

# SAFE FOR WHOM?

HOW THE MSD COMMISSION IS PUTTING  
FLORIDA'S CHILDREN IN DANGER



## SPECIAL REPORT // OCTOBER 2019

The commission appointed by politicians to study school safety in Florida after the mass shooting in Parkland in 2018 has recommended—without evidence to support them—measures that place children at greater risk of being shot or wrongfully arrested; put children’s privacy and liberty in jeopardy and strip them of civil rights; create school environments that are more tense, anxiety-provoking, and traumatic; breed distrust between students and faculty; and absorb funds needed for programs that have actually been proven to make schools safer for all students. Lacking needed expertise and diversity, the commission has proven incapable of recommending an effective plan to ensure that all children are safe, healthy, and welcome in school.

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## EXECUTIVE SUMMARY

In February 2018, the Parkland, Florida, community suffered a terrible tragedy when 17 lives were lost in a mass school shooting at Marjory Stoneman Douglas High School. In response, former Florida Governor Rick Scott established the Marjory Stoneman Douglas High School (MSD) Public Safety Commission to “investigate system failures in the shooting and prior mass violence incidents in [the] state” and to recommend changes to school safety policies.<sup>1</sup> As required by statute, the Commission submitted its initial recommendations to the governor and legislative leadership in January 2019 and may continue to issue annual reports until it sunsets in July 2023.<sup>2</sup> Unfortunately, the political appointees who comprise the Commission lack the expertise and diversity needed to competently fulfill their charge. Instead, they have recommended numerous measures that will harm Florida’s children and make them less safe.

These measures will place students at greater risk of getting shot and/or wrongfully arrested; put their privacy and liberty in jeopardy; strip them of civil rights; create school environments that are more tense, anxiety-provoking and traumatic; breed distrust between students and faculty; and absorb funds that could be used on programs that are actually shown to make schools safer for all students. Ignoring the predictable consequences of the Commission’s imprudent recommendations, the Republican-led Florida Legislature adopted some of the worst of them in Senate Bill 7030, which was passed during the 2019 session over the objections of students, families, and educators.<sup>3</sup> The law, signed by Florida Gov. Ron DeSantis on May 8, went into effect on October 1, 2019.<sup>4</sup>

Florida’s students urgently need policies designed to create real school safety. But that is not what the Commission recommended—and it is not what the governor signed into law. The failure to enact commonsense, effective changes that keep children of all backgrounds safe is a disservice to Florida’s children and places their lives in imminent danger.

With limited resources to spend in our schools, every dollar spent on unproven and dangerous measures is a dollar diverted from evidence-based solutions, such as increasing the number of counselors, improving crisis coordination, ensuring adequate resources for teachers, reducing class size, and



*In February 2019, flowers were placed to commemorate the 17 people killed in the Parkland attack. Three months later, Florida Gov. Ron DeSantis signed legislation that makes schools less safe, not more, and violates the privacy and civil rights of students.*

providing training for school staff on conflict resolution and trauma-informed care.

This report offers a critical analysis of the Commission’s composition and process, as well as its recommendations. The SPLC’s recommendations follow this critique.



## THE TROUBLING MAKEUP OF THE MSD PUBLIC SAFETY COMMISSION

After the Parkland shooting, parents, politicians, and school leaders were left searching for answers about how such a catastrophe could have been prevented. Unfortunately, Florida legislators focused only on physical security and law enforcement solutions, ignoring core issues involving gun safety, mental health, and the privacy rights of students. The Commission's membership and first-round recommendations reflect these misguided priorities. In particular, the Commission is dominated by appointees with law-enforcement backgrounds who have focused on law enforcement solutions to the exclusion of any other more comprehensive, evidence-based school safety solutions advocated by students, families, educators, and experts in the field. The result is an initial report whose main recommendations range from wasteful (spending more on unproven security measures) to actively dangerous (putting guns in the hands of non-law enforcement school employees).<sup>5</sup>

The Commission's failure of imagination is unsurprising given its composition. It was created within the Department of Law Enforcement and is composed of 16 voting members and four ex-officio (non-voting) members.<sup>6</sup> Former Gov.



*Parkland shooting survivor David Hogg, a founder of Never Again MSD, speaks in favor of gun safety reform during the March for Our Lives, a student-led demonstration in Washington, D.C., on March 24, 2018.*

Rick Scott, former Senate President Joe Negron, and former House Speaker Richard Corcoran each appointed five members.<sup>7</sup> Corcoran, whose appointments included three law enforcement officers and a prosecutor, bragged that “[t]he appointees to the commission bring decades of experience in law enforcement, prosecution and training civilians to handle firearms and protect a school,” making clear his priorities and political agenda before the commission ever met.<sup>8</sup>

Of the 16 members and four ex officio members, five are current law enforcement officials.<sup>9</sup> This includes the Commission's chair, Pinellas County Sheriff Bob Gualtieri, and its vice chair, Miami Shores Police Chief Kevin Lystad.<sup>10</sup> The Commission also includes Department of Law Enforcement Commissioner Rick Swearingen.<sup>11</sup> Additionally, several others have law enforcement backgrounds. Citrus County School Board member Douglas Dodd spent 26 years with his county's sheriff's department, including 10 years as a school resource officer (SRO),<sup>12</sup> and Chris Nelson, executive director of the State Attorney's Office for the 10th Circuit, is a former police chief of Auburndale.<sup>13</sup> The four ex-officio members include the secretary of Children and Families, the secretary of Juvenile Justice, the secretary of Health Care Administration, and the commissioner of Education.<sup>14</sup> The Commission includes only one mental health professional, Melissa Larkin-Skinner.<sup>15</sup> Department of Education Commissioner Richard Corcoran, an ex-officio member, has no experience as an educator. His online biography boasts that in his prior role as House speaker, “he pushed through over \$10 billion in tax cuts, the elimination of over 5,000 regulations, and the massive expansion of school choice.”<sup>16</sup> Equally alarming, ex-officio member Mary Mayhew, secretary of Health Care Administration, is known for “the systematic dismantling of programs designed to protect the most vulnerable among us, including children, seniors and individuals with disabilities.”<sup>17</sup> Under Mayhew's leadership as Maine's commissioner of Health and Human Services, 133 people died because the state failed to have a system in place to ensure the health,

None of the Commission’s appointees are current educators, nor are any current students. The Commission also lacks the diversity represented in public schools across the state.

welfare and safety of people with developmental disabilities, according to a 2017 audit by the U.S. Department of Health and Human Services Office of the Inspector General.<sup>18</sup>

None of the Commission’s appointees are current educators, nor are any current students. The Commission also lacks the diversity represented in public schools across the state; most or all of its voting members appear to be white. In addition to people of color, noticeably omitted from the Commission are the founders of March for Our Lives, the youth-led group founded by Parkland survivors who do not support the Commission’s recommendations. Neither they nor any other youth-led organization working to bring real school safety to Florida’s schools are members.<sup>19</sup> The Commission did include two parents who suffered the loss of their children in the shooting, but while these parents approved the initial report, they were highly critical of many of its recommendations.<sup>20</sup> Moreover, other parents who also suffered the loss of their children but were not appointed to the Commission denounced its recommendations.<sup>21</sup> Not surprisingly, Corcoran, in lauding his own appointments to the Commission, said nothing of the dearth of experienced educators, mental health professionals, people of color, or women; of the complete absence of current or recent students; or about the lack of professionals who could competently represent the interests of children with disabilities.

