

**AMERICAN BAR ASSOCIATION
STANDING COMMITTEE ON GUN VIOLENCE
SECTION OF CIVIL RIGHTS AND SOCIAL JUSTICE
CRIMINAL JUSTICE SECTION
COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE
REPORT TO THE HOUSE OF DELEGATES**

RESOLUTION

- 1 RESOLVED, That the American Bar Association opposes laws and policies that would
- 2 authorize teachers, principals or other non-security school personnel to possess a firearm
- 3 in, or on the grounds of, a pre-K through grade 12 public, parochial, or private school; and

- 4 FURTHER RESOLVED, That the American Bar Association opposes the use of
- 5 government or public funds to provide firearms training to teachers, principals, or other
- 6 non-security school personnel, or to purchase firearms for those individuals.

REPORT**I. Introduction**

Since the 1999 Columbine High School massacre, more than 215,000 students experienced gun violence at 217 schools in the United States. At least 141 children, educators and others have been killed and another 287 have been injured.¹ The February 14, 2018 shooting at Marjory Stoneman Douglas High School in Parkland, Florida in which 17 students and staff were fatally shot and 17 others were wounded but survived, sparked renewed debate over how to prevent such tragedies.² At a February 21 “listening session” with survivors and parents of victims of school shootings, President of the United States Donald Trump said he was open to all ideas on improving school safety, but spoke about only one at length—allowing teachers to carry concealed weapons.³ The following day the President embraced the National Rifle Association position that the solution to school shootings is to arm teachers.⁴ On August 31, 2018, United States Secretary of Education DeVos wrote that the Department of Education will not provide guidance as to whether federal Student Support and Academic Enrichment grants may be used by the states to provide firearms training or to purchase firearms for teachers. She stated it is up to the states to determine the use of such grants signaling the federal government will not oppose such use.⁵

II. Background

With significant exceptions,⁶ the Gun-Free School Zones Act of 1990, as amended by the Omnibus Consolidated Appropriations Act in 1997,⁷ prohibits possession of a firearm “that has moved in or otherwise affects interstate or foreign commerce”⁸ in a

¹ John Woodrow Cox, *et al*, *More than 215,000 students have experience gun violence at school since Columbine*, The Washington Post (updated Jul. 30, 2018), https://www.washingtonpost.com/graphics/2018/local/school-shootings-database/?utm_term=.b1b3c93cedae

² Mark Berman, *The Parkland massacre sparked a renewed debate over gun control. Here’s what happens next*, The Washington Post (Feb. 20, 2018), https://www.washingtonpost.com/news/post-nation/wp/2018/02/20/after-parkland-massacre-renewed-debate-over-gun-control-puts-spotlight-on-students-public-officials/?utm_term=.62772f110fc4

³ Major Garrett, *I’m never gonna see my kid again: Parents, victims urge Trump for changes after shootings*, CBS News (Feb. 21, 2018), <https://www.cbsnews.com/news/donald-trump-listening-session-gun-violence-white-house-today-2018-02-21/>

⁴ Julie Hirschfeld Davis, *Trump Suggests Teachers get a ‘Bit of a Bonus’ to Carry Guns*, The New York Times (Feb. 22, 2018), <https://www.nytimes.com/2018/02/22/us/politics/trump-guns-school-shootings.html>

⁵ Laura Meckler and Moriah Balingit, *DeVos leaving it to states whether to use federal money to buy guns for schools*, The Washington Post (August 31, 2018), https://www.washingtonpost.com/local/education/devos-leaving-it-to-states-whether-to-use-federal-money-to-buy-guns-for-schools/2018/08/31/947ec06c-ad46-11e8-8a0c-70b618c98d3c_story.html?utm_term=.4bde7b28aa6f

⁶ The exceptions are set out in 18 U.S.C. §922(q)(2)(B).

⁷ 18 U.S.C §922(q)(2)(A)

⁸ The original enactment did not contain the quoted language. It was struck down as an unconstitutional exercise of Congress’s power under the Commerce Clause. *United States v. Lopez*, 514 U.S. 549, 115 S.Ct. 1624, 131 L Ed.2d 626 (1995)

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school zone.⁹ The “public, parochial or private school” language of this Resolution is taken from the statute. One exception under the statute is for those who are licensed to conceal carry by the state in which the school is located. Because of the exceptions under federal law, prohibition of guns in school zones has largely been by the states. Almost all states have legislation that prohibits guns in school zones. Forty of those states and the District of Columbia extend the prohibition to include those who have a concealed carry permit. Two additional states allow individual schools to decide whether to extend the prohibition to include those who have a concealed carry permit.¹⁰

III. Opposition to Arming Teachers

The President’s proposal to repeal or amend gun-free school zone laws to allow teachers to be armed was roundly condemned by education professionals and others. The suggestion to arm teachers met with immediate, strong opposition from the National Education Association,¹¹ the American Federation of Teachers,¹² the National Association of School Resource Officers,¹³ the National Association of Secondary School Principals,¹⁴ and the National Association of School Psychologists.¹⁵ The National Association of Elementary School Principals and the National Association of Secondary School Principals have strongly opposed arming teachers and principals since that suggestion was made following the Sandy Hook massacre in 2012.¹⁶ Following Sandy Hook, The School Superintendents Association adopted a position paper that advocates a comprehensive solution to school shootings and states, “We oppose efforts to bring

⁹ A school zone is defined as within 1,000 feet of the grounds of a public, parochial or private school. 18 U.S.C §921(a)(25).

