

**AMERICAN BAR ASSOCIATION
YOUNG LAWYERS DIVISION
SECTION OF DISPUTE RESOLUTION
SECTION OF FAMILY LAW
SECTION OF GENERAL PRACTICE, SOLO AND SMALL FIRM
STANDING COMMITTEE ON PUBLIC EDUCATION**

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

1 RESOLVED, That the American Bar Association urges federal, state, territorial and local
2 governments to adopt legislation that promotes school violence prevention education, instruction,
3 awareness training and programs for children, parents, teachers and school administrators;
4

5 FURTHER RESOLVED, That the American Bar Association urges all lawyers to support
6 school violence prevention education in school and community settings by volunteering time or
7 contributing resources to promote programs that help prevent violent acts by children through
8 encouraging timely, appropriate resolution of conflict.

REPORT

This recommendation has been developed in conjunction with the ABA Young Lawyers Division public service initiatives “Junior Judges” and “Mediators Achieving Peace.” The Junior Judges curriculum is designed to help children and adolescents make the right choices in the difficult situations they will likely encounter during the school years, including cheating, destroying property, bullying, teasing, stealing, drugs and alcohol and gangs and weapons. The program strives to empower young people with the confidence and education necessary to resist peer pressure to do negative acts to themselves and to others, while showing them that each of their choices have important consequences not only for themselves but also for their friends and family. Mediators Achieving Peace trains volunteer attorneys to teach selected middle school students how to mediate; these students in turn become the mediators for their fellow students’ disputes. MAP aims to reduce violence and to create a more peaceful atmosphere for teachers and students, at no cost to the schools.

In his 1933 Inaugural Address, speaking during some of the darkest years of the Great Depression, Franklin Delano Roosevelt said, “The only thing we have to fear is fear itself.” Today’s youth also face a threat: the invasion of formerly safe havens for children – their schools – by violence and fear. No child should ever stay home from school because he or she is afraid, nor should a teacher ever fear to walk into a classroom. Nearly half of all teens believe their schools are becoming more violent, ten percent fear being shot or hurt by classmates carrying weapons to school, and more than twenty percent were afraid to go to restrooms because these unsupervised areas were frequent sites of student victimization.¹ One in nine students stayed away from school for fear of being beaten or shot.² These statistics go deeper than a school shooting—these are just part of the daily pressures today’s students face in school.

A school crime occurs every six seconds in the United States.³ More than three million crimes occur each year in American schools.⁴ And surveys from the Department of Justice indicate that only one-third of school crime is reported. While there has been some decline in the number of violent acts in schools, this activity still directly affects more than half of all American schools, particularly those in the nation’s largest cities, and the shadow of violence affects every student in the country. Every hour, more than two thousand students are physically attacked, nine hundred teachers are threatened, and forty teachers are physically attacked on school grounds.⁵ Boys are more likely than girls to be the victims or perpetrators of school

¹ National Center for Educational Statistics, 1998.

² Kaufman, et al., *Indicators of School Crime and Safety*, 2001: 6.

³ R. Craig Sautter, “Standing Up to Violence.” *Phi Delta Kappan*, Jan. 1995: K5.

⁴ Id.

⁵ Philip Kaufman, et al., *Indicators of School Crime and Safety*, 2001. Washington, D.C.; U.S. Department of Justice, 2001: 6.

violence, and African-American and Hispanic students at every grade level are more likely than whites to report being threatened or victimized by a school crime. Youth violence extracts an enormous toll on the nation's resources. Prevention can make a difference in the lives of our children, who must feel safe and be safe in school in order to develop into competent, resilient adults.

Throughout the United States, school safety has become a top concern for the American public. Crime and disorder in schools have an effect on school climate, students' ability to learn and teacher effectiveness. While attention to school violence intensifies in the aftermath of an act of extreme violence in an American school, those incidents are but a tiny fraction of the violence students face in their daily lives. According to the Center for the Prevention of School Violence in the North Carolina Department of Juvenile Justice and Delinquency Prevention, a leading resource center and think tank on the issue, "School violence is any behavior that violates a school's educational mission or climate of respect or jeopardizes the intent of the school to be free of aggression against persons or property, drugs, weapons, disruptions, and disorder."⁶

The Center's definition attempts to capture the idea that school violence takes many forms, and that defining school violence only in terms of school shootings means the problem of such violence is destined to linger. The definition also takes into account precursor behaviors that have been identified as leading up to more violent behaviors. These behaviors include put downs, insults, trash talk, bullying and pushing.⁷ As one advances from one type of behavior to the next, the level of violence increases with fighting, sexual harassment, stealing, drinking and drug use, weapons, vandalism, hate crimes, gangs, hostages, rape, murder and suicide completing the continuum. It is clear that the progressively destructive nature of the named behaviors are at the end of a journey that started with much milder behavioral concerns.

