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Expert: Privacy law likely not violated

By not naming youths' names, school board apparently stayed within legal limits

By JOHN C. PATTERSON

H&R Springfield Bureau Writer

SPRINGFIELD — Confidential school records tracking academic performance and attendance of the seven former students kicked out of Decatur schools for fighting at a football game can only be released to the public if their parents agree.

But by providing attendance information on the students as a group — pointing out that some had repeated grades without ever personally identifying the individual students — Decatur school officials appear to have stayed within the boundaries of the law.

"That's the key thing, the personally identifying them," said Gary Kerr, a Springfield lawyer who specializes in school law. Kerr said Thursday that state law prohibits, with specific exceptions, any release of student information that is personally identifiable.

Some of the exceptions include:

- Transferring records to other school officials when a student moves.
- Providing records to police during an investigation.
- If ordered to release information by a judge and parents are notified.
- In case of an emergency and the information will protect the health and safety of others.

Violating this law is a petty offense, carries no jail time and a maximum fine of \$500.

However, someone who violates the law may be liable for damages in civil court, where awards can be dramatically more than the criminal fines. Information about juveniles involved in crimes is also severely limited by state law. The philosophy behind these laws is that children are not responsible for their actions and should have the opportunity to be rehabilitated before being branded as a criminal.

"As a general rule we don't release information about minors," said Dave Sanders, a spokesman for the Illinois State Police. In Illinois, minors are children who are age 16 or younger. Once people turn 17, they are considered adults.

Criminal court records, for the most part, are only available for people age 17 and older. Access to juvenile criminal records is limited to those convicted of the most violent crimes.

Betsy Clarke, juvenile justice counsel for the Cook County Public Defender's Office said there is "still definitely confidentiality" for juvenile records. By law, the public is entitled to know the name, address and crime committed by children as young as 13 if the crime was murder, attempted murder, rape, involved gang activity, gun or repeated drug convictions.

Clarke said the exceptions are very specific. She also noted that there are several crimes, such as murder, for which juveniles automatically will be tried and treated as adults.

The ages vary depending on the crime, Clarke said. Overall, she said, the confidentiality of juvenile records is

one of the more respected laws in Illinois. "There are leaks here and there, but I've always been impressed with the journalists, the courts and the police. They have all been responsible about keeping things confidential."

But throughout the nation, laws are being loosened to allow sharing of juvenile court records and greater public access. The National Conference of State Legislatures reports that since 1993, 35 states have passed laws allowing juvenile court records to be shared between law enforcement agencies and schools so administrators know when troubled youths return to class. A Wisconsin provision goes so far as to require schools to be notified when a child charged with a crime is found innocent.

Other examples from the National Conference of State Legislatures:

- In Georgia, the public has access to all juvenile hearings when a felony is alleged. All juvenile court records are maintained and can be used by prosecutors for urging stricter criminal sentences in subsequent cases.

- Oklahoma does away with the confidentiality of arrest and court records of juveniles arrested for acts that would be considered felonies if they were adults.

- In Utah, court records for children as young as 14 can be inspected following a written request. And unless a court order closes a hearing, court proceedings involving charges against a child age 14 or older are open to the public.

- West Virginia similarly makes public the identity of juveniles convicted of violent crimes or felonies.



CENTER OF THE SITUATION: Terrence Jarrett, left, Gregory Howell, Courtney Carson, Enrol Bond and Shawn Honorable, five of the seven students expelled by the Decatur school board, watch activities at Eisenhower High School from the far side of 16th Street on Monday. The students lost their anonymity on Tuesday when attorneys for the Rainbow/PUSH Coalition filed a lawsuit in U.S. District Court in Urbana.

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VIDEO: Expert cites studies

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erres were biased against Yale, and the Harvard people saw it the other way," Viloux said. "These theoretically were very smart people."

Viloux said studies have shown that actions and symbols that are perceived as non-violent and comforting by some can be interpreted as violent and threatening to others. A study done during the Vietnam war found that both African-Americans and whites saw burning a draft card as a violent act. Being frisked by a police officer, however, was viewed as nonviolent by whites and violent by African-Americans.

While having dozens of police officers outside MacArthur High School on Wednesday made some MacArthur students feel safe, sophomore Sharena Harper said she felt uneasy "because there aren't any black cops out there."

Lorena Johnson, a Springfield-based diversity educator, said any time there's an incident like the one in Decatur, where a group of African-American students fought and are subsequently given a lengthy expulsion by a predominantly white school board, race will play a role in how the event is perceived because of the historical mistreatment of African-Americans in the United States.

She pointed to the Rodney King case, where a group of white police officers brutally beat King, an African-American, as an example of that.

"When black people saw that tape, they didn't see a man being abused by police officers," she said. "They saw a continuation of a historical experience of a group of people."

Viloux said he hopes that society is progressing, albeit slowly, toward a better understanding of one another that is not based on perceptions of the world that are more similar.

"The good news in all this is that all the lenses we use and all the distortions have been made up by us humans," Viloux said. "When we decide we want to change them, we can. It can happen in a heartbeat or over a number of years. Think of where women are today relative to 1960."



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FRIENDS IN HIGH PLACES: The Rev. Jesse Jackson, right, hugs Terrence Jarrett, one of the expelled students, the start of his first Sunday, north of Eisenhower High School.

JACKSON: Says Gov. Ryan 'disappointed' by inaction

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of illegally releasing information on the students' background to the media. He again called for the seven students' cases to be considered individually and said he would ask Illinois Attorney General Jim Ryan to look into the matter.