¹⁰ *Summary of State Law, Guns in Schools*, Giffords Law Center to Prevent Gun Violence (retrieved Jul. 22, 2018), <http://lawcenter.giffords.org/gun-laws/policy-areas/guns-in-public/guns-in-schools/>

¹¹ Press Release, *NEA: Parents, educators ‘overwhelmingly reject’ idea of arming school staff*, National Education Association (Feb. 21, 2018), <http://www.nea.org/home/72835.htm>; Press Release, *Educators are alarmed at White House’s dangerous proposal to arm teachers*, National Education Association (Mar. 12, 2018), <http://www.nea.org/home/72953.htm>; Press Release, *New NEA national survey: educators overwhelmingly reject proposals to arm teachers*, National Education Association (March 13, 2018), <http://www.nea.org/home/72972.htm>.

¹² Press Release, *AFT Executive Council Condemns Gun Violence*, American Federation of Teachers (Feb. 21, 2018), <https://www.aft.org/press-release/aft-executive-council-condemns-gun-violence>; Press Release, *AFT President Randi Weingarten on President Trump’s Comments About Arming Teachers*, American Federation of Teachers (Feb. 22, 2018), <https://www.aft.org/press-release/aft-president-randi-weingarten-president-trumps-comments-about-arming>.

¹³ Press Release, *NASRO opposes arming teachers*, National Association of School Resource Officers (Feb. 22, 2018), <https://nasro.org/news/press-releases/nasro-opposes-arming-teachers/>; Press Release, *NASRO expands upon recommendation on arming teachers*, National Association of School Resource Officers (Mar. 1, 2018), <https://nasro.org/news/press-releases/nasro-expands-upon-recommendation-arming-teachers/>

¹⁴ Greg Waples, *Advocating for School Safety*, National Association of Secondary School Principals, Blog (Feb. 27, 2018), <http://blog.nassp.org/2018/02/27/advocating-for-school-safety/>

¹⁵ Press Release, *NASP Opposes Arming Teachers*, National Association of School Psychologists (Feb. 22, 2018), <http://www.nasponline.org/about-school-psychology/media-room/press-releases/nasp-opposes-arming-teachers>

¹⁶ Press Release, *National Principals Groups Oppose Proposals to Arm School Officials*, National Association of Elementary School Principals (Dec. 19, 2012), <https://www.naesp.org/national-principals-groups-oppose-proposals-arm-school-officials>

more guns into our schools by teachers and administrators.”¹⁷ Following the Marjory Stoneman Douglas shooting, the Superintendents Association sent a letter to Congressional leaders regarding an appropriations bill that noted, “We applaud the language to prohibit the use of federal funding for purchasing firearms or for firearm training of teachers.”¹⁸

When it became known on August 22, 2018 that Secretary DeVos was considering allowing federal Student Support and Academic Enrichment grants to be used by states to arm teachers,¹⁹ the National Education Association,²⁰ the American Federation of Teachers,²¹ the National Association of School Psychologists,²² the National Association of Secondary School Principals,²³ and the National Association of Elementary School Principals²⁴ each immediately expressed strong opposition.

IV. Prior ABA Policies on Gun Violence

For the past 50 years, the ABA has weighed in on gun violence policy. Recognizing there is no simple solution, and consistent with a public health approach to address this national crisis, these policies cover a range of topics including research, education, prevention, enforcement, and regulation.²⁵

In 2015, the ABA issued a white paper that concludes the U.S. Supreme Court and lower courts have made clear the Second Amendment is consistent with and does not

¹⁷ AASA Position Paper on School Safety – A Response to the Tragedy at Sandy Hook Elementary, The School Superintendents Association (Jul. 11, 2013), http://www.aasa.org/uploadedFiles/NCE/The_Conference_Daily_Online/2013_Conference_Daily_Online/2013_Conference_Daily_Online_-_DAY_1/Adopted-AASA-Position-Paper-on-School-Safety.pdf

¹⁸ Letter from Noelle Ellerson Ng, Associate Executive Director, The School Superintendents Association to Senator Mitch McConnell, Majority Leader, Senator Charles Schumer, Minority Leader, United States Senate, Representative Paul Ryan, Speaker, Representative Nancy Pelosi, Minority Leader, United States House of Representatives (Mar. 22, 2018), [http://aasa.org/uploadedFiles/AASA_Blog\(1\)/AASAFY18Omniletter032218.pdf](http://aasa.org/uploadedFiles/AASA_Blog(1)/AASAFY18Omniletter032218.pdf)

¹⁹ Erica L. Green, *Education Secretary Considers Using Federal Funds to Arm Schools*, The New York Times (August 22, 2018), <https://www.nytimes.com/2018/08/22/us/politics/betsy-devos-guns.html>

²⁰ Press Release, *NEA opposes guidelines being considered by the Department of Education*, National Education Association (August 23, 2018), <http://www.nea.org/home/73911.htm>

²¹ Press Release, *AFT President Randi Weingarten on Betsy DeVos’ Plan to Purchase Guns to Arm Educators*, American Federation of Teachers (August 23, 2018), <https://www.aft.org/press-release/aft-president-randi-weingarten-betsy-devos-plan-purchase-guns-arm-educators>

²² Press Release, *NASP Opposes Federal Funds to Support Arming Teachers*, National Association of School Psychologists (August 23, 2018), <http://www.nasponline.org/about-school-psychology/media-room/press-releases/nasp-opposes-federal-funds-to-support-arming-teachers>