Young people face conflicts before, during and after school. While the media tend to focus on the most heinous crimes, students face a multitude of serious challenges, from hazing by sports teams to bullying on the playground. In a speech before the American Federation of Teachers in 1998, President Clinton correctly assessed the situation when he said, "In most schools it's not the sensational acts of violence, but the smaller acts of aggression, threats, scuffles and constant back talk that take a terrible toll on the atmosphere of learning, on the morale of teachers, on the attitudes of students."⁸ While the overall rate of violence in schools has generally declined, physical conflicts, threats and harassment are still common in American schools. And the violence is not limited to adolescents – elementary school principals and safety experts say they're seeing more violence and aggression than ever before among their youngest students.⁹ Preventing school violence, then, really begins with correcting children who are putting each other down on the elementary school playground. Preventing school violence means setting expectations in middle school with regard to the inappropriateness of personal

⁶ http://www.ncsu.edu/cpsv/Acrobatfiles/newsbrief5_02.pdf

⁷ Id.

⁸ Jeff P. Jones. School Violence. Lucent Books: San Diego, CA, 2001: 18.

⁹ Greg Toppo, "School violence hits lower grades," *USA Today*, Jan. 13, 2003: A01.

insults. That is why programs like “Junior Judges” and “Mediators Achieving Peace” have been shown to have such an impact.

Despite the increased fear and public alarm over school violence, there is little agreement about its causes, and researchers warn it is dangerous to take such a complex issue and whittle it down to a single cause. Oft-cited contributors to school violence include:

- exposure to violence within the family and community;
- child abuse and neglect;
- poor parenting practices and a lack of interest in children’s activities or overindulgent parenting;
- peer pressure to engage in the harassment of other students, violent behavior, drug or alcohol use, and truancy;
- prejudices based on race, religion ethnicity, physical appearance, social class, sexual orientation, disability, gender, etc.;
- information on how to make explosive devices and unsupervised access to firearms;
- excessive exposure to violence in television programming, movies and video games
- drug or alcohol abuse;
- lack of conflict resolution skills;
- lack of quality role models and the availability of inappropriate role models;
- perceived lack of opportunity to be successful through legitimate means;
- failure to detect and treat children exhibiting warning signs of being troubled;
- lack of adult supervision of, and positive interaction with, children after school;
- negative student self-image.¹⁰

These are not deficiencies that are easy to solve. They require long-term, targeted efforts from concerned citizens to ensure that our country’s schools are places of learning, not violence.

School violence is not only destructive – it is expensive.¹¹ The state of Texas alone spends more than \$90 million each year on school security, with most of that money used for police officers and security guards. Some eighty school districts in Texas have their own police force. Other money went for technology, including metal detectors and cameras. The statewide total spent on security averaged over twenty-two dollars per student; for example, the city of Houston spent more money on security (thirty-six dollars per student) than on sports and all non-classroom activities put together (thirty-five dollars). For every metal detector that schools buy, there are computers, baseball uniforms, or trumpets it cannot buy. For every police officer that a school hires, there is generally a teacher or coach it cannot hire. Spending increasingly scarce resources on security is turning our nation’s schools into prisons, and something must be done to stop this dangerous trend.

¹⁰ <http://www.theiacp.org/pubinfo>

¹¹ Francha Roffe Menhard, School Violence: Deadly Lessons. Enslow Publishers, Inc. : Berkeley Heights, NJ, 2000: 16-17.

An Emphasis on Prevention and Awareness

This resolution recognizes that trying to prevent school violence only in terms of physical security measures which are designed to keep guns and other weapons out of schools is not enough. There is no panacea, but there are numerous ways of attacking the problem, and the best practices start at the earliest ages and the most fundamental levels of communication.