Given its membership, it is unsurprising that the Commission’s initial report focuses on law enforcement details. It establishes a timeline of the MSD shooting, reviews the adequacy of the response by law enforcement agencies, and provides recommendations that purport to mitigate harm from future school shootings.<sup>22</sup> The initial report includes some proactive recommendations that are likely to reduce the risk of future school shootings, such as better access to mental health services<sup>23</sup> and more training for SROs.<sup>24</sup> But it focuses most of its attention on reactive approaches, surveillance, hardening, and arming measures that it claims, without evidence, will



*Former House Speaker Richard Corcoran, here speaking at a press conference on school safety, appointed four law enforcement officials to the MSD Public Safety Commission, ignoring calls for a diversity of expertise and voices representing students and families.*

mitigate harm from future school shootings. These include everything from arming SROs with patrol rifles and ballistic vests<sup>25</sup> to amending federal privacy laws for sharing sensitive student information.<sup>26</sup> Finally, and most troubling, the report recommends arming more employees, including classroom teachers.<sup>27</sup> Specifically, it recommends more funding for “school guardians”—existing school employees who are asked to carry guns in schools, with minimal firearms training,<sup>28</sup> despite the dubious legality of the program.<sup>29</sup>

Despite opposition from parents, students and teachers, lawmakers adopted reactive, security-based measures that put more police in schools and more guns in the hands of civilian staffers.

## THE LEGISLATURE'S ADOPTION OF THE COMMISSION'S DANGEROUS RECOMMENDATIONS: SB 7030

During the 2019 legislative session, Florida legislators codified some of the Commission's initial recommendations in SB 7030, despite opposition from parents, educators, and students. While a more complete assessment of the MSD Commission's initial recommendations is offered below, in this section we briefly describe some of the key provisions incorporated in SB 7030.

- SB 7030 makes several significant changes to the Coach Aaron Feis Guardian Program (the Guardian program), established in section 30.15, Florida Statutes, during the 2018 legislative session.<sup>30</sup> These include a requirement that local sheriffs assist school boards with establishing a Guardian program when school boards elect to do so.<sup>31</sup> Previously, this decision was up to the local sheriff's office.<sup>32</sup> The legislature did not resolve the ongoing issues with the legality of the program.
- SB 7030 removes the prohibition on an individual who exclusively performs classroom duties as a teacher from participating in the Guardian program.<sup>33</sup>
- SB 7030 expands anonymous reporting by requiring school boards to promote FortifyFL (a mobile suspicious-activity reporting tool) by advertising it on their websites, in newsletters, on school campuses, and in school publications; by installing it on all mobile devices issued to students; and by bookmarking the website on all computer devices issued to students.<sup>34</sup>
- SB 7030 promotes so-called "school hardening" (i.e., securing and even militarizing schools) by requiring the establishment of a "School Hardening and Harm Mitigation Workgroup," made up of individuals with "subject matter expertise on school campus hardening best practices," to review school hardening and harm mitigation policies, including target hardening practices.<sup>35</sup>
- SB 7030 expands data shared/integrated with law enforcement to now include social media internet posts, mobile suspicious activity (Fortify FL), and school environmental safety incident reports.<sup>36</sup>
- SB 7030 expands zero tolerance discipline policies by removing language that prohibited their application to petty acts of misconduct "and misdemeanors, including, but not limited to, minor fights or disturbances."<sup>37</sup>
- SB 7030 further requires each school board to adopt a policy of zero tolerance that defines criteria for reporting to a law enforcement agency as any act that poses any kind of "threat" to school safety; previously, state law only required reporting "serious threat[s]."<sup>38</sup>
- SB 7030 requires a standardized, statewide behavioral threat assessment for use by all schools and requires the Office of Safe Schools to establish a "statewide threat assessment database workgroup," with members appointed by the Florida Department of Education. This group will make recommendations regarding what information about students assessed as potential "threats" will go into a centralized database, who gets to input and view that information, and how information is shared, including with law enforcement.<sup>39</sup>
- SB 7030 establishes no real limits to who in state and local government can access the statewide threat assessment database and other statewide student information databases established in the name of school safety.
- SB 7030 allows the diversion of certain funds—including funds for supplemental academic instruction, for class size reduction, and for federally connected students (such as military children or those living in federally subsidized low-income housing)—for "school safety."<sup>40</sup>

## THE COMMISSION IGNORES EVIDENCE-BASED AND EXPERT-INFORMED SOLUTIONS

The MSD Commission was established by the Florida legislature in 2018, with a charge of submitting an initial report on its findings and recommendations to the governor, president of the Senate, and speaker of the House of Representatives by January 1, 2019.<sup>41</sup> It may continue to issue annual reports until it sunsets in 2023.<sup>42</sup> From April 2018 through June 2019, the Commission convened 10 times throughout Florida.<sup>43</sup> The meetings typically spanned two days and included numerous presentations. However, most of the presenters shared the Commission's misguided priorities and did little to inform the Commission on real school safety solutions.

The Commission's invitees, in fact, reflect its own law enforcement-heavy composition. Almost one-third of the presenters through June 2019 were current law enforcement officials,<sup>44</sup> and several others have previously worked in a law enforcement capacity or currently work for law enforcement agencies (although not in a law enforcement capacity). The roster of invited speakers helps explain the Commission's focus on reactive, security-based measures like expanding guns and/or police presence in schools.

Despite the Commission inviting approximately 20 law enforcement presenters, it invited only five mental health professionals.<sup>45</sup> The Commission has repeatedly resisted focusing on mental health issues.<sup>46</sup> In its initial report, the Commission stated that it would address mental health recommendations by January 15, 2020.<sup>47</sup> In the interim, very little time has been dedicated to mental health: Out of approximately 130 scheduled agenda items through June 2019, for instance, only 12 were dedicated to mental health.<sup>48</sup> Instead, the Commission has expressed specious and unnecessary concern about "transforming [the Commission] into a mental health commission."<sup>49</sup>

Even though the Commission's meetings have been ongoing since April 2018, it has yet to invite current educators, students and families who have been negatively affected by the school-to-prison pipeline, or the youth-led organizations working to dismantle the pipeline. What's more, it did not hear from any students leading up to its initial report, nor from the organizations working on school safety across the state, such as Moms Demand Action for Gun Sense in Amer-

The Commission has failed to invite input from current educators or families affected by the school-to-prison pipeline.

ica or March for Our Lives. Such organizations could reach the Commission only by offering public comments on the dangers of its recommendations. For example, Moms Demand Action urged the Commission to reconsider its support for arming teachers and school employees through the limited public comment forum.<sup>50</sup> Additionally, although parents of MSD victims were invited to share a limited set of their experiences (focused solely on reunification and injury/death notification), these parents were not invited to share their thoughts on the Commission's ultimate recommendations. Likewise, the Commission has used its platform to excoriate and scapegoat seasoned educators, like Broward Superintendent Robert Runcie, rather than to seek feedback about the impact of its recommendations on the educational environment for students or rather than to work cooperatively to develop a more balanced approach to real school safety in which students, teachers, and administrators are collaborators, rather than targets.

This approach—a biased group selectively soliciting information from individuals who agree with its agenda—fails to give the Commission legitimacy or provide any counterweight to its evidence-free recommendations.



## THE COMMISSION'S INITIAL RECOMMENDATIONS ENDANGER CHILDREN, ERODE THEIR CIVIL RIGHTS AND DRAIN SCARCE RESOURCES

### **More Police and Expanded Police Authority Will Not Protect Schools from Mass Shootings**

The Commission's approach—increased policing as the main solution for preventing school shootings—is not supported by evidence. The Commission cites no published research to support these policing recommendations. In fact, the research on expanding policing does not support the recommendations. Researchers from Emory and George Mason universities surveyed mass school shootings between 1999 and 2018 and concluded that there was “no significant differences” in the number of casualties and fatalities “based on the presence of resource officers.”<sup>51</sup>

Increased police presence in schools can make children less safe in their schools. Police disproportionately arrest children of color and children with disabilities. Recent federal data show that black students represented approximately 15 percent of the nationwide student enrollment at public schools but were a third of all students referred to law enforcement or arrested at school during the 2015-2016 school year—a disparity that increased since the 2013-2014 school year.<sup>52</sup> In Miami-Dade County, for example, black youth represented just over 20 percent of the student population but over half of all arrests in 2015-2016.<sup>53</sup> Additionally, students with disabilities<sup>54</sup> represented approximately 12 percent of students enrolled in public schools nationally during the 2015-2016 academic year.<sup>55</sup> However, they accounted for approximately 28 percent of students referred to law enforcement and/or arrested, 71 percent of students physically restrained at schools, and 66 percent of students placed in seclusion or involuntary confinement.<sup>56</sup>