²³ Press Release, *NASSP Condemns Proposal to Use Federal Funds for Guns in Schools*, National Association of Secondary School Principals (August 23, 2018), <https://www.nassp.org/2018/08/23/nassp-condemns-proposal-to-use-federal-funds-for-guns-in-schools/>

²⁴ Press Release, *Use Title IV Funds for Academic Enrichment and Mental Health Services, Not Guns*, National Association of Elementary School Principals (August 23, 2018), <https://www.naesp.org/content/use-title-iv-funds-academic-enrichment-and-mental-health-services-not-guns>

²⁵ Policy, American Bar Association (retrieved Jul. 25, 2018), https://www.americanbar.org/groups/committees/gun_violence/policy.html

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bar a broad array of sensible laws to reduce gun violence. Our nation's courts have repeatedly found that the types of laws supported by the ABA and introduced by legislators across America do not run afoul of the Constitution.²⁶

Also in 2015, the ABA joined with eight physician organizations in issuing a call to action.²⁷ The call to action contains recommendations aimed at reducing the health and public health consequences of firearms. There are now 52 signatories to the call to action.²⁸

V. An Evidence-Based, Comprehensive Solution is Required

The day following the massacre at Marjory Stoneman Douglas High School, the American Medical Association issued a press release that states in part, "Gun violence in America today is a public health crisis, one that requires a comprehensive and far-reaching solution."²⁹ Shortly thereafter, on behalf of the American Bar Association, then President Hilarie Bass wrote to the Senate Judiciary Committee urging it "to take swift, evidence-informed steps to curb the scourge of gun violence."³⁰ The letter made specific legislative recommendations. The calls by the ABA and AMA for an evidence-based, comprehensive solution is supported by recognized experts in the field of gun violence and school security.

In a thorough book edited by Daniel W. Webster, Sc.D. MPH and Jon S. Vernick, JD, MPH, both with the Center for Gun Policy and Research, Johns Hopkins Bloomberg School of Public Health, numerous recommendations are made to reduce gun violence in America.³¹ Arming school personnel is not one of the them. A press release issued by the T.H. Chan School of Public Health, Harvard University, quotes Dariush Mozaffarian, associate professor in the Department of Epidemiology and lead author of a study published in the Journal of the American Medical Association, as stating, "Gun violence is a public health crisis, and addressing this will require a comprehensive, multi-

²⁶ *Gun Violence Laws and the Second Amendment: A Report of the American Bar Association*, (Feb. 6, 2015),

https://www.americanbar.org/content/dam/aba/images/abanews/GunViolenceWhitePaper_020615.pdf

²⁷ *Firearm-Related Injury and Death in the United States: A Call to Action From 8 Health Professional Organizations and the ABA* (Feb. 27, 2015)

²⁸ *Firearm-Related Injury and Death in the United States: A Call to Action from Over 50 Supportive Organizations and the American Bar Association* (retrieved Dec. 6, 2018),

https://www.acponline.org/system/files/documents/advocacy/where_we_stand/assets/firearms-policy-endorsing-organizations-11-4-15.pdf

²⁹ David O. Barbe, President, American Medical Association, *Action to address gun violence is long overdue* (Feb. 15, 2018), <https://wire.ama-assn.org/ama-news/action-address-gun-violence-long-overdue>

³⁰ Letter from Hilarie Bass, President, American Bar Association, to The Honorable Chuck Grassley, Chairman and The Honorable Dianne Feinstein, Ranking Member, Committee on the Judiciary, United States Senate, Support for Legislative Steps to Reduce Gun Violence (Mar. 6, 2018), <https://www.americanbar.org/content/dam/aba/uncategorized/GAO/March72018SenateJudiciarygunviolence.authcheckdam.pdf>

³¹ Daniel W. Webster & Jon S. Vernick, ed., *Updated Evidence and Policy Developments on Reducing Gun Violence in America* (2014)

dimensional public health strategy.”³² Arming school personnel is not part of that strategy. The Prevention Institute itemizes a comprehensive strategy to reduce gun violence.³³ Arming teachers is not part of that strategy. In testimony before the a subcommittee of the House Judiciary Committee, Kristin Harper, Director of Policy Development, Child Trends, a research institute known for rigorous and objective research over four decades, makes many specific recommendations for improving school security.³⁴ None of the recommendations involve arming school personnel.

In the wake of the Parkland massacre, 75 national medical, health, public health, and research organizations sent a letter to House and Senate lawmakers urging them “to find a bipartisan path forward to comprehensive legislative solutions to firearm-related injuries and fatalities.”³⁵ They did not recommend arming school personnel. Four days later an interdisciplinary group of experts issued a call to action to prevent gun violence.³⁶ The call to action recommended a comprehensive solution citing specific actions to be taken, none of which was to arm school personnel. It was endorsed by 84 national organizations, 165 state and local organizations, and over 4,400 individuals. The National PTA has adopted a position statement with numerous itemized recommendations to reduce gun violence at schools.³⁷ It does not recommend arming school personnel.

The U.S. Departments of Education, Health and Human Services, Homeland Security, and Justice, together with the Federal Bureau of Investigation and Federal Emergency Management Agency, jointly prepared a guide for school emergency operations plans.³⁸ The guide makes numerous recommendations. It does not recommend arming teachers.

