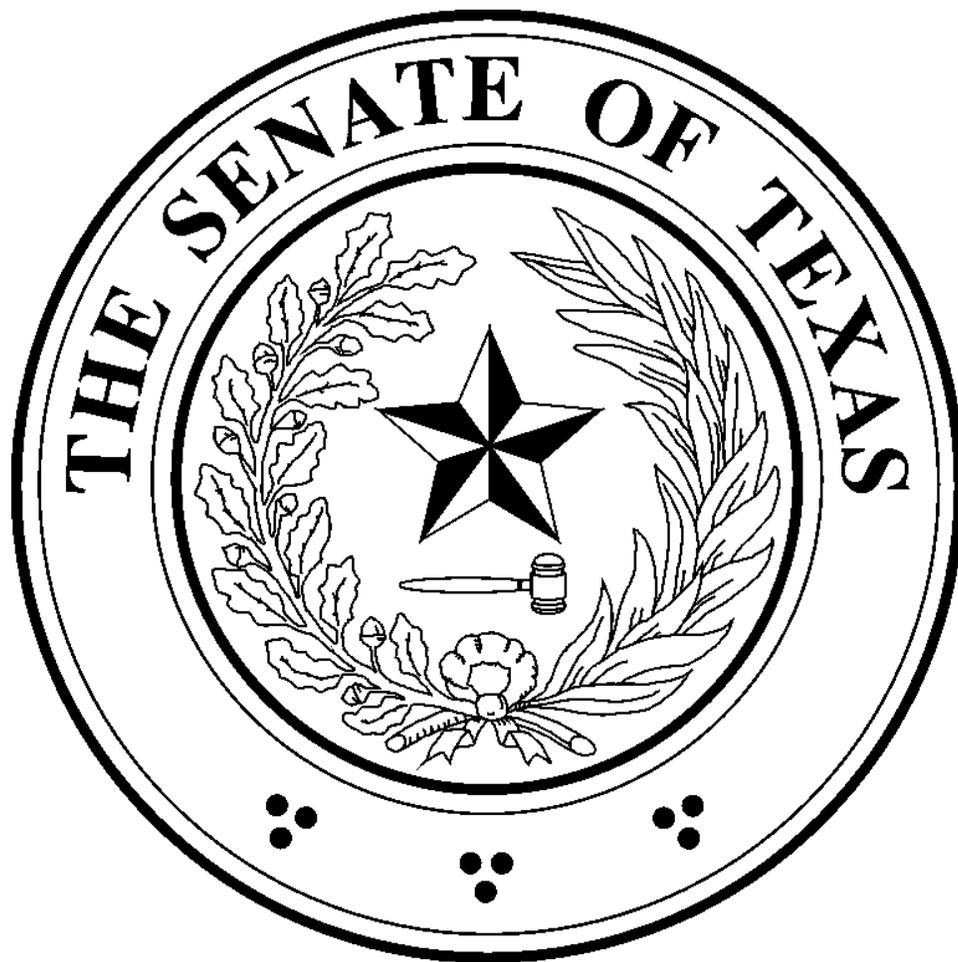


Senate Select Committee on
Violence in Schools
and School Security



Report to the 86th Legislature
August 2018



August 6, 2018

The Honorable Dan Patrick
Lieutenant Governor of the State of Texas
Members of the Texas Senate
P.O. Box 12068
Austin, Texas 78711

Dear Governor Patrick and Members of the Texas Senate:

The Senate Select Committee on Violence in Schools and School Security is pleased to submit its final interim report with recommendations for consideration by the 86th Legislature in preparation for the regular session.

Respectfully submitted,

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Senator Larry Taylor, Chair

Handwritten signature of Joan Huffman in cursive.

Senator Joan Huffman, Vice-Chair

Handwritten signature of Charles Schwertner in cursive.

Senator Charles Schwertner

Handwritten signature of Kelly Hancock in cursive.

Senator Kelly Hancock

Handwritten signature of Brandon Creighton in cursive.

Senator Brandon Creighton

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Senator Don Huffines

Handwritten signature of John Whitmire in cursive.

Senator John Whitmire

Handwritten signature of Royce West in cursive.

Senator Royce West

Handwritten signature of Eddie Lucio, Jr. in cursive.

Senator Eddie Lucio, Jr.