In addition to the negative consequences that students of color and students with disabilities face due to increased law enforcement presence, overreliance on police harms student achievement. Among the negative consequences for

students, arrests in school can lead to suspensions and expulsions<sup>57</sup>—and higher levels of exclusionary discipline are associated with lower math and reading scores for all students, including those who are not subjected to overly harsh and exclusionary discipline.<sup>58</sup> Additionally, when routine discipline issues are handled by law enforcement professionals, there is an increased likelihood that students will drop out of school.<sup>59</sup> Despite the proven harm of increased police involvement with students, the Commission also recommends a high level of information-sharing between law enforcement agencies and schools, including educational and disciplinary records; it further recommends a “unified command” structure in every Florida county that includes SROs and other agencies, to respond to threats and incidents.<sup>60</sup>

### **Arming Civilian Guardians and Teachers Is Illegal and Will Make Schools Less, Not More, Safe**

There is as little research—that is, none—to support the Commission's recommendations for arming teachers as there is to support its recommendation on expanding SROs. Research shows that armed civilians, like SROs, do not reduce deaths in mass shootings. One FBI study on 160 active shooter situations found that in only 3 percent did an armed civilian end the incident.<sup>61</sup> Meanwhile, unarmed civilians were more effective at ending active shooter situations, with this occurring 13 percent of the time.<sup>62</sup>

Moreover, extensive and ongoing firearms training is required to respond to a crisis scenario. Even with the best intentions, an armed person without that extensive training will risk making the situation worse, not better. More guns in a crisis creates confusion for first responders attempting to identify the active shooter and can put law enforcement officers themselves at risk.<sup>63</sup> Such predictions are not merely conjecture. During a recent incident in Douglas County, Colorado, an armed civilian fired at a responding officer who the



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**12%** Children with disabilities represented 12% of students enrolled in public schools nationally during the 2015-2016 academic year.

**28%** Children with disabilities accounted for 28% of students arrested and/or referred to law enforcement.

**15%** Black students represented 15% of students enrolled in public schools nationally during the 2015-2016 academic year.

**33%** Black students accounted for a third of students arrested and/or referred to law enforcement.

inadequately trained civilian mistakenly identified as an active shooter.<sup>64</sup> The civilian missed his target, but a student was shot instead.<sup>65</sup> This is just one example of the misuse of guns by an inadequately trained civilian. Other examples include: An armed janitor threatened children at gunpoint because of his mistaken belief that the children were breaking into the school;<sup>66</sup> an armed security guard pulled a gun on a student in response to a school fight;<sup>67</sup> and an armed officer's gun was unintentionally discharged when responding to student disciplinary matters.<sup>68</sup> The pervasiveness of such incidents underlines the fact that armed individuals on school campuses place students and others at greater risk of a gun-related injury.

What's more, Florida law has long barred anyone other than law enforcement officers from carrying guns on school campuses.<sup>69</sup> In the initial aftermath of the MSD shooting, Florida passed legislation (Senate Bill 7026) that was widely mischaracterized in the news media as altering this prohibition and authorizing school guardians to carry guns. It did not. Although early drafts of SB 7026 contained language that would have armed school guardians, the language was not included in the legislation that was signed into law.<sup>70</sup> The law



Teachers at Marjory Stoneman Douglas demonstrate in front of the school on April 2018 in opposition to the ultimately enacted proposal to arm civilian school staff.

contains no provision authorizing any individuals to carry guns in schools. Rather, school personnel who are not law enforcement officers—including school guardians—remain subject to the prohibition.<sup>71</sup>

One provision of SB 7026, as amended by SB 7030, requires school districts to provide a “Safe-School Officer” at every school.<sup>72</sup> SB 7030 gives districts four ways to fulfill this requirement.<sup>73</sup> The first two options are to use police officers employed by the sheriff's department or the district.<sup>74</sup> The third option is to commission school employees, including educators, as “school guardians” or “school safety assistants” who take on security functions in addition to their other duties.

**18%** Between 1998 and 2006, NYC officers experiencing return fire hit their target an average of only 18 percent of the time.

**3%** An FBI study on 160 active shooter situations found that in only 3 percent did an armed civilian end the incident.

Finally, a school may contract with security agencies to use “school security guards.”<sup>75</sup> However a school chooses to comply with the law, no provision requires Safe-School Officers to carry guns, and no provision allows school guardians to do so.

School safety assistants (SSAs) are not law enforcement officers. They lack the power of arrest, earn roughly half the salary of SROs, and receive less than one-fifth of the training that SROs receive.<sup>76</sup>

Arming SSAs increases the risk of incidents of gun violence because SSAs are asked to carry out quasi-law enforcement duties without the training and experience of enforcement officers. The SSA job description created by one Florida district, Duval County Public Schools (DCPS), shows that SSAs are expected to handle “preliminary inquiries into violations of school board policies,” monitor “students within a variety of school environments (e.g., restrooms),” observe and refer “inappropriate social behavior, violations of rules, etc.,” assist with “administrative searches ... [and] other [unspecified] job duties as assigned.” These duties place armed SSAs in constant contact with students and in roles that are adverse to them.<sup>77</sup> The job description provides that SSAs are expected to handle “preliminary inquiries into violations of school board policies, on school property or at school-sponsored events.”<sup>78</sup>

According to the job description, DCPS anticipates that less than 50 percent of the SSA job (even if one accepts the overly generous allocation of 20 percent of time for using “whatever force is necessary” to stop active assailants) will be dedicated to preventing the kind of incident that prompted the passage of SB 7026 and SB 7030.<sup>79</sup> Rather, the bulk of the SSAs’ time is to be spent surveilling and responding to children’s normal pre-adolescent and adolescent behaviors. However, the program provides SSAs with little to no training in how to communicate and engage with children, including vulnerable children, in a manner appropriate to their development; how to work in diverse school communities; or how to de-escalate conflicts.


A report on the New York City Police Department, the nation’s largest, found that between 1998 and 2006, officers experiencing return fire hit their target an average of only 18 percent of the time, and officers in situations in which fire was not returned hit their target only 30 percent of the time.<sup>80</sup> SSAs with less training and no experience in such high-stress situations are likely to be less accurate, posing great risks to students, teachers, and other bystanders.

### “Hardening” Schools Is Costly and Unproven

The Commission also recommended various security measures that it states will better protect schools from active shooters; these approaches are all described under the umbrella of “campus hardening.” These recommendations include written active shooter and “Code Red”<sup>81</sup> policies, locking classroom doors, locking campus gates, limiting access to campus when school is in session, and designating “hard corners”<sup>82</sup> and safe areas inside school buildings.<sup>83</sup> Although the measures that fall into the category of “hardening” schools seem on the surface as if they should enhance safety, most will do more harm than good, and the ones that are genuinely beneficial are already required by law.

First, the report recommends that all external and internal school doors and gates should remain closed and locked as often as possible—even bathrooms.<sup>84</sup> This recommendation is problematic under the Americans with Disabilities Act (ADA), which governs access to public places like schools.<sup>85</sup> Doors in schools need to be usable by students and educators with disabilities, which includes, among other things, ensuring doors are operable from both sides, are not kept closed if they would be too heavy for a disabled person to operate on their own, and are operable with one hand.<sup>86</sup> The report does not recognize the potentially dangerous and certainly discriminatory barriers this measure would put in place for disabled students and educators. And the report’s recommendation that schools consider locking bathroom doors is particularly problematic: Being able to use the bathroom independently is a core element of dignity for many disabled children and adults. Such privacy and bodily autonomy are central to the self-image and self-respect of many who are physically disabled. The ADA therefore creates strong protections for disabled people to be able to use the bathroom on their own. Requiring someone to unlock the bathroom from the inside could require disabled students and educators to use the restroom with another person present, despite the serious harms to their dignity that it would cause.