³² Press Release, *Comprehensive public health approach urged to curb gun violence in the U.S.*, T. H. Chan School of Public Health, Harvard University (Jan. 7, 2013), <https://www.hsph.harvard.edu/news/press-releases/gun-violence-public-health-approach/>

³³ *Gun Violence Must Stop. Here’s What We can Do to Prevent More Deaths*, Prevention Institute (retrieved Jul. 23, 2018), <https://www.preventioninstitute.org/focus-areas/preventing-violence-and-reducing-injury/preventing-violence-advocacy#Full%20Recommendations>

³⁴ Testimony of Kristen Harper, Director of Policy Development, Child Trends, *Preventable Violence in America: An Examination of Law Enforcement Information Sharing and Misguided Public Policy*, before Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, Committee on the Judiciary, U.S. House of Representatives (Mar. 20, 2018), <https://judiciary.house.gov/wp-content/uploads/2018/03/Kristen-Harper-Written-Testimony-for-House-Judiciary-Committee-Parkland-2018-FINAL.pdf>

³⁵ U.S. Senate Letter from 75 Health and Research Organizations (Feb. 22, 2018), <https://www.aamc.org/download/486584/data/groupletterurgingsenatelawmakerstofindbipartisansolutionstofire.pdf>

³⁶ Interdisciplinary Group on Preventing School and Community Violence, *Call for Action to Prevent Gun Violence in the United States of America* (Feb. 28, 2018), <https://curry.virginia.edu/sites/default/files/images/YVP/Call%20for%20Action%20FINAL%20for%20DISSMINATION%205-18-18.pdf>

³⁷ *Position Statement – Gun Safety and Violence Prevention*, National Congress of Parents and Teachers (Adopted 1999, Amended 2013, 2016), <https://www.pta.org/home/advocacy/pta's-positions/Individual-Position-Statements/Position-Statement-Gun-Safety-and-Violence-Prevention>

³⁸ *Guide for Developing High-Quality School Emergency Operations Plans*, U.S. Department of Education, U.S. Department Health and Human Services, U.S. Department of Homeland Security, U.S. Department of Justice, Federal Bureau of Investigation, Federal Emergency Management Agency (2013), https://rems.ed.gov/docs/REMS_k-12_Guide_508.pdf

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In July 2018 the U.S. Secret Service Threat Assessment Center issued a publication with recommendations for preventing targeted school violence.³⁹ It recommends specific actions for schools to take. The U.S. Secret Service does not recommend arming school personnel.⁴⁰

VI. Arming School Personnel is Not an Evidence-Based Solution

Available data suggests that arming teachers will increase the risk of students being shot, not reduce it. As part of research for a working paper, a diverse group of law enforcement practitioners serving the Mid-Atlantic region participated in two round-table discussion sessions held at the Division of Public Safety Leadership, School of Education, Johns Hopkins University. The law enforcement professionals concluded that a large portion of the population and policy-makers who support arming teachers make incorrect assumptions about how effective armed teachers would be in an active shooter situation. The round-table participants identified 22 factors that an armed teacher would have to assess quickly and act upon in an active shooter situation. It was noted that evidence supporting the value of arming teachers and school officials is nonexistent. They concluded that the chance of a teacher or other school official using a gun to end an active shooter situation is “remote,” and that allowing teachers to carry guns in school creates an undue risk to students and creates the potential for teachers to use a gun in situations that do not warrant lethal force.⁴¹ Other research has found that in 160 active

³⁹ Lina Alathari, *et al.*, *Enhancing School Safety Using a Threat Assessment Model – An Operational Guide for Preventing Targeted School Violence*, National Threat Assessment Center, United States Secret Service, U.S. Department of Homeland Security (Jul. 2018), [https://www.secretservice.gov/data/protection/ntac/USSS NTAC Enhancing School Safety Guide 7.11.18.pdf](https://www.secretservice.gov/data/protection/ntac/USSS_NTAC_Enhancing_School_Safety_Guide_7.11.18.pdf)

⁴⁰ The NRA and other gun rights organizations assert a contrary view. In April 2013 the NRA released a report that supports arming teachers and recommends a model state law to allow armed school personnel. Asa Hutchinson, Director, *The National School Shield* (Apr. 2, 2013). Former Arkansas Governor Asa Hutchinson headed the effort and claimed the authors were independent of the NRA. That assertion was widely disbelieved, even in his home state. Max Brantley, *Asa! Distances himself from the NRA; not easy – Asa Hutchison has gotta be kidding*, Arkansas Blog, Arkansas Times (Apr. 3, 2013). It is undisputed the NRA funded the report. It is undisputed there were no education professionals among the authors. It is undisputed the major conclusions of the report were announced by the NRA before the authors began preparing the report. Eric Lichtblau & Motoko Rich, *N.R.A Envisions 'a Good guy With a Gun' in Every School*, New York Times (Dec. 21, 2012). The report has been severely criticized both for its false assumptions and incorrect conclusions. *E.g.* Gordon A. Crews, *et al.*, *The Only Thing That Stops a Guy with a Bad Policy is a Guy with a Good Policy: An Examination of the NRA's 'National School Shield' Proposal*, Am. J. of Criminal Justice, 38(2):183-199 (Jun. 2013). Arming teachers is an extension of the assertion that guns carried in public reduce crime. That assertion has also been discredited. *E.g.* Dan A. Black & Daniel S. Nagin, 27 J. of Legal Studies 209 (Jan. 1998); Ian Ayres & John J. Donohue III, *Shooting Down the More Guns, Less Crime Hypothesis*, 55 Stan. L. Rev. 1193 (Jan. 1, 2003). As early as 1999, the U.S. Department of Justice issued a report that recommends developing a comprehensive strategy and makes specific recommendations to reduce gun violence in America. Shay Bilchik, Administrator, Office of Juvenile Justice and Delinquency Prevention, *Promising Strategies to Reduce Gun Violence* (Feb. 1999). Arming citizens is not one of those strategies.