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CHARGES TO THE SENATE SELECT COMMITTEE ON VIOLENCE IN SCHOOLS AND SCHOOL SECURITY



Interim Charges

1. Improve the infrastructure and design of Texas schools to reduce security threats, and discuss various proposals to harden school facilities, including limiting access points, improving screening and detecting of weapons, retrofitting school facilities with improved locks, emergency alarm systems, and monitoring cameras.
2. Study school security options and resources, including, but not limited to, the school marshal program, school police officers, armed school personnel, the Texas School Safety Center, and other training programs to determine what improvements can be made to provide school districts and charter schools with more robust security options.
3. Examine the root cause of mass murder in schools including, but not limited to, risk factors such as mental health, substance use disorders, anger management, social isolation, the impact of high intensity media coverage — the so-called “glorification” of school shooters — to determine the effect on copy cat shootings, and the desensitization to violence resulting from video games, music, film, and social media. Recommend strategies to early identify and intercept high-risk students, as well as strategies to promote healthy school culture, including character education and community support initiatives.
4. Examine whether current protective order laws are sufficient or whether the merits of Extreme Risk Protective Orders, or “Red Flag” laws, should be considered for seeking a temporary removal of firearms from a person who poses an immediate danger to themselves or others, only after legal due process is provided with a burden of proof sufficient to protect Second Amendment rights guaranteed by the United States Constitution.

INTERIM CHARGE 1

Improve the infrastructure and design of Texas schools to reduce security threats, and discuss various proposals to harden school facilities, including limiting access points, improving screening and detecting of weapons, retrofitting school facilities with improved locks, emergency alarm systems, and monitoring cameras.

The Senate Select Committee on Violence in Schools and School Security (Committee) held a hearing on June 11, 2018, and received both invited and public testimony on its infrastructure and campus hardening charge. A digital recording of the hearing is available via the Committee's website.

The hearing included invited testimony from the following individuals:

- Mike Morath, Commissioner, Texas Education Agency
- Christopher Huckabee, Chair, Texas Society of Architects School Safety Workgroup
- Joe Curiel, Police Chief, San Antonio ISD
- Jeff Potter, FAIA, Texas Society of Architects
- Jeff Foley, Region 3 Co-Director, Texas Association of Resource Officers
- Mike Matranga, Executive Director for Security and School Safety, Texas City ISD

SUMMARY:

The Committee heard testimony and discussed campus design and hardening as a way to discourage and reduce opportunities for those who would commit acts of violence to enter a campus and to limit their efficacy. Witnesses testified to the resources currently available for school districts to access, the current security issues facing our schools, and the steps the state can take to prevent future tragedy.

Commissioner Mike Morath highlighted current school safety and statutory requirements governing schools within the state. School districts are required to adopt a multi-hazard emergency operations plan at least once every three years, establish school safety and security committees to provide recommendations, and conduct safety and security audits of the facilities. The agency works closely with the Texas School Safety Center, the state's central center for school safety and security information, to ensure schools and districts have access to best practices and policies in establishing their own security protocols. Commissioner Morath noted that the Texas Education Agency (TEA) has no statutory authority for oversight into these requirements and will be developing legislative suggestions to monitor implementation of requirements. Furthermore, in conjunction with the School Safety Center, TEA has begun establishing best practices and exploring the possibility of creating a program by which schools and districts can earn a school safety distinction status.

Members discussed the evidence-based training Mental Health First Aid that is being provided through local mental health authorities free of charge to equip school personnel with the tools necessary to recognize a child facing a mental health crisis, and its adequacy in addressing the issues before the Committee. 25,000 out of the 300,000 educators within the state have received this voluntary training at the time of the hearing.

Members questioned Commissioner Morath on both the authority and capacity of TEA to oversee and enforce school implementation of their emergency operation plans. Commissioner Morath noted that this requirement is administered locally and school districts have only a reporting requirement to the state, and the agency has only 1/4 of one FTE devoted to the issue.

In a discussion regarding how the state responded following the 1999 attack on Columbine High School in Colorado Commissioner Morath mentioned that the legislature created the School Safety Center and TEA works closely with the Center to provide resources to districts. Members discussed TEA taking more of a leadership role within the state.

On February 21, 2018, Governor Abbott directed Commissioner Morath to develop a plan to prevent mass shooting events, including cataloguing and sharing information on school safety programs, ensuring safety audit compliance, and publishing a list of schools that failed to complete safety audits. Additionally, the Commissioner stated school districts in the state were already mostly compliant with their safety audits, but letters were sent to schools on March 5, 2018, and May 8, 2018, reminding districts of their requirements, as well as to remind them of the resources available.