Second, the report recommends inside-classroom safety measures, such as designating “hard corners” (i.e., areas that could not be reached via a firearm used outside a classroom). Although it is sensible to ensure that educators know the safest place in their classrooms, this approach is not a panacea: Classrooms rarely have “hard corners” large enough to hold every student, which means that the “safe” areas are limited



Armed school safety assistants would put children, teachers and bystanders at significant risk during an attack.

to the students who can move fast enough to reach them, likely leaving disabled students and others experiencing trauma or fear behind and in danger.<sup>87</sup> What's more, openly marking an area as "safe" suggests to students each day that the rest of their classrooms are unsafe, which could further traumatize them. These "hard corners" also create spaces where, during day-to-day activities, students may be out of the line of sight of educators, creating opportunity for potential new harms (e.g., student-on-student assault).

As noted above, some "hardening" recommendations are beneficial, but those recommendations still ignore what is already required by law. For example, the report recommends that every school have an "effective communication" system to reach everyone on campus.<sup>88</sup> Having a communication system that can reach everyone simultaneously is smart policy. But that recommendation does not go far enough. "Effective communication" for disabled students and educators is mandated by the ADA,<sup>89</sup> and finding ways to communicate effectively with English learner (EL) students and with limited English proficient (LEP) families and educators is required by the Equal Educational Opportunities Act of 1974 (EEOA) and Title VI of the Civil Rights Act of 1964 (Title VI).<sup>90</sup> Yet the report does not mention any of these requirements: Its recommendations stop at a system that would work for non-disabled, non-EL/LEP students and others. Thus, to the extent the authors believe they are adding protections for school communities through their recommendations, they do not go far enough.

Most importantly, "hardening" schools has never and will never be enough. A national study of 954 high schools found that campus hardening measures did little to prevent violent crimes from occurring at schools.<sup>91</sup> The Columbine and Virginia Tech shooters were enrolled at those schools when the shootings took place and had valid access to school grounds.<sup>92</sup> Additionally, even though the doors at Sandy Hook Elementary School were locked, the shooter was able to enter the building by shooting out a window near the door.<sup>93</sup> Unless schools are designed like jails, they will have some physical vulnerabilities, and designing schools like jails would have severe negative consequences for the students who would be educated in such unwelcoming, traumatic, and restrictive environments.

Finally, between the report's recommendations and the new requirements established under SB 7030, Florida has now fully accepted that the so-called experts in "hardening" will be those primarily from law enforcement backgrounds, not families, educators, health and mental health professionals, or students themselves. The report first recommended that the FLDOE's Office of Safe Schools (OSS) review the kinds of recommendations developed by organizations such as Partner Alliance for Safer Schools (PASS),<sup>94</sup> a group mostly

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led by security personnel, including those with business interests in school security.<sup>95</sup> And then SB 7030 established a new "School Hardening and Harm Mitigation Workgroup," made up of individuals with "subject matter expertise on school campus hardening best practices," to review school hardening policies such as those, again, developed by PASS.<sup>96</sup> Neither the recommendations nor the new law acknowledge that PASS does not include voices such as nurses, school psychologists, or counselors, nor is there any requirement in the report or for the newly created commission to take issues such as mental health into account in developing school safety requirements.

The limited amount of money available to Florida's schools should not be spent on technology that is not proven to increase school safety or security. Nowhere in the Commission's report has it identified any evidence supporting the implementation of these mechanisms or even given specific arguments for how they would make schools safer.

### **Student Safety Should Not Come at the Expense of Student Privacy and Expression**

Some of the report's most troubling recommendations would infringe on student, family, and educator privacy and protected expression. Among other things, the report recommends live access to school-based video cameras and requiring anonymous reporting of "suspicious" activity. In addition, SB 7030 added more student surveillance measures on top of the report's recommendations, such as building an even more intrusive database of student information for, among others, law enforcement's use.<sup>97</sup> None of these recommendations or requirements are guaranteed to protect students, and all bring serious risks of hurting the entire education community.<sup>98</sup>

For its video surveillance recommendation, the report states: "All Florida public schools ... should immediately provide law enforcement with live and real-time access to



## The Commission's recommendations create a surveillance state that chills free expression and intrudes on privacy of students.

all school camera systems. The schools [sic] districts should provide law enforcement with adequate training to access and operate the cameras.<sup>99</sup> This recommendation is overly broad and dangerous. First, public schools under federal law cannot take measures that would chill or discourage students in a protected class from enrolling in and attending school, nor can they take steps that would exclude or deny student access to school on the basis of those same protections.<sup>100</sup> In addition, public schools are considered “sensitive locations” protected from enforcement by immigration authorities.<sup>101</sup> If live video is constantly streamed from public schools into the offices of law enforcement, many students may be afraid to set foot on campus, some out of fear about their or their family’s immigration status. And even if this technology did not directly threaten the safety of children and families, it would still be overly intrusive without being adequately effective: Law enforcement agencies lack the resources to watch all of the video coming from each school, and present-day video surveillance analysis technology is not accurate enough to replace human judgment. For instance, technology cannot necessarily differentiate between children if they are in similar clothing (as would be typical in a uniform-wearing school), and accuracy varies greatly depending on small factors such as lighting.<sup>102</sup> And such surveillance can create a long-term, negative permanent record for students.<sup>103</sup> In short, the Commission has taken some flaws in the MSD High School’s camera system (lack of training, inability of law enforcement to receive remote access to the cameras on request)<sup>104</sup> and made sweeping surveillance recommendations that go well beyond the scope of fixing those flaws. Minor changes, such as training all relevant personnel on the use of cameras and allowing law enforcement access to camera feeds in case of emergency, would have been enough.

The report also recommends that all schools ask their students to use “FortifyFL,” an anonymous reporting app.<sup>105</sup> Anonymous reporting apps create fewer serious concerns

than other forms of digital monitoring (see below), but their reliability is unknown,<sup>106</sup> and they require significant effort to be used properly.<sup>107</sup>

Finally, SB 7026 establishes the most comprehensive database of student information contemplated by law<sup>108</sup> and does so without adequate safeguards and protections for students or their data. *Education Week* wrote:

*[S]tate agencies have discussed the possibility of sharing a breathtaking amount of data. That included more than 2.5 million records related to ... involuntary psychiatric examinations, ... foster care, diagnosis and treatment records for substance abusers, unverified criminal reports of suspicious activity, reports on students who were bullied and harassed because of their race or sexual orientation, and more.<sup>109</sup>*

As experts at the Future of Privacy Forum, along with over 30 other organizations, recently wrote to Governor DeSantis: “We believe this database represents a significant safety risk because it collects highly sensitive information without a clear, evidence-based rationale for inclusion, could be used to stigmatize and blame children ... and will create a de facto state repository designed to track children based on federally protected characteristics.”<sup>110</sup> There are additional reasons to worry, including that there are no safeguards in place to protect the database from unauthorized access or hackers,<sup>111</sup> and much of the information that will be included is unreliable.<sup>112</sup> In particular, social media monitoring information is prone to false positives<sup>113</sup> and bias,<sup>114</sup> and yet will be included in this database without filtering. Further, broad sharing of students’ records would make children vulnerable to various crimes, including financial fraud and identity theft.<sup>115</sup>

In the end, as the experts at the Center for Democracy and Technology and the Brennan Center have written:

*Overbroad surveillance, mandatory threat reporting, and law enforcement access to expansive data create serious risks to students’ privacy, free expression, and ability to learn. Excessive monitoring can chill students’ speech, associations, movements, and access to important resources, and can transform a school from a learning environment to one of surveillance that actually makes students feel less safe.<sup>116</sup>*

### Student Supports, Not Stigmatization or Criminalization

Finally, one of the Commission’s most pernicious recommendations involves conflating the genuine need for improved mental health services in Florida with the detection of serious threats to safety. Specifically, the report includes the following recommendations:

