



Don't step on my toes – Boundary Investigations

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SEDOR WENDLANDT EVANS FILIPPI LLC

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DISCLAIMER:

This presentation is educational only and does not constitute legal advice. If related legal advice is wanted, you would need to contact me through appropriate District procedures with the specifics of the request.

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THE NEW YORK TIMES NATIONAL TUESDAY, OCTOBER 17, 1989

Anca

way Born Town ing

BELKIN

New York Times

BLANCA, Tex. — No matter where you stand in this dying town, you are on the edge of the southern edge and the trucks bat light.

on Interstate 10 of 500 people, 88 El Paso. They estate and have own's 20 businesses, restaurants, two service stores, a

owns the only bar, ut. She wants to put as of the highway r/a Blanca offers, drivers we're here, take a stop," she

le enough. Since plan three minutes a's merchants have le regulations, since companies celebrities. Most of sed the truth of the money to make

of Mrs. Love's "aim- is to \$65 for every far she has raised into a person.

cars ago, Sierra redden was too way 80, the only name Main Si ren, own, and cars were 1950's the Inter- ti first everyone "a highway," said viated rancher. "It a quieter."

unt. Businesses rst, then in a rush r those stores are uring one recent, ar customers were es at Michael's Re- one customer at Ms. 80, and he wanted a watched the mas off a list of recent



For two days this month, the police in Anchorage occupied the school administration building, searching for documents related to a teacher who had been dismissed for sexual misconduct. Above, officers sifted through trash left from a meeting of the school board.

Schools and Police Battle Over Search

By RICHARD MAUER

Special to The New York Times

ANCHORAGE, Oct. 16 — For weeks, the dismissal of a local high school English teacher for sexual misconduct passed with little notice.

But that changed this month, when the Chief of Police, Kevin O'Leary, stormed into a meeting of school district administrators with a bulletproof vest and a handful of search warrants.

For two days the police occupied the administration building, searching for documents related to the teacher's conduct. They combed every record, from federally protected files of special-education students to trash left from a board meeting. They shut down the switchboard and asked an assistant principal to carry a concealed radio transmitter into a meeting of school lawyers and officials.

A Messy Confrontation

As a result of the searches, school district officials are in the middle of a messy confrontation with the police and prosecutors. William Coats, Superintendent of Schools, described the raids as "Gestapo" intrusions of grossly unconstitutional proportions that have violated the rights of the dis-

trict that the documents they have given to the district may have been searched," he said.

The police and prosecutors have so far refused to respond to the school district's complaints. Chief O'Leary told The Anchorage Daily News last week that he led the raid "as a professional courtesy" to "help smooth along the process."

In a written statement outlining the laws that apply to the case, District Attorney Dwayne McConnell of Anchorage pointed out that school officials are required to immediately report cases of suspected child abuse and said he was unhappy with procedures the school district has followed in the past. Last week the school district filed suit against the police and the district attorney to halt any more searches, to force prosecutors to reveal what

'Gestapo' tactics are alleged in a hunt for a teacher's records

B Expan

WASHINGTON, Oct. 16 — The White House today said it would not press for a vote on a bill to limit the number of foreign-born children who can be admitted to the United States each year. The bill, which would limit the number of children to 5,000 a year, was introduced by Sen. Jesse Helms (R-N.C.) last month. The White House said it would not press for a vote on the bill because it would be "premature" to do so at this time. The White House said it would continue to work with Congress on the issue.

Meetings With — Because there is no reason given for change his view, the have decided to recruit top White House officials of staff, and Frederic Bush's legislative liaison the last few days members of Congress the abortion issue. Monday at the White House leaders of the anti-abortion issue. Mr. Hyde, Republican Christopher H. Smith New Jersey.

But afterward, Mr. said that while "the clearly closed," as onings had produced no compromise that would have led to deviate from has held since 1980 the should be permitted in cases where the woman is threatened rape or incest.

The bill at issue is age for the Department Health and Human Services approved by the Senate. Since the act of a conference of the two houses, the amend it. But it could were back to the conference when a minor is entrusted to the

History Lesson: Anchorage 1989

Satch
Carlson was
not charged
because his
victim was
17.

