



Out of respect for our audience, IML conference sessions are intended to be informational and not promote specific products, services or companies. We ask our presenters and the audience to join us in adhering to these guidelines.

In addition, the opinions expressed by the speaker(s) do not necessarily reflect the opinions of IML or its Board of Directors.

Thank you for attending the IML Annual Conference.

Festivals, Demonstrations and Incident Preparedness

How to prepare for the exercise of free speech
in the age of Trump.

Derke Price, Ancel Glink

Carl Schnibben, Chief, Naperville Park District

Jason Arres, Deputy Chief, City of Naperville

Use of Parks and Public Spaces

- “The right to the use and enjoyment of a park is a valuable right; anyone who is wrongfully deprived of its use may maintain an action to restrain his or her exclusion.” *Quinn v. Irving Park District*, 207 Ill.App. 449 (1st Dist. 1917).
- Restrictions on access and use must comply with the First Amendment

First Amendment

- Freedom of speech, religion, assembly



Type of Speech

- Written
- Spoken
- Symbolic



Type of Public Forum

- **Traditional Public Forum**
 - **Places that are traditionally used for assembly, debate and other “expressive activities”**

Type of Public Forum

- **Designated Public Forum**
 - A nonpublic forum that is not historically open to speech- and assembly-related activities but that the government agency has purposefully opened up for public dialogue on a limited or permanent basis

Type of Public Forum

- **Limited Public Forum**
 - Speech restrictions need only be reasonable and viewpoint neutral
 - Nonpublic forum

Content Neutrality

Regulations on speech in traditional and designated forums must withstand scrutiny

- “content-based”
- “content-neutral”
- issue to avoid: prior restraint

- Most likely to be in a park/street/sidewalk which is likely to be considered a traditional public forum
- Ok to place content neutral restrictions on:
 - Time
 - Place
 - Manner
- NO viewpoint based regulations
- Coordinate with EAP and safety

Occupy Chicago Example

- Chicago Park District sought to enforce a provision of the Chicago Park District Code which prohibits people in Chicago Parks from 11 pm to 6 pm.
- Several Occupy Chicago protesters were arrested for being in Grant Park after-hours
- Protesters challenged their arrest, claiming that the ordinance violated their First Amendment Rights.
- The Appellate Court and Illinois Supreme Court upheld the ordinance as a constitutional, content neutral restriction.

LESSONS FROM RELIGIOUS DISPLAYS:



Public Religious Displays

- First Amendment
 - Freedom of Religion
 - The Establishment Clause
 - Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.
- **Government Speech Doctrine**

Private Holiday Displays on Public Property

- Is the speech protected by the First Amendment?
- What is the public forum and how can the government limit access in that forum?
- Are there any justifications for exclusion from the forum?

Private Holiday Displays on Public Property

- Traditional or designated public forum
 - Reasonable time, place, and manner regulations
 - Content neutral
- Limited or nonpublic forum
 - Viewpoint neutral

2 GROUPS OF FESTIVALS

- GOVERNMENT SPONSORED
 - Government speech doctrine applied to space
 - Total control, but need for pressure relief valve
- PRIVATELY SPONSORED (RENTAL)
 - Content neutral on rentals
 - Consistent rental terms including safety
 - Best Practice: Require EAP for every rental

The EAP Outlines:

Evacuation policies & procedures	Procedures for essential services
Rescue & medical duties	Contact information
How to report emergencies	Escape routes & procedures

Planning

Stakeholders: Police, Fire, Event Organizers,
Volunteer coordinators, Contracted Parties,
Bands, Attractions

Hardening the Festival Space

- Traffic and barricades
- Gate Surveillance and Procedures
- Manpower allocations
- Command Post
- Intelligence sharing

Incident Plan

- Staffing and Command
- Communications/technology
- Exiting from the Event

Post-Festival

- Debrief and Lessons Learned

Designate a Space for Speech Acts

- Put in Plan for Every Private Festival
- Space Inside and Outside Event
 - Ticketed events
 - Solution on Civil Disobedience
- Require Signage

Permitting (and prior restraint)

- Brief time frame for review and issuance
- Specific, content-neutral approval criteria
- Consistent enforcement
- Consistent requirements on Planning and Insurance for Renters
- Retain final authority

Civil Disobedience

- Camera Phones
- De-Escalation where possible
 - Individual officer discretion on force
 - Filmed speech of various alternatives
 - Variety of enforcement tools available
 - fine
 - removal

questions?

?

?

?



Thank you for attending
the 2018 IML Annual Conference.

 @IllinoisMunicipalLeague

 @IMLLeague

#iml2018