➤ That every school district create a policy that requires all personnel to report “all indicators of suspicious student behavior to an administrator”; that “require[s] that the disposition of

all threats of school violence be ... reported to the threat assessments team, which has mandatory law enforcement participation”; that “reporting observed behaviors ... should be mandatory”; and that there “should be sanctions for non-reporting.”<sup>117</sup>

➤ That threat assessment teams (TATs) should “be proactive ... [they] should seek out information and not merely wait for reports from staff or students,” and the teams should “t[ie] together disparate behaviors so they may be evaluated in the aggregate, viewed holistically and acted upon at the earliest possible time.”<sup>118</sup>

➤ That TATs should pay special attention to students with disabilities and that “[s]tudents with IEPs that involve severe behavioral issues should be referred to and evaluated by the threat assessment team.”<sup>119</sup>

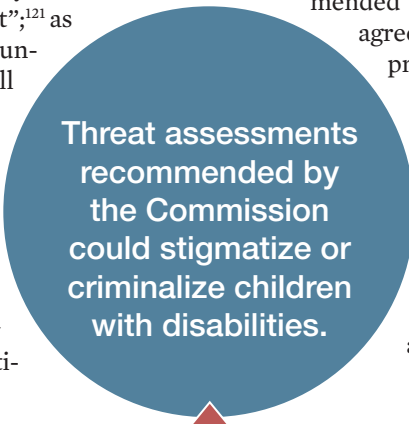
➤ That FLDOE “should develop a standardized, statewide behavioral threat assessment instrument and create a statewide threat assessment database that is accessible to all districts and appropriate stakeholders.”<sup>120</sup>

Disability rights law has long contemplated that some extremely limited manifestations of disability are dangerous enough to constitute a “direct threat”;<sup>121</sup> as such, these recommendations are, at best, unnecessary. But taken together, they go well beyond current law and create a frightening surveillance state that threatens to criminalize and stigmatize children with disabilities.

Threat assessments or risk assessments are imperfect and often biased.<sup>122</sup> Experts at the Brennan Center have noted there is no process that can reliably identify individuals with respect to statisti-

cally rare events such as terrorist attacks or school shootings, and attempts to do so create a high risk of sweeping up far more people who pose no threat at all.<sup>123</sup> For any threat assessment to have a chance of being useful and non-discriminatory, the members of the threat assessment team need extensive training.<sup>124</sup> And because there is no evidence that people with disabilities commit more violent acts,<sup>125</sup> the end result of this web of requirements will be to sweep more disabled students into a faulty threat assessment model where frightened educators report their students out of fear of personal sanction and under-trained, school-based teams send more students into the school-to-prison pipeline for behavior that might sound like a threat but social science shows is unlikely to ever cause any harm.<sup>126</sup>

To be clear, Florida’s mental health system is in desperate need of additional resources, and so some of the report’s recommendations have the potential to create safer schools and promote the positive development of students. For instance, the Commission found that Florida’s mental and behavioral health system needs more funding and better case management systems.<sup>127</sup> Additionally, the Commission recommended that school districts be required to establish agreements with community behavioral health providers to provide in-school mental health services to students.<sup>128</sup> Research has shown that focusing on improving mental and behavioral health, implementing conflict resolution practices, and better training teachers are more likely to reduce overall school violence.<sup>129</sup> But when combined with its other, problematic recommendations, these positive approaches cannot balance out the overall harm.



Threat assessments recommended by the Commission could stigmatize or criminalize children with disabilities.

# RECOMMENDATIONS

## AN EVIDENCE-BASED APPROACH THAT ENSURES REAL SCHOOL SAFETY FOR ALL STUDENTS

### Recommendations for School Districts

At the school district level, school boards should engage their communities, including parents, students, and educators, on solutions to school safety. They should reject Commission recommendations that are not rooted in evidence and should invest in proactive measures like mental health services, restorative justice, and educator training. School boards should prioritize these measures over expensive, reactive measures like hardening schools and increasing the presence of law enforcement beyond what is required by law. School boards and districts should further ensure that, to the extent they have police officers on their campuses, they are fully and appropriately trained, including in implicit bias and engaging with youth, and that their involvement with student discipline is limited to real emergency and life-threatening situations. School boards and districts should reject proposals to allow inadequately trained, armed civilians on their campuses and to increase students' access to and proximity to guns.

### Recommendations for the School Hardening and Harm Mitigation Workgroup

The Florida Department of Education's Office of Safe Schools should convene families, students, and experts on education, privacy, security, equity, disability rights, civil rights, and school safety as part of this workgroup, to ensure all implications of school hardening and harm mitigation are carefully studied. The workgroup's review of school safety best practices should ensure that any best practices it promulgates are evidence-based.

### Recommendations for the Florida Legislature

The Florida Legislature should reject recommendations from the Commission if families, students, and experts on education, privacy, security, equity, disability rights, civil rights, and school safety have not been consulted and where there is not adequate consensus. It should add experts from more diverse backgrounds to the Commission for the remainder of its time, until 2023, and should require that the Commission also hear from a range of perspectives in its public meetings. It should ensure that Florida's limited resources are only used for evidence-based measures informed by diverse stakeholders.

### Recommendations for the MSD Commission

Going forward, the MSD Commission should specifically invite the above-referenced stakeholders to its public meetings and should only make additional recommendations after hearing from these stakeholders and after reviewing and studying evidence-based, nationwide best practices that ensure all students are healthy, safe, and welcome in school. A few examples of those research-based approaches are set out below.

► *Smart Investments for Safer Schools*, Center for American Progress (2018)<sup>130</sup>

This report surveys published research and finds that “hardening” schools and putting more armed personnel on campuses “do not increase school safety, and there is unfortunately no evidence that they are effective in preventing school violence.”<sup>131</sup> Instead it recommends schools invest in effective evidence-based strategies such as “modifying school climate to facilitate better communication and more



positive interactions among staff, educators,” which “has been found to be more effective than using coercive disciplinary practices.”<sup>132</sup> It also advocates “research-based social and emotional skills that can help students address mental health needs, learn to discuss their feelings, and feel more connected to their school community so that they are less likely to engage in negative and harmful behavior.”<sup>133</sup>

► *The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System*, the Council of State Governments Justice Center (2014)<sup>134</sup>

This report was a collaboration among “hundreds of experts in education, behavioral health, law enforcement, and juvenile justice, as well as policymakers, parents, youth, and advocates. It draws on an extensive review of the literature and relevant research, advisory group discussions, feedback from experts across the country, multidisciplinary forums and listening sessions, and a rigorous review process.”<sup>135</sup>

► *Do the Harder Work—Create Cultures of Connectedness in Schools: A Youth and Parent Organizer Response to the Federal Commission on School Safety (2018)*<sup>136</sup>

This report advocates for “investments and supports that will actually transform schools into places where all young people are prepared to succeed and thrive in school, in career, and in life.”<sup>137</sup> To this end, “CJSF’s community partners—youth, family, and community organizers from around the United States—provide a roadmap for the harder work of fostering ‘cultures of connectedness’ in schools by investing in restorative justice, culturally relevant curricula and practices, diverse teaching and support staff, anti-bias training, mental and emotional health supports and more.”<sup>138</sup>

Schools should focus on mental health, restorative justice, and educator training rather than arming teachers, hardening schools, and increasing law enforcement presence.

