



## Focus On: School Safety — Responding to Violent Incidents

As school shooting incidents continue to occur and school threats are on the rise, many legislators and school districts are struggling with how to keep students and schools safe.

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### School shooting incidents

Tragic incidents involving single or multiple students being harmed by firearms continue to occur in our nation's schools. The number of shootings in which a gunman wounds or kills multiple people has increased dramatically in recent years, with the majority of attacks in the last decade occurring at a business or a school. These statistics are highlighted in a 2014 Federal Bureau of Investigation (FBI) report "A study of active shooter incidents in the US between 2000-2013." The Associated Press (AP) further noted there have been at least 11 school shootings in the 2014 academic year alone.

### Rise in school threats

According to a National School Safety and Security Services survey, school threats are up 158% since the first half of the 2013-2014 (K-12) school year. Bombing and shooting threats make up the majority of threats; and no school is immune. The top ten states for threats in descending order include: Ohio, California, Pennsylvania, New York, Florida, Texas, Michigan, Washington, Massachusetts and Connecticut. The survey revealed that electronic devices and

anonymous social media applications (apps) are fueling the growth of these threats, particularly since the apps make it difficult to identify the offender. These threats, and in some cases actual incidents, are causing concern for educators, legislators and parents who are looking for ways to keep students safe.

### Arming school staff

Some legislators believe arming school staff with guns is the answer, while others oppose this solution. Several schools have taken advantage of the ambiguities in local gun laws and developed their own policies to permit certain staff to carry weapons. This practice is common among rural school district administrators who are concerned their remote location may prevent police from responding in a timely manner. Other school districts are focusing on long term alternative safety solutions to protect students from harm.

A 2013 New York Times article noted it is impossible to calculate an accurate number of school staff who carry guns in the nation's 99,000 public schools. However, it is estimated that 10% of school staff are armed and that number is rising.

## Professional perspectives

### Educators' perspective

In January 2013, two surveys were conducted to provide insight on how educators view the prospect of carrying guns in school. The results indicate that America's educators are opposed to the idea of arming school employees. The National Education Association (NEA) survey of 800 members revealed 68% of educators opposed arming school employees. Additionally, 72.4% of the 10,661 teachers and administrators surveyed by the School Improvement Network noted they would be unlikely to bring a firearm to school if permitted to do so.

### School safety experts' perspective

Many law enforcement and school safety experts warn that schools who arm their staff, "are inviting an unacceptable level of risk." Guns could be obtained by students and the potential for a manageable situation to turn deadly only increases as more staff are armed. In addition, law enforcement experts caution that if a school shooting occurs, school staff or first response officers might accidentally shoot each other and/or innocent bystanders.

## Legal environment

### Federal laws

According to the Law Center to Prevent Gun Violence, two federal laws restrict the possession of firearms in or near schools - the Gun-Free School Zones Act (GFSZA); and the Gun-Free Schools Act (GFSA).

The GFSZA generally prohibits anyone from having a firearm in a school zone. The GFSZA defines a "school zone" as: 1) in, or on the grounds of a public, parochial or private school; or 2) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

However, the federal prohibition against possessing a gun in a school zone does not apply in the following circumstances:

- To people licensed by the state or locality to possess a gun.
- If the firearm is possessed for use in a program approved by a school, or in accordance with a contract entered into between a school and the individual or an employer of the individual.
- If the firearm is unloaded and "in a locked container, or a locked firearms rack that is on a motor vehicle."

The GFSA focuses on deterring students from bringing firearms to school.