- AS 11.41.436 was amended in 1990.
- An offender commits the crime of sexual abuse in the second degree if being 18 years of age or older, the offender engages in sexual penetration with a person who is 16 or 17 years of age and at least three years younger than the offender, and the offender occupies a position of authority in relation to the victim

Who was the first person convicted under the new statute? This slide provides a hint.



West Anchorage High School 1995

Side



Left: "Here, Nate, you dropped this." Kieran Kuiper, honorary equipment manager, keeps the goar in line for all the tennis players.

Below: "Brad Pitt, eat your heart out!" Our handsome coach, Ty Foltz, looks blissfully out at his dedicated team.



from a Two-Year-Old's Perspective

Justin Weeks, Zareena Tran, Lisa Rohacek, Lori LeMaster, Allen Clendaniel, and Xiao-Le (Lee) Zhao. They're seniors, which I think means they're turning pro now. So, good luck seniors, we'll miss you. Maybe someday I'll get to play for the Eagles' tennis team; but for now, I'm content just drooling on this racquet.



Left: "The party is at the 3rd house on the left." Freshman Andrea Hicke (second from right), senior Zareena Tran (far right), and opponents receive "directions" from a line judge at the Anchorage Racquet Club.

Below: "Danish do it better!" Junior tennis star, Theo Henrikson, awaits the serve from her opponent during a match at the Park Strip.



Left: "Oh no, the sun!" Sophomore Ryota Abe squints to find the ball, which has temporarily vanished from his sight, during a match at West.

Above: "Beautiful form, as Lori LeMaster, senior, prepares a ball across the net on our



Yo Ann - Tennis, got a history class, Washington it's all been pretty awesome. Can't believe it's almost over (finally) But we still have 3 more months to party in and im sure we will! Have a great summer - lei



Should we do
an
investigation?



YES!



Okay. What
do you mean
conduct an
investigation?

First Step:
REPORT.
REPORT.
REPORT.



AS 47.17.020 (Mandatory Reporting Statute)

- (a) The following persons who, in the performance of their occupational duties . . . have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest [OCS office], if the harm appears to be a result of a suspected sex offense, shall immediately report the harm to the nearest law enforcement agency:
- (2) school teachers and school administrative staff members, including athletic coaches, of public and private schools;
- (g) A person required to report child abuse or neglect under (a) of this section who makes the report to the person's job supervisor or to another individual working for the entity that employs the person is not relieved of the obligation to make a report required under (a) of this section.

Second Step: Notify the District's Insurance Carrier



Third Step:
Administrative
Leave with Pay



Administrative Leave
with pay is the
cheapest insurance
that a school district
can buy!

Balance between criticism from the
public (why are you paying that
pervert?) and minimizing risk of
potential wrongful termination
liability.





Investigations come in all shapes and sizes. The facts should drive the investigation

Relevant Factors for Investigation

- Nature of Allegations
- Initial Facts
- Perpetrator
- Victim
- Location
- Staff Availability/Skill Set





CRIME SCENE DO NOT CROSS

Can we just
wait for the
police?

Yes.... but there are problems with waiting on law enforcement

- Timeline is out of your control
(Employee can be on Investigative Leave for a very long time)
- Police/Troopers have no obligation to provide you with information. Police reports are exempt from the Public Records Act during active investigations.
- Reasonable doubt vs. Preponderance of the Evidence
- Police may decide not to file charges. What do you do then?