Jackson said McGee was rebuffed Wednesday in a meeting with Goetter when he proposed forming a panel of state and local personnel to review the students' readiness to return to normal classes. McGee would chair the group.

Jackson said he talked with Gov. George H. Ryan Wednesday evening, and Ryan "was a bit disappointed" that McGee was not successful in his continued effort to craft a compromise.

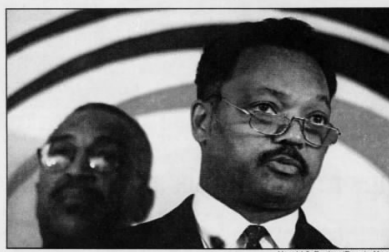
But Goetter said the school board did not reject a list of 10 additional requests the state superintendent presented on Wednesday. She said the list was a combination of items Jackson had requested and McGee had suggested.

"It was afternoon when I got the list," Goetter said. "With all the things that have gone on this week, I didn't feel I could call another special board meeting Wednesday night. I offered to see if we could hold such a meeting early next week. I did not rebuff their request. I intend to share the list with the other board members. We haven't closed the door."

This week, with a special meeting Monday, a regular meeting Tuesday and activities involving the continued dispute taking up much of the week, board members and administrators are exhausted, Goetter said.

"These are such important decisions, we need to be at our best when we make them," she said. "I will ask the superintendent's secretary next week to determine what days we could all meet. We need all the board members present for this."

Jackson said the school board should have offered the students an alternative education option before expelling them but did not do so. Both McGee and the



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ON THE GO: The Rev. Jesse Jackson addresses members of the media at a news conference on Thursday, Jackson left Decatur Thursday, but said he will return for a rally and march on Sunday.

governor have said the alternative education option is required before an expulsion, he said.

McGee said he wants to meet with the entire Decatur school board because "it would probably help me to understand their thinking more. I would hope they would listen to my thoughts."

While not detailing his proposals, McGee said some would involve action by the Decatur school board and some would be accomplished by the state.

"Whether the local school board goes ahead with what I'm requesting, I'm planning on going forth with some things statewide," he said.

The state initiatives would include examining statistics on suspensions and expulsions with an eye toward seeing if there is an imbalance toward minority students.

McGee said expelling a student is a

serious consideration.

"The options available for students before expelling them are wide-ranging," he said. "One of the great benefits of this (Decatur) case is that every board of education in Illinois is really looking at the whole host of options."

Goetter said Decatur schools are scheduled to be open Monday. But she said, "The safety of the students is paramount," indicating the situation could change. Schools are closed today for a previously scheduled teacher institute day.

During his news conference Thursday morning, Jackson said he is requesting Illinois Attorney General Jim Ryan investigate the legality of the release of privileged information about seven expelled Decatur high school students.

Ryan must render judgment on four points: the legality of the expulsions

before an alternative education option was offered; whether there was a lack of due process; whether the Decatur school board had the authority to expel the students for a year in the face of state law requiring children be educated until they are age 18; and whether there were violations of the state privacy act, Jackson said.

Jackson said he also plans to tell U.S. Attorney General Janet Reno about the case because of what he views as violations of federal privacy laws.

Goetter denied that the board has given out any privileged information. "We never, ever give out specific information on students," Goetter said. "As far back as the day the students were expelled, their names were never given out. They were referred to by numbers. We do that to protect the students."

Goetter said members of the Rainbow/PUSH Coalition have shared the names of the expelled students with the public, as have the students themselves and some of their parents.

But Jackson said the board "demonized" the expelled students by releasing the fact that they have a combined 305 absences from school. He accused officials of doing so to help justify the expulsions.

Goetter countered Thursday that some collective information, such as total days absent from school, was given out by the district to rebut Jackson's portrayal of the academic performance of the students. She said it also was revealed that three were third-year freshmen, again for the same reason.

"Rev. Jackson has characterized these young men as honor roll students committed to their education," Goetter said. Thursday marked the 10th day since Jackson, became personally involved in the issue. His involvement quickly led to attention by the national media, which have included the story on network broadcasts.

After a day-long meeting Monday among Gov. Ryan, Goetter, Jackson and

Arnold, the board voted to shorten the expulsions from the original two years to one year and offered to place the students in alternative education programs.

Jackson accepts those points but wants the two seniors among the group to graduate with their class next spring and to have an earlier review of all the expelled students' behavior and study efforts in the alternative education setting to determine if they can be brought back into regular classes by January.

Jackson revealed his request to Attorney General Ryan before going to the Decatur Airport and boarding a private jet to Washington, D.C., and Cleveland, Ohio.

He said he would return to Decatur for a 2 p.m. march on Sunday from the Decatur Civic Center to MacArthur High School dubbed "Save the Dream and Leave No Child Behind." Marchers are expected to gather at the civic center at 1 p.m. A rally will follow the march.

Arnold said there likely will be school on Monday. But students will once again need IDs to get in, and the same entrance doors will be used. He said if any student has lost an ID, the schools are open today to get a new one free of charge.

"My hope for Monday is that the expelled students will enroll in alternative school, and then there will be no frontlines and no violence. Once we have peace, then we can focus our energy on education."

Still, confrontation potentially looms from a third party. Matt Hale, leader of the white supremacist group, The World Church of the Creator, debated Lewis Myers Jr., the attorney representing six of the seven black students who were expelled. The debate was aired live Thursday on Court TV.

Racist literature attributed to the World Church of the Creator was found on some Decatur lawns this week.

H&R Staff Writers Ken Jackson and Jan Tournay contributed to this report.