The Department of Education has identified a number of successful violence prevention programs. Schools were the first to react and have introduced a multitude of approaches to this complex issue. The most popular violence prevention program is conflict resolution because of its long-proven benefits. Dr. Deborah Prothrow-Stith, a nationally renowned scholar on violence prevention, and Sher Quaday, director of violence prevention programs at the Harvard School of Public Health, report that, in general, evaluations of conflict resolution programs appear promising. As a result of conflict resolution curricula, they write, “[p]ositive effects have been seen...on student knowledge, attitudes, and behavior; teachers attitudes and competence in violence prevention skills; school climate; school statistics in violence and misbehavior...and general support of programs.”¹²

Conflict resolution programs teach students to find non-violent solutions to problems, demonstrating how students can peacefully respond to problems such as threats and teasing. Role-playing shows students how violence arises from peer pressure and a lack of emotional control. Second Step, a successful conflict resolution program, teaches students how anger develops in stages and how the body gives signs and cues that anger is rising. At Deerfield Elementary in Maryland, for example, the Second Step program helped reduce the suspension rate by 65 percent.¹³ Conflict resolution strategies can reduce violence, vandalism, chronic school absence, and suspension and increases skills in listening, critical thinking and problem solving -- skills essential to learning.

School officials nationwide have also clearly stated their zero-tolerance views on bringing weapons to school. Zero-tolerance regularly results in the immediate suspension of students caught carrying a weapon at school, drinking alcohol, using or selling drugs, or fighting on school grounds. These zero-tolerance policies mean committing an offense just once can result in a student being suspended for up to six months or even expelled. Critics warn that overzealous officials can abuse the policies, so the great challenge for school administrators is to react without overreacting.

Another inexpensive and successful program is a telephone hotline for anonymous tips about school violence. The Safe Schools Hotline is used by more than eight hundred school systems in nine states. A caller talks to a central operator in Columbus, Ohio and then school violence tips are faxed to local school authorities. The caller receives a four-digit case number and is asked to call back within three days for an update or to provide further information.

¹² Menhard, p. 67.

¹³ Menhard, p 68.

Several other states and school districts have imitated this successful model and have implemented 24-hour hotlines.

Policy Reforms and Federal and State Legislation Responding to School Violence

This recommendation calls for an emphasis in public policy for the expansion of conflict resolution and violence prevention programs, as well as other relevant instructional programs. The best school-based programs seek to do more than reach the individual child—they instead try to change the total school environment to create a safe community that believes in non-violence and peaceful conflict resolution. The “No Child Left Behind Act of 2001” made safe and drug-free schools one of its major components.¹⁴ Almost every violence prevention program requires money, and the Act established a number of mechanisms through which states and school districts can obtain money for initiatives. The Act authorizes formula grants for states to carry out programs under which students expelled or suspended from school are required to perform community service.

The Act empowered the Attorney General to establish a National Center for School and Youth Safety, which would be required to carry out four prescribed activities: (1) emergency assistance (including counseling for victims and enhanced security) to local communities to respond to school safety crises; (2) a national, toll-free telephone anonymous student hotline for students to report criminal activity, threats of criminal activity and other warning signs of potentially violent or criminal behavior; (3) consultation with the public regarding school safety through the use of a toll-free telephone number staffed by individuals with expertise in enhancing school safety; and (4) information and outreach.¹⁵ Under this fourth category, the Center would be required to compile information about best practices in school violence prevention, intervention, and crisis management, and serve as a clearinghouse for model school safety program information. The Center would also ensure that local governments, school officials, parents, students, and law enforcement officials and agencies, especially those in rural and impoverished communities, are aware of the resources, grants, and expertise available to enhance school safety and prevent school crime. Statistics on school violence are often scattered and isolated, so this type of information contained in a single agency would be an invaluable resource for teachers, parents and students.

States are also legislating to stop school violence. Many states are adopting laws that lower the age at which violent young people can be tried as adults. Although these laws are generally popular with the public, such strategies are designed to respond to violence after it has occurred rather than to prevent its occurrence in the first place. To fully address this issue, states must also take a proactive, rather than a reactive, approach. Some states and school systems have developed policies which not only prohibit student-on-student harassment and violence but also address the process of investigation and resolution. More states and school systems should do so. A few states (e.g., Colorado, Illinois, New Hampshire, West Virginia) have even enacted anti-bullying laws to assure that bullying issues are addressed within student discipline policies.

