.2-137 ; when such property is located on premises used for business or commercial purposes and , when *any* such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

1991 SESSION
ENGROSSED

HOUSE BILL NO. 664

House Amendments in [] - February 12, 1990

A BILL to amend and reenact § 18.2-128 of the Code of Virginia, relating to trespass upon church or school property; penalty.

Patrons—Moore, Diamonstein, Woods, Almand and Moss; Senators: Schewel, Earley, Walker and Houck

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-128 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-128. Trespass upon church or school property.—A. It shall be unlawful for any person, without the consent of some person authorized to give such consent, to go or enter upon, in the nighttime, the premises or property of any church or upon any school property for any purpose other than to attend a meeting or service held or conducted in such church or school property.

B. It shall be unlawful for any person, whether or not a student, to enter upon or remain upon any school property [: or any portion of school property, which is posted as being accessible only to students or school personnel or after having been directed to vacate the property by a person authorized to give such direction in violation of any direction to vacate the property by a person authorized to give such direction or in violation of any posted notice which contains such information] . Each time such person enters upon or remains on the posted premises or after such direction shall constitute a separate offense.

C. Any person violating the provisions of this section shall be guilty of a Class 3 misdemeanor.

Official Use By Clerks	
Passed By	
The House of Delegates	Passed By The Senate
without amendment <input type="checkbox"/>	without amendment <input type="checkbox"/>
with amendment <input type="checkbox"/>	with amendment <input type="checkbox"/>
substitute <input type="checkbox"/>	substitute <input type="checkbox"/>
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Clerk of the House of Delegates	Clerk of the Senate