⁴¹ Sheldon Greenberg, *Arming teachers to mitigate school shootings: Evidence, assumptions, policy implications, and comparison to law enforcement officers involved in encounters with armed assailants* (2018) (available through Office of Communications, Johns Hopkins University).

shooter incidents in other locations, there was only one successful armed civilian intervention—and the civilian in that incident was a highly trained U.S. Marine.⁴² Using a gun in self-defense is no more likely to reduce the chance of being injured during a crime than various other forms of protective action.⁴³

Among the significant risks in arming teachers, there is the risk of bystander injury being increased. Law enforcement officers are trained not only to know how to shoot, but significantly are also trained to assess quickly a situation while under stress and to know when to withhold fire.⁴⁴ With shots being fired from two or more directions, the risk of a bystander being shot is increased. Despite their training, a comprehensive study of the New York City Police Department found that in a gunfight, NYPD officers hit their intended target only 18% of the time. It also found that they engaged in “reflexive shooting” or “contagious shooting,” without assessing the need to use deadly force, upon hearing certain cues, such as the words “he’s got a gun” or upon hearing the sound of gunfire.⁴⁵ Other research of police firearm discharge data confirms that in high stress situations the vast majority of shots miss the intended target.⁴⁶ A recent example of bystander death is when a fugitive entered a Trader Joe’s store in the Los Angeles area. The store manager was shot and killed, not by the fugitive, but unintentionally by a police officer.⁴⁷ There is no data to suggest teachers would perform any better.⁴⁸

⁴² J. Pete Blair and Katherine W. Schweit, *A Study of Active Shooter Incidents in the United States Between 2000 and 2013*, Texas State University and U.S. Department of Justice, Federal Bureau of Investigation, U.S. Department of Justice (2014), <https://www.fbi.gov/file-repository/active-shooter-study-2000-2013-1.pdf/view>

⁴³ David Hemenway, *Private Guns, Public Health* 78 (2004).

⁴⁴ Matthew Santoni, *Arming teachers: Pros and Cons*, Tribune-Review (Feb. 23, 2018), <https://triblive.com/usworld/world/13340177-74/arming-teachers-pros-and-cons>

⁴⁵ 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).

⁴⁶ Michael D. White, *Hitting the target (or not): Comparing characteristics of fatal, injurious, and non-injurious police shootings*, *Police Quarterly*, 2006;9(3):303-330; A. Nieuwenhuys and R. Oudejans, *Effects of anxiety on handgun shooting behavior of police officers: A pilot study*, *National Institutes of Health*, 2010;23(2):225-33.

⁴⁷ Joseph Serna and Richard Winton, *LAPD officer fired bullet that killed Trader Joe’s employee during weekend standoff, chief says*, *Los Angeles Times* (Jul. 24, 2018) <http://www.latimes.com/local/lanow/la-me-trader-joe-shooting-20180724-story.html>

⁴⁸ Despite the data showing that in high stress situations even highly trained police officers miss the intended target the vast majority of the time creating substantial risk of bystander injury or death, the National Association of School Resource Officers estimates there are between 14,000 and 20,000 School Resource Officers employed in the United States. NASRO *Frequently Asked Questions*, <https://nasro.org/frequently-asked-questions/> (retrieved Nov. 6, 2018). A School Resource Officer is a career law enforcement officer with sworn authority who is deployed by an employing police department or agency in a community-oriented policing assignment to work in collaboration with one or more schools. They are usually armed. *Id.* The use of police officers in schools has negative consequences and is less effective at reducing school shootings than other means. See e.g. Amanda Petteruti, *Education Under Arrest: The Case Against Police in Schools*, Justice Policy Institute (Nov. 2011), <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=264688>; Marilyn Elias, *The School-to-Prison Pipeline*, *Teaching Tolerance* (Spring 2013), <https://www.tolerance.org/magazine/spring-2013/the-schooltoprison-pipeline>. “Put an armed guard in a school and you might prevent one shooting in one building. Put a counselor or psychologist in a school and you have the potential to help prevent shootings in any building anywhere in your community.” Testimony of Dewey Cornell, *The Prevention of Gun Violence in Schools and Communities*, before House Committee on Education and the Workforce (Mar. 2018)

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There is also the risk of law enforcement mistaking an armed teacher for the shooter. During a 2016 demonstration where dozens of open carry activists were present, five Dallas police officers were shot and killed, and nine more were shot and wounded. Two civilian bystanders were also shot and injured. Following the shootings, Dallas police chief David Brown commented that open carry laws can complicate telling the difference between the “good guy with a gun” and the criminal.⁴⁹ When a man shot and killed three people at a Walmart in Thornton, Colorado, law enforcement noted that shoppers drawing weapons in self-defense “absolutely” slowed the process of identifying the suspect.⁵⁰ When Congresswoman Gabrielle Giffords was shot and injured in Tucson, Arizona, an armed civilian came very close to firing at the unarmed civilian who subdued the shooter.⁵¹ A recent example is when on July 31, 2018 an Aurora, Colorado policeman responding to a call of a home invasion mistakenly shot and killed the home owner who had just shot and killed the intruder.⁵² Police described it as a “very chaotic and violent scene.” There is no reason to think a school shooting with many more people and more guns present would be any less chaotic and violent.

