



# Tennessee Division Sons of Confederate Veterans

## How to report Heritage Violations

Any attack upon our Confederate Heritage, or the flags, monuments, and symbols which represent it, can be termed a Heritage Violation. If you become aware of a heritage violation, what do you do? How is the best way to respond?

It is most important that you act promptly. The more time which passes between a heritage violation and any SCV response, the less likely we are to be successful in correcting the situation. Report the heritage violation just as soon as you can.

Whom do you report it to? Your first contact should be your Camp Commander or Heritage Officer. They should in turn report the heritage violation to the Division Heritage Chairman, who will also notify our Division Commander.

Heritage violation responses are best handled at the local level, in cooperation with Division level officers. A plan of action to deal with the heritage violation should be developed by these Division officers, acting in concert with the local camp and member (or other person) that initially reported the violation.

The Division Heritage Chairman may also report the violation to the SCV's Chief of Heritage Defense. The Chief of Heritage Defense can call upon the national organization to respond to the violation, if such action is required. The Chief of Heritage Defense is assisted by a members of a Heritage Defense Committee, appointed by the Commander-in-Chief.

### Special Information Regarding Heritage Violations in the Public Schools

The following represents the law as it is now stands:

In order to ban any symbolic speech, such as the Confederate flag, school administrators must be prepared to admit, and prove, that they would be unable to maintain order in the school if the Confederate flag were allowed in the school. The U.S. Supreme Court explained:

"It would be obvious that the regulation would violate the constitutional rights of students, at least if it could not be justified by a showing that the students' activities would materially and substantially disrupt the work and discipline of the school." -- *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 513 (1969).

Note that the school bears the burden of proving that the specific symbol in question, if allowed in the school, would materially and substantially interfere with the operation of the school. This is probably impossible where the flag has already been present in the school and has not caused chaos or mass disorder. The 6th Circuit Court of Appeals interpreted *Tinker* as follows:

*"If the students' claims ... that there were no prior disruptive altercations as a result of Confederate flags are found credible, the Court below would be required to strike down the students' suspension as a violation of their rights of free speech as set forth in Tinker."* -- *Castorina v. Madison County Sch Bd.*, 246 F3d. 536 (2001) (emphasis added).

As the Supreme Court explained, "a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint" does not give school officials the right to deny students their right to self-expression. (*Tinker*, 393 U.S. at 509)