¹⁴ Public Law 107-110, Title IV, January 2002.

¹⁵ <http://www.ed.gov/offices/OESE/esea/progsum/title4a.html>

These laws generally require reporting of serious acts, provide for parental participation in the intervention process and mandate violence and harassment programs in schools, all valuable approaches for states legislatures to consider.

The Important Role of the Legal Profession on This Issue

This recommendation concludes with a call for the organized bar, and the legal profession as a whole, to become involved in ending school violence. As Martin Luther King, Jr. said, “We must evolve for all human conflict a method which rejects revenge, aggression and retaliation.” We all have a duty to promote non-violent resolutions to the issues our nation’s children face daily in their schools. The role of the law in helping to both prevent and to respond to acts of school violence remains critical. This Association has long supported activities directed at educating children and youth about the law, particularly within the schools, and the skills utilized in the legal profession. Respect, tolerance and community building are the hallmarks of this Association’s *pro bono* work.

Countless studies have shown that conflict resolution programs teach students to act responsibly and to understand and accept the consequences of their behavior. Such programs are an effective alternative to traditional discipline programs and most importantly, helps to keep kids in school. Attorneys are trained in negotiation and mediation activities, critical skills that can be taught to students at all grade levels to give them constructive, peaceful means to resolve issues in their daily lives. “Junior Judges” and “Mediators Achieving Peace” have the potential to make a genuine, lasting different in the lives of America’s children. Every American benefits from having quality schools where students are eager to learn and go to class each day free of fear. This Association has the ability to help achieve those noble goals and those efforts should have the active involvement of our profession.

Respectfully Submitted,

Jonathan J. Cole, Chair
ABA Young Lawyers Division

February 2004

GENERAL INFORMATION FORM

Submitting Entity: Young Lawyers Division

Submitted By: Jonathan Cole, Chair
Young Lawyers Division

1. Summary of Recommendation

This recommendation resolves that the American Bar Association urges federal, state, territorial and local governments to adopt legislation promoting school violence prevention legislation for children, parents, teachers and school administrators. Additionally, it resolves that the Association urges all lawyers to support this education in schools by volunteering time and/or contributing resources to promote these programs.

2. Approval of Submitting Entity

The Young Lawyers Division approved the language for this Resolution at the Annual Meeting in San Francisco on August 9, 2003.

3. Has this or a similar recommendation been submitted to the House or Board previously?

This resolution has not been submitted to the House of Delegates or the Board of Governors.

4. What Existing Association policies are relevant to this recommendation and how would they be affected by its adoption

The following are relevant policies:

- Resolution adopted in August 1998: support a comprehensive approach to address gun violence by young persons at schools that includes preventative school-based peer mediation programs, firearms education programs, support for increased efforts to enforce laws to prevent unauthorized or illegal access to firearms by minors, and enactment of firearm laws that emphasize prevention, adult responsibility, and safety.
- Resolution adopted in February 2001: support the following principles concerning school discipline: (1) Schools should have strong policies against gun possession and be safe places for students to learn and develop; (2) in cases involving alleged student misbehavior, school officials should exercise discretion that is consistent with principles of due process and considers the individual student and the particular circumstances of misconduct; and (3) alternatives to expulsion or referral for prosecution should be developed that will improve student behavior and student climate without making schools dangerous. Further, oppose in principle “zero tolerance” policies that have a discriminatory effort, or mandate either expulsion or referral of students to juvenile or criminal court, without regard to the circumstances or nature of the offense or the student’s history.

- Resolution adopted in August 2002: urges legislative as well as other community-based initiatives that promote tolerance and anti-bias instruction, multicultural awareness training, hate crime/violence prevention education, and anti-bullying/harassment programs for children, parents, teachers, and school administrators.

5. What urgency exists which requires action at this meeting of the House?

The incidence of school violence is escalating at an alarming rate, making efforts to address this issue increasingly important.

6. Status of Legislation

To the best knowledge of the Young Lawyers Division, no particular U.S. legislation is proposed or opposed by this resolution.

7. Costs to the Association

None

8. Disclosure of Interest

None

9. Referrals

This recommendation will be circulated to all staff directors of ABA sections and divisions with the request that it be forwarded to their respective leaderships for comment.

10. Contact person prior to the Meeting

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11. Contact person who will present the report to the House

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