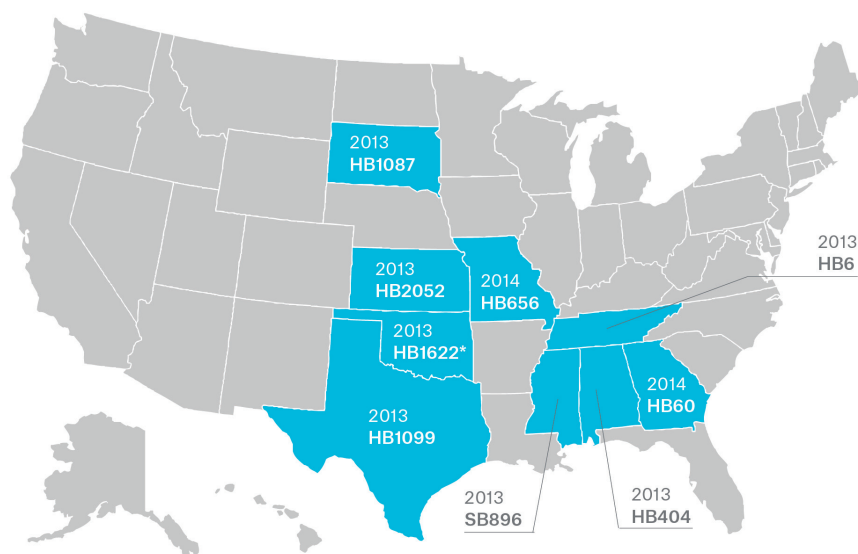
### State laws

As of January 2015, at least nine states have enacted laws addressing arming school staff (public and private K-12) with guns as noted in the map below.

### Conceal and carry laws

The National Council of State Legislators (NCSL) notes that all 50 states allow citizens to carry concealed weapons if they meet certain state requirements. Utah is among a few states that allow people with concealed weapon permits to carry guns in public schools. School employees in several states are not required to disclose they are carrying a weapon, and administrators are prohibited from asking if they "carry" or barring them from bringing their weapons to school. When insuring a school district, it is important to verify a state's conceal and carry law and validate if the law permits the concealed weapon to be carried in a public school. If the law permits this practice, the underwriter should examine the school district's policy to ensure the liability of using the weapon is clearly specified.

### State laws addressing arming school staff



\*Private schools

## Liability issues

### Lack of training standards

A key concern in allowing school staff to carry guns is the lack of training standards. News reports note the amount of training varies considerably in each state. In Utah, gun instructors have been offering free eight hour training courses for school staff, while in Missouri, school employees are required to train for 40 hours plus an additional 24 hours of training every year to maintain their protection officer status. According to Ken Trump, school safety expert and president of National School Safety and Security Services, "suggesting that providing staff with 8, 16, 40 or even 60 hours of firearms training on firing, handling and holstering a gun somehow makes a non-law enforcement officer suddenly qualified to provide public safety services poses a high-risk to the safety of students, teachers, and other school staff."

### Use of force

According to the National Institute of Justice (NIJ), the majority of law enforcement agencies have policies that guide their use of force. These policies describe an escalating series of actions an officer may take to resolve a situation. This continuum is based on many levels, and officers are required to respond with a scale of force appropriate to an individual's actions, noting that the officer may move from one part of the continuum to another in a matter of seconds. The continuum may begin with no force used, then verbalization, use of bodily force to gain control, less lethal methods (baton, chemical spray) and escalate to the use of lethal force (firearms) to stop an individual's actions. A school

district that permits staff to carry guns should consider working with their local police force to develop a continuum of force policy, train their staff accordingly, and provide evidence of refresher course attendance.

### Insurance concerns

Schools contemplating allowing their staff to be armed would be well-advised to take proper steps to ensure all their policies have been thoroughly considered, adopted and communicated to those affected. In addition, where applicable, risk managers should review their coverages under their commercial general liability, workers' compensation, law enforcement professional or special law enforcement policies, since these are among the policies most likely to be impacted by potential claims.

Given the reported increase in school related shootings, concern has grown over the wide range of legal theories plaintiffs may potentially bring against the school in cases where a student or another teacher sustains an injury arising from the school's decision to permit school staff to carry guns. Among many of the possible causes of action that have been proffered against the school in such situations are the following:

- Negligent failure to warn
- Negligent failure to train and/or supervise
- Violations of State Constitution (in states where available)
- Violations of state laws intended to regulate guns in schools, such as those described above
- Violations of more general state statutes regulating gun possession or school safety

Any assessment of the viability of state tort claims would need to include the impact of the applicable Tort Claims Act, which could limit or even eliminate the liability of a state or municipal entity. It is possible that plaintiffs may attempt to bring claims under Federal law in an effort to avoid the hurdles imposed by the state's Tort Claims Act.