There is the risk that a student intent on committing a mass shooting would not need to bring a gun into the school, but would know how to access a teacher’s gun. A recent study shows that the majority of children are aware of where their parents store their guns, and that more than one-third reported handling their parents guns—40 percent of them doing so without the knowledge of their parents.⁵³ Another study of 37 school shootings in 26 states found that in nearly two-thirds of the incidents, the attacker got the gun from his or her own home or that of a relative.⁵⁴ Major findings of a study by the

<https://curry.virginia.edu/sites/default/files/images/YVP/Cornell%20Hearing%20Statement%203-20-18.pdf>

The evidence-based data cited in the body of this report including that of the United States Secret Service Threat Assessment Center, nn.38 & 71, and by Dr. Cornell shows that focusing on prevention of school shootings by identifying troubled students in advance is more effective at reducing school shootings than is armed security. It also does not have the attendant risk of bystander injury or death that armed security does. It also reduces the risk of a student or anyone else being shot at a different location and thus provides more encompassing security and better protection of the entire community. Nevertheless, this Resolution is neutral on the use of armed security personnel in schools. It does not support or oppose the use of School Resource Officers or seek to delineate those who might be excluded from the term “non-security” as used in this Resolution.

⁴⁹ Jonathan Silver, *After Dallas Ambush, Texas Police to Push for Open Carry Changes, Funding*, The Texas Tribune (Jul. 23, 2016), <https://www.texastribune.org/2016/07/23/texas-law-enforcement-groups-brace-gun-funding-leg/>

⁵⁰ Kevin Simpson, *Shoppers pulled guns in responses to Thornton Walmart shooting, but police say that slowed investigation*, The Denver Post (Nov. 2, 2017), <https://www.denverpost.com/2017/11/02/shoppers-pulled-weapons-walmart-shooting/>

⁵¹ William Saletan, *Armed Giffords hero nearly shot wrong man*, Slate.com on NBC News.com (updated Jan. 11, 2011), http://www.nbcnews.com/id/41018893/ns/slate_com/t/armed-giffords-hero-nearly-shot-wrong-man/#.W2YWwFVKhph

⁵² Noelle Phillips, *Aurora police shooting of armed homeowner raises questions as to how law enforcement reacts when encountering law-abiding gun owners*, The Denver Post (Aug. 4, 2018), <https://www.denverpost.com/2018/08/04/aurora-police-shooting-armed-homeowner-gun-owners/>

⁵³ Frances Baxley & Matthew Miller, *Parental misperceptions about children and firearms*, Archives of Pediatrics & Adolescent Medicine, 2006,160(5),542-547.

⁵⁴ Bryan Vossekuil, Marisa Reddy & Robert Fein, Co-Directors, *Safe School Initiative – An Interim Report on the Prevention of Targeted Violence in Schools*, U.S. Secret Service National Threat Assessment Center

Centers for Disease Control conclude that nearly 50% of homicide perpetrators gave some type of warning signal, such as making a threat or leaving a note, prior to the event; and that firearms used in school-associated homicides and suicides came primarily from the perpetrator's home or from friends or relatives.⁵⁵

There is the risk of an accidental discharge of a teacher's gun endangering students. Dennis Alexander, a California teacher, was showing the students a gun during his advanced public safety class when the gun accidentally discharged. Mr. Alexander was pointing his gun at the ceiling when it fired causing pieces of the ceiling to fall to the floor. One student was injured when a bullet fragment hit his neck. Two other students were injured by falling debris.⁵⁶ A Chicago criminal justice instructor accidentally discharged his gun during class striking a file cabinet and wall.⁵⁷ A Utah teacher was injured when her gun accidentally discharged in a staff restroom striking the toilet bowl.⁵⁸ An NRA gun safety instructor teaching a class for a concealed carry permit accidentally shot a student in the foot.⁵⁹ Five people were accidentally shot and injured in 2013 at the first ever "Gun Appreciation Day."⁶⁰ The list could go on.

Gun violence in schools is horrific and gets media attention, but it occurs with much less frequency than do shootings of youth elsewhere. That does not minimize the important need to address school shootings, but it should inform the discussion of what would constitute a viable solution. A report issued by the U.S. Departments of Education and Justice found that between 1992 and 2006, at least 50-times as many murders of young people ages 5–18 occurred away from school than at school.⁶¹ During the 2010-11 school year, about one homicide or suicide of a school-age youth at school per 3.5 million enrolled students occurred.⁶² Only approximately one percent of all homicides

in collaboration with the U.S. Department of Education with support from the National Institute of Justice (Oct. 2000), http://www.popcenter.org/problems/bullying/PDFs/ntac_ssi_report.pdf

⁵⁵ *School-Associated Violent Death Study*, Centers for Disease Control and Prevention (Updated May 11, 2016), <https://www.cdc.gov/violenceprevention/youthviolence/schoolviolence/SAVD.html>

⁵⁶ Christina Coron, *Teacher's Gun Is Accidentally Fired During Public Safety Class, Injuring 3*, The New York Times (Mar. 14, 2018), <https://www.nytimes.com/2018/03/14/us/teacher-gun-accidental-discharge.html>

⁵⁷ *Chicago-Area Teacher Suspended After Accidental Gun Discharge*, WTAX News Radio (2014), <http://wtax.com/news/101101-chicago-area-teacher-suspended-after-accidental-gun-discharge/>