# ENDNOTES

- 1 § 943.687, Fla. Stat.
- 2 § 943.687(8), Fla. Stat.
- 3 S.B. 7030, 2019 Leg., (Fla. 2019).
- 4 See Ana Ceballos, Without Ceremony or Comments, Florida Gov. DeSantis Quietly Signs Law Allowing Guns in Classrooms, Creative Loafing (May 9, 2019), <https://www.cl Tampa.com/news-views/florida-news/article/21068056/without-ceremony-or-comments-florida-gov-desantis-quietly-signed-law-allowing-guns-in-classrooms>.
- 5 Marjory Stoneman Douglas High School Public Safety Commission, Initial Report Submitted to the Governor, Speaker of the House of Representatives and Senate President, (Jan. 2, 2019), <http://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>.
- 6 See Appointees, Fla. Dep't of Law Enf't, <https://www.fdle.state.fl.us/MSDHS/Home/Appointees.aspx> (last visited Aug. 7, 2019).
- 7 See id.
- 8 Appointments to Marjory Stoneman Douglas High School Public Safety Commission Announced, Capital Soup (March 20, 2018), <https://capitalsoup.com/2018/03/20/appointments-marjory-stoneman-douglas-high-school-public-safety-commission-announced/>.
- 9 The following Commission members are current law enforcement officials: Sheriff Bob Gualtieri, Chief Kevin Lystad, Sheriff Larry Ashley, Sheriff Grady Judd, James Harpring, and Rick Swearingen. See Appointees, Fla. Dep't of Law Enf't, <https://www.fdle.state.fl.us/MSDHS/Home/Appointees.aspx> (last visited Aug. 7, 2019).
- 10 Id.
- 11 Id.
- 12 Id.
- 13 Id.
- 14 Id.
- 15 Id.
- 16 Commissioner Richard Corcoran, Fla. Dep't of Educ., <http://www.fldoe.org/about-us/commissioner-corcoran/> (last visited Aug. 7, 2019).
- 17 Brownie Carson, Mary Mayhew Will Be Bad For Florida's Health – Very Bad, Miami Herald (Apr. 3, 2019), <https://www.miamiherald.com/opinion/op-ed/article228799379.html>.
- 18 Id.; see also Bill Nemitz, Mary Mayhew Lacks Even a Sliver of Remorse For Chilling DHHS Fiasco, Portland Press Herald (Aug. 13, 2017), <https://www.pressherald.com/2017/08/13/bill-nemitz-mayhew-mess-worsened-by-her-mendacity/?rel=related>; Daniel Levinson, Maine Did Not Comply With Federal and State Requirements for Critical Incidents Involving Medicaid Beneficiaries With Developmental Disabilities, Office of Inspector Gen. Dep't of Health & Human Servs., <https://oig.hhs.gov/oas/reports/region1/11600001.pdf>.
- 19 Draft Recommendations Released From State Commission Investigating Parkland Shooting, NPR All Things Considered (Dec. 15, 2018), <https://www.npr.org/2018/12/15/677100894/draft-recommendations-released-from-state-commission-investigating-parkland-shoo>.
- 20 Storm Gifford, Parents of Slain Parkland Students Lash Out at Sheriff's Proposal to Arm Teachers, New York Daily News (Jan. 5, 2019, 6:35 PM), <https://www.nydailynews.com/news/national/ny-news-parkland-teachers-slam-sheriffs-20190105-story.html>.
- 21 Fred Guttenberg, Father of Parkland Victim Says Arming Teachers Not the Answer, (Jan. 19, 2019), <https://www.tallahassee.com/story/opinion/2019/01/19/father-parkland-victim-says-arming-teachers-not-answer-opinion/2614674002/>.
- 22 Commission Report, supra 5, at 8-9.
- 23 See id. at 272.
- 24 See id. at 101-02.
- 25 See id. at 101.
- 26 See id. at 314.
- 27 See id. at 104.
- 28 Id. at 101-05.
- 29 The hiring of armed civilians through the school guardian program is currently being challenged in an SPLC lawsuit against the Duval County School District, T.D., et al. v. Duval County Public Schools, et al., <https://www.splcenter.org/seeking-justice/case-docket/td-et-al-v-duval-county-public-schools-et-al>.
- 30 Fla. S.B. 7030 § 1.
- 31 See Fla. S.B. 7030 § 1 (amending the statute to read that sheriffs must “[a]ssist district school boards and charter school governing boards” and “provide access to a Coach Aaron Feis Guardian Program.”).
- 32 See § 30.15(1)(k) (2018) (“Establish, if the sheriff so chooses, a Coach Aaron Feis Guardian Program. . .”).
- 33 See Fla. S.B. 7030 § 1; see also § 30.15(1)(k) (2018) (“Excluded from participating in the Coach Aaron Feis Guardian Program are individuals who exclusively perform classroom duties as classroom teachers as defined in [section] 1012.01(2)(a).”).
- 34 See Fla. S.B. 7030 §§ 4, 7.
- 35 Fla. S.B. 7030 § 7.
- 36 Id.
- 37 Fla. S.B. 7030 § 12.
- 38 Id.
- 39 Fla. S.B. 7030 § 7.
- 40 Fla. S.B. 7030 § 14.
- 41 § 943.687(1), Fla. Stat.
- 42 § 943.687(8), Fla. Stat.
- 43 Marjory Stoneman Douglas High School Public Safety Commission Meetings, Fla. Dep't of Law Enf't, <https://www.fdle.state.fl.us/MSDHS/Meetings> (last visited on Aug. 7, 2019).
- 44 From approximately 70 invitees over the course of 10 meetings, 20 of the invitees are current law enforcement officials.
- 45 The five mental health professionals are: Ute Gazioch, Director of Substance Abuse and Mental Health for the Department of Children and Families; Silvia Quintana, Chief Executive Officer, Broward Behavioral Health Coalition; Pamela Galan, Chief Operating Officer, Henderson Behavioral Health; Lina Alathari, Ph. D., Chief, National Threat Assessment Center; and Dr. Charlene Grecsek, Broward County Public Schools.
- 46 See Jessica Bakeman, No Broad Review of Mental Health Issues Planned for Commission Investigating Parkland Shooting, WLRN (Apr. 11, 2019), <https://www.wlrn.org/post/no-broad-review-mental-health-issues-planned-commission-investigating-parkland-shooting>.
- 47 Commission Report, supra 5, at 272.
- 48 Transcript of Marjory Stoneman Douglas High School Public Safety Commission Meeting at 327 (Apr. 10, 2019), <https://www.fdle.state.fl.us/MSDHS/Meetings/2019/April/Documents/April-10,-2019.aspx>.
- 49 Id. at 375.
- 50 Id. at 390; Transcript of Marjory Stoneman Douglas High School Public Safety Commission Meeting at 776 (Dec. 13, 2018), <https://www.fdle.state.fl.us/MSDHS/Meetings/2018/December-Meeting-Documents/12-13-18-Marjory-Stoneman-Commission-Meeting-Vol.aspx>.
- 51 Melvin D. Livingston et. al., A Descriptive Analysis of School and School Shooter Characteristics and the Severity of School Shootings in the United States 1999-2018, Journal of Adolescent Health (2018), [https://www.jahonline.org/article/S1054-139X\(18\)30832-2/fulltext](https://www.jahonline.org/article/S1054-139X(18)30832-2/fulltext).
- 52 Sarah D. Sparks & Alyson Klein, Discipline Disparities Grow for Students of Color, New Federal Data Show, (Apr. 24, 2018), <https://www.edweek.org/ew/articles/2018/04/24/discipline-disparities-grow-for-students-of-color.html>.
- 53 Power U Center for Social Change, Miami-Dade Public Schools: The Hidden Truth, at 28 (October 18, 2018), <https://poweru.org/wp-content/uploads/2018/01/Final-Power-U-Report-October-Web-Resolution.pdf>.
- 54 This figure only includes students with Individualized Education Programs (IEPs) under the Individuals with Disabilities Education Act (IDEA).
- 55 Sarah D. Sparks & Alyson Klein, Discipline Disparities Grow for Students of Color, New Federal Data Show, (Apr. 24, 2018), <https://www.edweek.org/ew/articles/2018/04/24/discipline-disparities-grow-for-students-of-color.html>; see also 2015-16 Civil Rights Data Collection: School Climate and Safety, U.S. Dep't of Educ. at 4 (Apr. 2018), <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>.
- 56 2015-16 Civil Rights Data Collection: School Climate and Safety, U.S. Dep't of Educ. at 4, 12 (Apr. 2018), <https://www2.ed.gov/about/offices/list/ocr/docs/school-climate-and-safety.pdf>.
- 57 Justice Policy Institute, Education Under Arrest: The Case Against Police in Schools, at 18 (Nov. 2011), [http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest\\_fullreport.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/educationunderarrest_fullreport.pdf).
- 58 Jason P. Nance, Student Surveillance, Racial Inequalities, and Implicit Racial Bias, 66 Emory L.J. 765, 791-92 (2017).
- 59 What are the problems with having a regular police presence in schools?, Toolkit: Make My School Safe, <http://makemyschoolsafe.org/guide/police-schools/what-are-problems-having-regular-police-presence-schools> (last visited Aug. 8, 2019).
- 60 Commission Report, supra 5, at 101, 202.
- 61 U.S. Department of Justice, Federal Bureau of Investigation, A Study of Active Shooter Incidents in the United States Between 2000 and 2013, at 11 (2013), <https://www.fbi.gov/file-repository/active-shooter-study-2000-2013-1.pdf>.
- 62 Id.
- 63 Kevin Simpson, Shoppers pulled guns in response to Thornton Walmart shooting, but police say that slowed investigation, The Denver Post (Nov. 2, 2018), [https://www.denverpost.com/2017/11/02/shoppers-pulled-weapons-walmart-shooting/?utm\\_content=buffer47b97&utm\\_medium=social&utm\\_source=facebook.com&utm\\_campaign=buffer](https://www.denverpost.com/2017/11/02/shoppers-pulled-weapons-walmart-shooting/?utm_content=buffer47b97&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer)
- 64 See Jesse Paul, Revenge Prompted Deadly STEM School Shooting, Unsealed Documents Say; Security Guard Accidentally Wounded Student, Colorado Sun (June 20, 2019, 5:02 PM), <https://coloradosun.com/2019/06/20/stem-school-highlands-ranch-arrest-documents/>.
- 65 See id.
- 66 This incident occurred in Albuquerque, New Mexico, at Barcelona Elementary School. See Rebecca Atkins, APS Custodian Arrested for Pulling Gun on Kids at Elementary School, KRQE News 13, (Dec. 22, 2018), <https://www.krqe.com/news/aps-custodian-arrested-for-pulling-gun-on-kids-at-elementary-school/>; see also Kelly Drane, Every Incident of Mishandled Guns in Schools, Giffords (July 1, 2019), <https://giffords.org/2019/07/every-incident-of-mishandled-guns-in-schools/>.
- 67 This incident occurred in Dolton, Illinois at ECHO AFL Academy for Learning. See Zak Koeske, Dolton High School Security Guard Threatened to Kill Student, Held Gun to His Chest: Police Report, Chicago Tribune (Dec. 4, 2018), <https://www.chicagotribune.com/suburbs/daily-southtown/ct-sta-dolton-school-security-guard-incident-st-1205-story.html>; see also Kelly Drane, Every Incident of Mishandled Guns in Schools, Giffords (July 1, 2019), <https://giffords.org/2019/07/every-incident-of-mishandled-guns-in-schools/>.