## Risk mitigation

### Safety alternatives

According to Dennis Van Roekel, the 2014 National Education Association President, "Lawmakers at every level of government should dismiss this dangerous idea (of arming educators) and instead focus on measures that will create the safe and supportive learning environments our children deserve." Many educators note that long term sustainable school safety requires a commitment to preventative measures. These measures can include altering the school environment both culturally and physically.

Culturally, it has been suggested that schools can enhance their anti-bullying programs and expand their mental health services. A 2014 study of 15,000 US high school students revealed that victims of bullying are twice as likely to carry guns or other weapons to school.

\*Physically, schools have many options to enhance security such as:

- Employ school security personnel
- Employ commissioned peace officers
- Expand or establish a district police department
- Hire a private security company
- Increase surveillance measures

\*There are many resources available that provide recommendations for enhancing school safety including "Keeping our campuses safe" (Texas Association of School Boards), "What makes schools safe" (New Jersey School Board Association) and the "Final report of the Sandy Hook Commission" (Sandy Hook Commission).

- Install metal detectors
- Install locks on the inside of classroom doors
- Ensure two way communications with administrators' offices
- Use trained dogs
- Conduct routine searches
- Institute strict visitor policies and practices
- Conduct routine focused "emergency drills" (i.e., lockdown or intruder exercises)

### Warning signs

The FBI recommends that school administrators educate their staff in recognizing warning signs of potential threatening behavior and encourage staff members to report it immediately. While no two threats of violent actions are alike, the FBI

notes that students who display a number of behavioral warning characteristics are more likely to carry out their threats. The FBI's report entitled, "The school shooter: A threat assessment perspective" has outlined the following warning signs administrators should be aware of:

- Reveals intentional or unintentional thoughts and feelings that may signal impending violent acts
- Exhibits a dramatic change in behavior
- Poor coping skills (low tolerance for frustration/lack of resiliency)
- A failed love relationship
- Inability to let go of perceived wrongs
- Signs of depression

- Narcissism
- Alienation
- Dehumanizes others/lacks empathy
- Exaggerated sense of entitlement or superiority
- Pathological need for attention
- Externalizes blame
- Anger management issues
- Masks low self esteem
- Lacks trust
- Closed social group
- Drawn to inappropriate role models
- Intolerant towards certain groups of people (rigid and opinionated)
- Unusual interest in sensational violence or violent entertainment

## Exposure Checklist

- What are the laws in the state(s) regarding arming school staff with guns?
- What are the concealed and carry laws in the state(s)? Does the law permit carrying concealed weapons in public schools? If so, does the school district have a policy in place to address this practice?
- Has the school considered other measures such as enhancing the anti-bullying policy, improving mental health resources and educating staff to recognize signs of potential threatening behavior to change the culture of the school, before permitting school staff to carry weapons?
- Prior to instituting a policy for staff to carry guns, has the school considered hiring school resource officers (SROs) or a private security company, installing metal detectors or establishing or expanding a district police department?
- Does the school board have appropriate policies and procedures in place governing the carrying and the use of firearms by school staff? How often are the policies and procedures reviewed with staff?
- What type of "use of force continuum" has the school district established for the staff to follow? Is the school's definition comparable to standards held for police officers and other public safety officers?
- If the staff carries their own personal weapons, what level of responsibility does the school board and administrators retain to ensure that the firearms being carried are functional and adhere to safety standards at all times?
- What type of firearms training does the school district provide on a regular, ongoing basis to staff members permitted to carry guns? If an outside firm is being used to train staff, has the proper due diligence been conducted to ensure the quality and effectiveness of these training programs? How often are these training programs re-evaluated?
- How is the school district prepared to prevent and/or manage situations where firearms are lost, stolen or misplaced while on school grounds?
- Has the school taken any steps to reduce the risk of a staff member being intentionally disarmed by a student or other person?
- Is there a documented plan in place to manage an accidental shooting?