⁵⁸ *Utah teacher wounded when gun discharges in toilet*, BBC News (Sept. 12, 2014), <https://www.bbc.com/news/world-us-canada-29168777>

⁵⁹ Eloisa Ruano Gonzales, *NRA gun instructor shoots student by accident*, Orlando Sentinel (Feb. 21, 2010), http://articles.orlandosentinel.com/2010-02-21/news/os-nra-gun-instructor-shoots-student-022020100220_1_gun-safety-nra-church-s-communications-director

⁶⁰ *Five shot at 'Gun Appreciation Day' events*, MSNBC (updated Aug. 22, 2013), <http://www.msnbc.com/rachel-maddow-show/five-shot-gun-appreciation-day-even>

⁶¹ Rachel Dinkes, *et al.*, *Indicators of School Crime and Safety: 2008*, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (Apr. 2009), https://nces.ed.gov/pubs2009/2009022REV_1.pdf

⁶² Simone Robers, *et al.*, *Indicators of School Crime and Safety: 2012*, National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice (2012), <https://nces.ed.gov/pubs2013/2013036.pdf>

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among school-age children happen on school grounds, during school events, or on the way to and from school.⁶³ Other studies concur.⁶⁴

But we are not always rational beings. Our emotions cloud our judgment and fear can dominate our thinking. Research on the psychology of risk has found that few risks worry us more than threats to our children.⁶⁵ More than a third of parents irrationally think their local high school is “highly likely” to be the site of gun violence within three years.⁶⁶ Such false heuristic risk assessments should not inform public policy.

There are two principal assertions in favor of arming teachers. One is that doing so will serve as a deterrent to mass shootings because a “gun-free zone” invites gunmen to enter. The second argument is that an armed teacher can respond more rapidly than law enforcement, particularly in rural communities that do not have school resource officers.⁶⁷ The first argument is flawed because it falsely assumes the person who exhibits the high risk behavior of entering the school armed is instead acting with a rational, risk-avoidance mindset. Both arguments are flawed because they assume without supporting data that arming teachers will reduce the risk of students being shot, rather than increase it. Both arguments are also flawed because they incorrectly assume there are no other strategies available.

The assertion that gun-free zones invite mass shootings has been discredited by research showing that nearly 90% of all high-fatality gun massacres since 1966 have occurred wholly or partly in locations where civilian guns were allowed or where there was armed security or law enforcement present.⁶⁸ That research also shows that when rampage shootings do occur, very rarely are they stopped by armed civilians.” A committee of the National Academies of Science, Engineering and Medicine concluded in 2005 that data does not support the proposition that right-to-carry laws reduce crime.⁶⁹

⁶³ *School-Associated Student Homicides – United States, 1992-2006*, Centers for Disease Control & Prevention, Morbidity & Mortality Weekly Report (Jan. 18, 2008), <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5702a1.htm>

⁶⁴ Mark Anderson, *et al. School-Associated Violent Deaths in the United States, 1994-1999*, 286 J. Am. Med. Assoc. 2695, 2697-2699 (Dec. 5, 2001).

⁶⁵ David Ropeik, *School shootings are extraordinarily rare. Why is fear of them driving policy*, The Washington Post (Mar. 8, 2018), https://www.washingtonpost.com/outlook/school-shootings-are-extraordinarily-rare-why-is-fear-of-them-driving-policy/2018/03/08/f4ead9f2-2247-11e8-94da-ebf9d112159c_story.html?utm_term=.2dd21a343866

⁶⁶ Lois M. Collins, *Study: Parents fearful of school shootings know little about safety measures being taken*, Deseret News (Updated Aug. 18, 2017). Based upon a national random sample survey of 600 parents who had at least one child enrolled in a public secondary school. <https://www.deseretnews.com/article/900001201/study-parents-fearful-of-school-shootings-know-little-about-safety-measures-being-taken.html>

⁶⁷ Matthew Santoni, *Arming teachers: Pros and Cons*, *supra* n.44.

⁶⁸ Daniel W. Webster, *et al. Firearms on College Campuses: Research Evidence and Policy Implications*, Johns Hopkins Bloomberg School of Public Health (Oct. 15, 2016), <https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/pdfs/GunsOnCampus.pdf>

⁶⁹ Charles F. Wellford, John V. Pepper and Carol V. Petrie, ed., *Firearms and Violence – A Critical Review*, 120-151, Committee on Law and Justice, Division of Behavioral and Social Sciences and Education, National Research Council, National Academies Press (2005). The committee reviewed the work of

VII. Evidence-Based Solutions Are Available

Reducing the number of school shootings should focus on preventing such shootings, rather than reacting to them. The first recommendation of Kristen Harper, Director of Policy Development, Child Trends, in her testimony previously noted before a subcommittee of the House Judiciary Committee is that the strategy to reduce gun violence in schools should be anchored with knowledge of trends in school safety over the last two decades. Her second recommendation is to prioritize approaches that will help schools prevent school shootings, not merely defend against them.⁷⁰ The fact that the majority of guns used in school shootings come from the perpetrator's home or that of a friend suggests that the issue of safe storage in the home should be addressed as a means to reduce the number of school shootings.⁷¹ Data-driven solutions to prevent such shootings are what all the experts noted previously recommend.