- 68 These incidents occurred in several states including: Oxford, Michigan (Oxford High School); Milwaukee, Wisconsin (Henry David Thoreau School); and Moultrie, Georgia (Vereen School). See Kelly Drane, *Every Incident of Mishandled Guns in Schools*, Giffords (July 1, 2019), <https://giffords.org/2019/07/every-incident-of-mishandled-guns-in-schools/>.
- 69 §790.06(12)(a); § 790.115(2)(a), Fla. Stat.
- 70 S.B. 7026, 2018 Leg., (Fla. 2018).
- 71 §§ 790.06(12)(a)(9), 790.115(2)(a), Fla. Stat.
- 72 Fla. S.B. 7030 § 11.
- 73 See id.
- 74 Id.
- 75 Id.
- 76 Elizabeth Campbell, *What's the Difference Between Sworn Officer and School Safety Assistant?*, News 4 Jax (Apr. 18, 2018), <https://www.news4jax.com/news/local/jacksonville/parents-support-plan-to-add-armed-personnel-at-jacksonville-elementary-schools>.
- 77 School Safety Assistant, Duval Cty. Pub. Sch., <https://duvalschools.tedk12.com/hire/ViewJob.aspx?JobID=93> (last visited Aug. 8, 2019).
- 78 Id.
- 79 Id.
- 80 Bernard D. Rostker et al., *Evaluation of the New York City Police Department Firearm Training and Firearm-Discharge Review Process*, RAND Center on Quality Policing (2008), [https://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND\\_MG717.pdf](https://www.rand.org/content/dam/rand/pubs/monographs/2008/RAND_MG717.pdf).
- 81 “Code Red” is generally a term of art indicating that an active assailant response is immediately needed. See Commission Report, supra note 5, at 82.
- 82 “Hard corners” refer to “[t]he part of a [classroom] or other school space that cannot be observed from outside of the room when the door is locked.” Id. at 327
- 83 See id. at 83–85.
- 84 Id. at 84–85.
- 85 See 28 C.F.R. § 35.151; 36 C.F.R. pt. 1191, app. B; 36 C.F.R. pt. 1991, app. D; see also 2010 ADA Standards for Accessible Design, ADA, [https://www.ada.gov/2010ADAstandards\\_index.htm](https://www.ada.gov/2010ADAstandards_index.htm) (last visited Aug. 7, 2019).
- 86 See 28 C.F.R. § 35.151; 36 C.F.R. pt. 1191, app. B; 36 C.F.R. pt. 1991, app. D; see also 2010 ADA Standards for Accessible Design, ADA, [https://www.ada.gov/2010ADAstandards\\_index.htm](https://www.ada.gov/2010ADAstandards_index.htm) (last visited Aug. 7, 2019).
- 87 See Hannah Kapoor, *Code Red: Can “Hard Corners” and Classroom Drills Protect Students from Shooters?*, The Guardian (Feb. 14, 2009), <https://www.theguardian.com/us-news/2019/feb/14/parkland-shooting-safety-report-hard-corners-drills>.
- 88 Commission Report, supra note 5, at 85.
- 89 28 C.F.R. § 35.160.
- 90 20 U.S.C. § 1703(f); 42 U.S.C. § 2000d.
- 91 Cheryl L. Jonson, *Preventing School Shootings: The Effectiveness of Safety Measures*, 12 *Victims and Offenders* 964, 968–69 (2017).
- 92 Id. at 694.
- 93 Id.
- 94 Commission Report, supra note 5, at 84.
- 95 See PASS Leadership, PASS, <https://passk12.org/about-pass/leadership/> (last visited Aug. 7, 2019).
- 96 Fla. S.B. 7030 § 7.
- 97 Id.
- 98 Melinda D. Anderson, *When School Feels Like Prison*, Atlantic (Sept. 12, 2016), <https://www.theatlantic.com/education/archive/2016/09/when-school-feels-like-prison/499556/>.
- 99 Commission Report, supra note 5, at 202.
- 100 See, e.g., Equal Education Opportunities Act of 1974 (EEOA), 42 U.S.C. § 1701–1758; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. § 1681–1688; Title IV of the Higher Education Act 1965 (Title IV), 20 U.S.C. § 1070–1099; Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d–2000d-7.
- 101 U.S. Immigration & Customs Enft, ICE Director Memorandum on Enforcement Action at or Focused on Sensitive Locations (2011), <https://www.ice.gov/doclib/ero-outreach/pdf/100292-policy.pdf>.
- 102 Drew Harwell, *Parkland School Turns to Experimental Surveillance Software that Can Flag Students as Threats*, Washington Post (Feb. 13, 2009), [https://www.washingtonpost.com/technology/2019/02/13/parkland-school-turns-experimental-surveillance-software-that-can-flag-students-threats/?utm\\_term=.221e3cfd3fb](https://www.washingtonpost.com/technology/2019/02/13/parkland-school-turns-experimental-surveillance-software-that-can-flag-students-threats/?utm_term=.221e3cfd3fb).
- 103 Elana Zeide, *The Proverbial “Permanent Record”* (N.Y. Univ. Info. Law Inst., Oct. 2014), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2507326](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2507326).
- 104 Commission Report, supra note 5, at 47.
- 105 Id. at 266.
- 106 See Hsing-Fang Hsieh et al., *Evaluating the Effectiveness of the say Something Anonymous Reporting System to Improve School Safety*, Univ. of Mich. Population Stud. Ctr., <https://www.psc.isr.umich.edu/research/project-detail/37452> (last visited Aug. 7, 2019); see also Michael Planty, et al., *School Tip Line Toolkit: A Blueprint for Implementation and Sustainability*, Nat'l Crim. Just. Reference Serv. 1 (Jan. 2019), <https://www.ncjrs.gov/pdffiles1/nij/grants/252537.pdf> (“Tip lines are promising, but much is still unknown about their effectiveness. Research is under way to determine what impact tip lines have on overall school safety and how to customize this strategy to varied school settings”).
- 107 Michael Planty, et al., supra note 109, at 4 (“[E]ffective planning, adoption, and implementation of tip line technology in schools requires coordination among all relevant stakeholders,” and defining stakeholders to include, among others, school personnel, PTAs, families, law enforcement, mental health and child welfare agencies, community leaders, and others).
- 108 Fla. S.B. 7030 § 7.