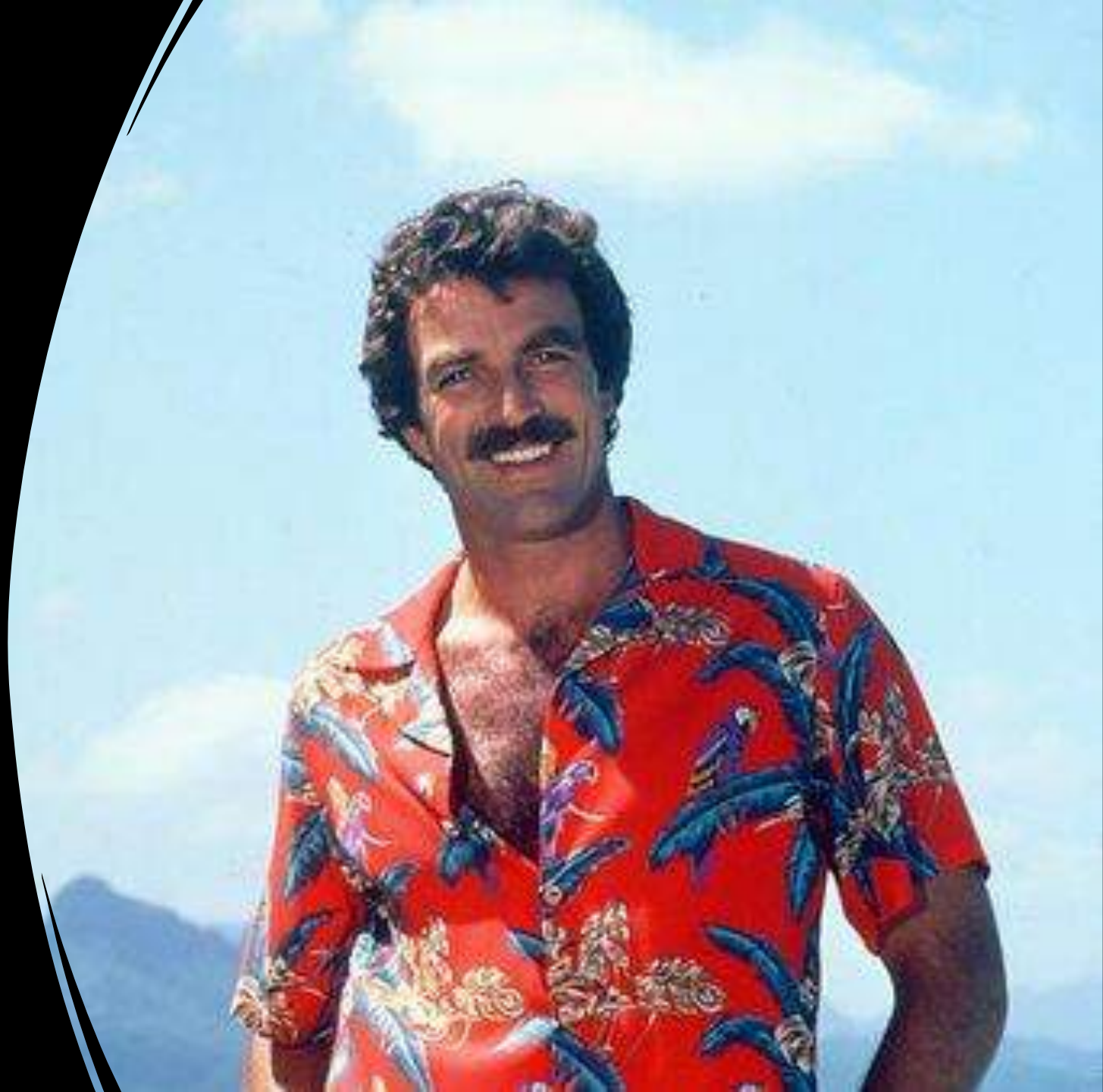




School Districts have an independent duty to protect students and are independently liable for failing to do so.

Who conducts the District investigation?

- Magnum PI? No.
- Administration, or
- Independent Investigator
- Attorney/Client Privilege



Investigation 101

- Interview witnesses
- Gather documents
- Pull employee emails
- Conduct Investigatory Conference with Alleged Perpetrator
- Document/Document/Document



Multiple and
Overlapping
Investigations

Law Enforcement

OCS

PTPC

District Investigation

Who
reviews the
Investigation
report?



The Investigation is Complete. What do you do?

1. Nothing?
2. Return to Classroom?
3. Training?
4. Lesser Discipline
5. Non-retention with Administrative Leave
6. Termination?





Questions?