For example, the Secret Service recommends that schools

- establish a multidisciplinary threat assessment team,
- define prohibited and concerning behaviors,
- create a central reporting mechanism,
- determine a threshold for law enforcement intervention,
- establish assessment procedures,
- develop risk management options,
- create and promote safe school climates, and
- conduct training for all stakeholders.⁷²

The focus is to have an organized and systematic way to identify troubled students who exhibit threatening behavior and to intervene before a shooting occurs. Other experts also recommend legislative action that has supporting data.

Repealing gun-free school zone laws and arming teachers has no supporting data upon which to ground such a policy change. Instead, legislative bodies should focus on adopting laws to prevent school shootings that do have supporting data. In her letter to the Senate Judiciary Committee, then ABA President Hilarie Bass articulated the evidence-based rationale for the following legislative actions supported by previously adopted ABA policy:

- universal background checks,

economist John Lott, a prolific gun rights advocate. The committee found the estimated effects of right-to-carry laws on crime were very sensitive to the data set chosen for review and that available data does not support Lott's conclusion that right-to-carry laws reduced crime rates.

⁷⁰ Harper, *supra* n.34.

⁷¹ Baxley, *et al*, *supra* n.53; Vossekuil, *et al.*, *supra* n.54; *School-Associated Violent Death Study*, *supra* n.55.

⁷² Alathari, *et al.*, *supra* n.39.

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- requiring timely and complete information reporting to the National Instant Criminal Background Check System (NICS),
- restricting access to semi-automatic rifles such as the AR-15,
- funding research on gun violence,
- providing for civil remedies and greater administrative enforcement such as by repealing the Protection of Lawful Commerce of Firearms Act of 2005 that grants broad immunity from negligence actions against gun dealers, manufacturers and their lobbyists, and
- state enactment of legislation authorizing gun violence protective orders (sometimes called “extreme risk protective orders”).

President Bass noted in her letter there are also other legislative actions supported by ABA policy positions.⁷³

VIII. Summary and Conclusion

There are many known, evidence-based means to address the complex issue of school shootings. Arming teachers is not one of them. Available data suggests that arming teachers will increase the risk of students being shot, not reduce it. The ABA should continue its support for evidence-based gun violence policies and its opposition to proposals that lack it. The ABA should stand with the numerous other organizations that have publicly and forcefully opposed the suggestion that teachers be armed. We recommend adoption of this Resolution.

Respectfully submitted,

Joshua Harris
Chair, Standing Committee on Gun Violence
January 2019

⁷³ Letter from Hilarie Bass, President, *supra* n.30.

GENERAL INFORMATION FORM

Submitting Entity: Standing Committee on Gun Violence

Submitted By: Joshu Harris, Chair

1. Summary of Resolution(s).

This resolution opposes laws and policies that would authorize teachers, principals or other non-security school personnel to possess a firearm in, or on the grounds of, a pre-K through grade 12 public, parochial, or private school. It also opposes the use of government or public funds to provide firearms training to teachers, principals, or other non-security school personnel, or to purchase firearms for those individuals.

2. Approval by Submitting Entity. Approved by the Standing Committee on Gun Violence by conference call on October 10, 2018.

3. Has this or a similar resolution been submitted to the House or Board previously? No.

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption?

The ABA has approved a number of policies regarding state and federal regulation of firearms. These include: Gun Violence Restraining Orders (17A118B), a comprehensive approach to address gun violence at schools by children that includes preventative peer-mediation, firearms education, increased enforcement of laws to prevent unauthorized access to firearms by minors, and enactment of additional firearms laws (98A10E), and also policy expressly supporting the right of employers and private property owners to exclude firearms from their places of business or other private property (7M107).

5. If this is a late report, what urgency exists which requires action at this meeting of the House? NA

6. Status of Legislation. (If applicable) NA

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

If adopted this policy can be the basis of advocacy at the federal and state level and possible amicus brief applications. It will also be incorporated into trainings that the Gun Violence Committee offers.

8. Cost to the Association. (Both direct and indirect costs) None

9. Disclosure of Interest. (If applicable) none

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10. Referrals.

This resolution will be circulated to all sections and interested committees and commissions, such as the Section of Civil Rights and Social Justice, Commission on Domestic and Sexual Violence, Section of Family Law, the Criminal Justice Section, and the Center on Children and the Law's Commission on Youth at Risk.

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

Joshu Harris, Chair
1239 Crease St
Philadelphia, PA 19125-3901
(646) 621-4164

12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

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EXECUTIVE SUMMARY**1. Summary of the Resolution**

With significant exceptions, the Gun-Free Schools Zones Act of 1990, as amended, prohibits firearms in, or within 1,000 feet of the grounds of a public, parochial or private school. Virtually all states also have laws that prohibit firearms in a school zone. President Trump and certain interest groups have suggested the solution to school shootings is to arm teachers. This resolution opposes laws that would authorize teachers, principals or other non-security school personnel to possess a firearm in, or on the grounds of, a public, parochial, or private school. It also opposes the use of government or public funds to provide firearms training to teachers, principals, or other non-security school personnel, or to purchase firearms for those individuals. This Resolution excludes and does not take a position on the advisability of having armed security personnel in schools.

2. Summary of the Issue that the Resolution Addresses

President Trump and certain interest groups advocate the solution to school shootings is to arm teachers.

3. Please Explain How the Proposed Policy Position Will Address the Issue

The proposed policy opposes arming teachers because available data suggests doing so will likely increase the risk to students rather than reduce it, and because other comprehensive, evidence-based solutions are available.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

None