- 109 Benjamin Herold, *Florida Plan for Huge Database to Stop School Shootings Hits Delays*, Legal Questions, Educ. Week (May 30, 2019), <https://www.edweek.org/ew/articles/2019/05/30/florida-plan-for-a-huge-database-to.html?r=2070398106>.
- 110 See Letter to Florida Governor Ron DeSantis, FERPA Sherpa (July 9, 2019) <https://ferpasherpa.org/wp-content/uploads/2019/07/Florida-Governor-Letter-with-Signatories.docx.pdf>.
- 111 Id.
- 112 See Elizabeth Laird, *Endangering Student Privacy in the Name of School Safety*, Ctr. for Democracy & Tech. (Sept. 10, 2018), <https://cdt.org/blog/endangering-student-privacy-in-the-name-of-school-safety/>.
- 113 See *Mixed Messages? The Limits of Automated Social Media Content Analysis*, Ctr. for Democracy & Tech. (Nov. 2017), <https://cdt.org/files/2017/11/Mixed-Messages-Paper.pdf>.
- 114 See Robyn Caplan et al., *Algorithmic Accountability: A Primer*, Data & Society (Apr. 18, 2018), <https://datasociety.net/output/algorithmic-accountability-a-primer/>.
- 115 Sara Collins et al., *FPF Testifies before Federal Commission on School Safety*, FERPA Sherpa (July 11, 2018), <https://ferpasherpa.org/fpf-testifies-before-federal-commission-on-school-safety/>.
- 116 *Technological School Safety Initiatives: Considerations to Protect All Students*, Brennan Ctr 1 (May, 24 2019), <https://www.brennancenter.org/sites/default/files/analysis/20190524schoolsafety.pdf>.
- 117 Commission Report, supra note 5, at 266, 286–87.
- 118 Id. at 286.
- 119 Id. at 294.
- 120 Id. at 286.
- 121 28 C.F.R. § 35.139(b) (“In determining whether an individual poses a direct threat to the health or safety of others, a public entity must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.”).
- 122 See Vienna Thompkins, *What Are Risk Assessments—and How Do They Advance Criminal Justice Reform?*, Brennan Ctr. (Aug. 23, 2018), <https://www.brennancenter.org/blog/what-are-risk-assessments-and-how-do-they-advance-criminal-justice-reform>; Julia Angwin et al., *Machine Bias*, ProPublica (May 23, 2016), <https://www.propublica.org/article/machine-bias-risk-assessments-in-criminal-sentencing>.
- 123 See, e.g., <https://www.brennancenter.org/sites/default/files/Technology%20Experts%20Letter%20to%20DHS%20Opposing%20the%20Extreme%20Vetting%20Initiative%20-%2011.15.17.pdf>; See also: <https://www.vox.com/science-and-health/2018/2/22/17041080/predict-mass-shooting-warning-sign-research>; <https://www.nytimes.com/2018/05/22/us/safe-school-shootings.html>; <https://www.aclu.org/letter/aclu-letter-house-representatives-domestic-terrorism-prevention-act-hr-1981>.
- 124 See *School Threat Assessment Training: Using DCJS Model Policies, Procedures, and Guidelines*, Va. Dep't of Crim. Just. Servs. (2017), <https://www.dcsj.virginia.gov/sites/dcsj.virginia.gov/files/publications/law-enforcement/.8.pdf>.
- 125 See James L. Knoll IV & George D. Annas, *Mass Shootings and Mental Illness*, *Am. Psychiatric Ass'n* (2016), <https://psychiatryonline.org/doi/pdf/10.5555/appi.books.9781615371099>; Jonathan M. Metz & Kenneth T. MacLeish, *Mental Illness, Mass Shootings, and the Politics of American Firearms*, 105 *Am. J. Pub. Health* 240 (2015), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4318286/>; Swanson et al., *Mental Illness and Reduction of Gun Violence and Suicide: Brining Epidemiologic Research to Policy*, 25 *Annals Epidemiology* 366 (2015), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4211925/>. Research shows that “persons without mental illness are three times more likely to commit violence in a given year than those with a mental health disorder.” Nsikan Akpan, *Why Mental Illness Can't Predict Mass Shootings*, PBS News Hour (2019), <https://www.pbs.org/newshour/science/why-mental-illness-cant-predict-mass-shootings>.
- 126 Dewey G. Cornell, *The Virginia Model for Student Threat Assessment*, Public Entity Risk Inst. 4 (2010), <https://www.doe.k12.de.us/cms/lib/DE01922744/Centricity/Domain/156/virginia-model.pdf> (“Any student can make a threat, but relatively few will engage in the planning and preparation necessary to carry out the threat.”).
- 127 Commission Report, supra note 5, at 2.
- 128 Id. at 272.
- 129 See Andre M. Perry, *To Make Schools Safer, Focus on Community—Not Guns*, Brookings Inst., (Dec. 4, 2018), <https://www.brookings.edu/blog/amending-brown-center-chalkboard/2018/12/04/to-make-schools-safer-focus-on-community-not-guns/>.
- 130 See Bayliss Fiddiman et al., *Smart Investments for Safer Schools*, Ctr. for Am. Progress (Dec. 19, 2018, 9:02 AM), [https://cdn.americanprogress.org/content/uploads/2018/12/18112919/121918\\_SchoolSafety-report.pdf](https://cdn.americanprogress.org/content/uploads/2018/12/18112919/121918_SchoolSafety-report.pdf).
- 131 Id. at 5.
- 132 Id. at 11.
- 133 Id.
- 134 *The School Discipline Consensus Report: Strategies from the Field to Keep Students Engaged in School and Out of the Juvenile Justice System*, Council of St. Gov'ts Just. Ctr. (June 2014), [http://csgjusticecenter.org/wp-content/uploads/2014/06/The\\_School\\_Discipline\\_Consensus\\_Report.pdf](http://csgjusticecenter.org/wp-content/uploads/2014/06/The_School_Discipline_Consensus_Report.pdf)
- 135 Id. at v.
- 136 *Do the Harder Work—Create Cultures of Connectedness in Schools: A Youth and Parent Organizer Response to the Federal Commission on School Safety*, Communities for Just Schs. Fund (Dec. 5, 2018), [https://docs.wixstatic.com/ugd/bbf2c5\\_a2df8aee2bd4d2193932121e5d37565.pdf](https://docs.wixstatic.com/ugd/bbf2c5_a2df8aee2bd4d2193932121e5d37565.pdf).
- 137 Id. at 2, 21–43.
- 138 Id.



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