

The Right Law in the Wrong Place?

Policy Focus

Harvard, Illinois passed a city ordinance that banned wearing gang insignia. The law was found unconstitutional. Long Beach (California) and other school districts across the country not only ban gang clothing but require students to wear uniforms. Is that unconstitutional?

This lesson will compare these two laws and what several people had to say about them. What do you have to say about them?

Questions

- The law's intentions—is it aimed at prevention, intervention, punishment or some combination?
- The "location" of the law—is the right law in the right place?
- The constitutional questions involved—remember, even when a law is upheld or found unconstitutional at one level, it may be reversed by a higher court; and, there are often dissenting opinions.
- Could the law could be amended (changed) to better satisfy any of the above conditions?

Conducting a Role Play

Using the handouts with this lesson, divide the class into two groups or have the class as a whole role-play one or both of the cases. Follow the suggested scenarios, then debrief the experience with your students.

Right Law in the Wrong Place? Role Play for Handout #1

Hold a Harvard City Council meeting to amend the city ordinance after it is found unconstitutional in its current form. Assign the following roles and divide into pro and con groups to prepare for the meeting. Reassemble and hold the meeting. Teacher should serve as the city council president, who is neutral on the issue.

Pro

- half of the city council members
- the mayor; the city attorney; the police chief
- Harvard High basketball coach
- president of Harvard High student council
- family that moved to Harvard to get from gangs in their old neighborhood
- additional students, parents, citizens, in favor

Con

- half of the city council members
- student charged under the ordinance; the student's attorney; the student's parents
- president of local ACLU student chapter
- Harvard High social studies teacher
- store owners at Harvard mall who sell jewelry and clothing
- additional students, parents, citizens, opposed

Right Law in the Wrong Place? Role Play for Handout #2

Hold a mock Illinois State Senate hearing on a proposed law modeled on the California example, i.e., to allow all school districts in Illinois to require student uniforms. Pick 7 Senate districts to be represented, including a mix of urban, suburban, outstate town/city, and outstate rural.

Have students number off 1 through 7. Have all 1s meet together, 2s, 3s, etc. to discuss how their district would feel about this bill and what position they would take in a debate on the Senate floor. Then form several committees, each with 7 members, 1 from each district. Have each committee debate the bill and decide whether or not they want to take the bill forward to the full Senate, using the following procedure:

1. Each committee should choose a chair
2. Discuss bill, with chair recognizing members
3. Chair calls for amendments; members propose amendments, which may make bill either stronger or weaker; e.g., add language that says any student can be excused from wearing a uniform if parents object, or change wording to say that state *requires* all districts, rather than *permits*; vote on each amendment separately
4. Each committee votes on bill as amended
5. Each committee chair reports to class as a whole on form of bill as amended and whether the committee voted to bring it to full Senate
6. If desired, have class hold full Senate floor debate of one of the bills, with provisions of other bills offered as amendments; vote on individual amendments; and on bill as amended.

Handout 1: City of Harvard, Illinois Anti-Gang Dress Code

The Policy

A Harvard, Illinois, ordinance making it illegal to wear gang clothing or insignia within the city limits. The text of the ordinance reads: "It shall be unlawful for any person within the City to wear known gang colors, emblems or other gang insignia, or appear to be engaged in communicating gang-related messages through the use of hand signals or other means of communication."

Commentary

A freshman at Harvard High School wore a string of beads dangling a six-pointed star to school. On his way home from school, he was arrested. The police say the student admitted to being a member of the Action Packed Gangster Disciples. The student says he was just wearing the star to look cool.

The mayor of Harvard said of the ordinance, "We want them to get out gangs or get out of town."

The lawyer for the defense filed a motion to dismiss charges against the student, saying the law was unduly vague and unduly broad, violating the First, Fourth, Fifth, and Fourteenth amendments.

The arresting officer said, "Are we trying to protect someone's right to get beat up? When someone uses a symbol to promote organized crime, it should be illegal. It's no longer expression."

The city attorney said, "The right to express gang colors and emblems pales in comparison to the violence that gangs cause in a community."

The local court upheld the ordinance. The decision was appealed. The Illinois appellate court reversed the local court, saying, "Were a gang (however defined) to adopt red, white and blue as its colors or the crucifix as its symbol, every school and church would be 'flashing' gang signals."

The *Chicago Tribune* said, "Well-intentioned law is not necessarily good law."

Handout 2: Long Beach (California) District Code for School Uniforms

The Policy

A 1994 California state law allowing state public schools to require uniforms. Under this law, the Long Beach (California) school district requires elementary and middle school students to wear school uniforms.

Commentary

The district has 83,000 students, with 58,500 in elementary and middle schools. Since 1994 when the policy went into effect assault and battery cases in grades K-8 have dropped 34 percent; physical fights have dropped by 51 percent; suspensions have dropped by 32 percent

A middle school principal said, "Everybody is looking for answers, and here is a district that is doing something that is working."

A physical education teacher said, "If gang members see one of our students in uniform, they'll leave them alone."

An 8th grade student said, "The good thing is people judge you on your inner characteristics rather than what you wear."

A 7th grade student said, "It's like we're all in jail."

President Clinton said, "If it means that the schoolrooms will be more orderly, more disciplined, and that our young people will learn to evaluate themselves by what they are on the inside instead of what they're wearing on the outside, then our public schools should be allowed to require their students to wear school uniforms."

The American Civil Liberties Union has filed suit, claiming the uniform requirement is a financial burden on poor families.

The United States Supreme Court has not directly addressed the question of whether public schools can impose dress requirements, but lower courts have generally upheld the option.