Christopher Huckabee, chair of the Texas Society of Architects School Safety Workgroup, spoke to the integration of security experts into design teams becoming standard practice when designing new facilities. His testimony covered the prevalence of attacks from users inside a building as opposed to external threats, as well as the steps already becoming prevalent in Texas schools, including gate controls, and lockdown vestibules. In addition, he discussed the effort to design schools in a manner which encourages group and personal interaction in an effort to reduce bullying and, in the event of a mass shooting, gives victims options to flee, hide, or fight depending on the situation.

Chairman Taylor and Mr. Huckabee discussed the last mass casualty event in a school relating to a fire and noted the success in fire and building codes in preventing these tragedies. Chairman Taylor noted that similar code updates and building accommodations could yield similar reductions in violence. Vice Chair Huffman noted that in many mass shooting incidents an outside shooter is not the likely threat, therefore more attention should be paid to preventing students from entering a school with a gun and gave the example of metal detectors. Mr. Huckabee said metal detectors would be helpful, but are not a perfect solution, and can be part of a multi-faceted approach that brings in other technology to mitigate school shootings.

Members questioned when features such as lockdown vestibules became standard in Texas schools and districts implementing retrofits of their campuses. Mr. Huckabee testified that he believes they have become much more standardized within the last 10 years, but that 75% of older buildings do not have them.

Senator Creighton asked Mr. Huckabee to elaborate on common shared doors to allow quick egress for students or any other ideas not yet mentioned. Mr. Huckabee noted that multiple exits also create multiple entrances for potential attackers, but local communities must be the drivers to decide what is best for their own situations. Mandating standard designs for the state may have unintended consequences and not account for every building in every district.

Member questioning of Mr. Huckabee led to discussion regarding how experts are consulted in designing schools. Mr. Huckabee noted that districts have their own safety and security

committees, and his firm has retired police officers on staff to serve as security experts. Security problems posed by temporary buildings on campuses was also discussed.

Jeff Potter of the Texas Society of Architects testified to the security efficiencies of compact schools and guidelines and best practices already in effect, and to the efficacy of cameras and sensors in use and their potential moving forward. In addition, he noted that the broad campus designs already prevalent within the state offer very difficult problems in creating a secure environment through architectural redesign. The Committee discussed the efficacy of building codes and their success at preventing mass casualties in fires and the possibility of state models for safe schools and the difficulties of implementing a top-down approach.

Chairman Taylor noted multi-faceted approaches are key in addressing infrastructure, specifically that using alarms with cameras allows schools to immediately view the area where the alarm was triggered, and expedites response to the situation.

Chief Joe Curiel of San Antonio ISD testified to the programs already in place at his district's 99 schools and their success through community policing, zones of protection, child crisis intervention training for officers, and fusion centers that monitor and disseminate intelligence amongst agencies regarding threats against school personnel, facilities, and students. He also highlighted their P3 crime prevention program that creates an easy portal for students to report threatening behavior and the intelligence unit created to evaluate these threats. Additionally, Chief Curiel spoke to the concerns that go along with having police enforce administrative code at schools rather than specifically limiting security threats.

Chairman Taylor mentioned the importance of law enforcement working together in addressing school security concerns, and Chief Curiel spoke to his district police department's excellent working relationship with the San Antonio Police Department and the communication between the two. Discussion also focused on the importance of ensuring police officers are not being used in school administration roles and encouraged procedures for interacting with students.

Moving forward, the Chairman mentioned the legislature may want to take a look as to how police officer pensions are affected when putting them on an ISD payroll to ensure all barriers are removed that may prevent an officer from working with a school district. Many retired officers who would fill these positions are forced to choose between collecting their social security or entering the Teacher Retirement System (TRS).

Questioning led to discussion of school marshals, to which Chief Curiel expressed concern about having civilians on a campus with a gun while his officers may be responding to an active shooter. Senator Creighton noted that training marshals with local law enforcement can reduce confusion. Senator Hancock also elaborated that school marshals may act as a deterrent to an active shooter situation rather than reacting to one.

Currently, there are one primary and six regional Department of Homeland Security recognized fusion centers in operation in Texas. These fusion centers are owned and operated by state and local entities and are designated by the governor. The centers provide information and analysis to law enforcement agencies dealing with all threats, and have had success in monitoring social media and relaying credible threats to schools and law enforcement.

Officer Jeff Foley of the Texas Association of Resource Officers testified to the lockdown procedures and communication protocols present at Midway ISD as well as best practices utilized by their officers to limit threats. He noted that, while limiting access points to schools to

one door may be hazardous in creating a bottleneck of students, limiting access points so that schools and officers can monitor who is entering the school is a worthwhile practice. He offered Midway High School's three door access to the school as an example. Officer Foley also elaborated that if he was to implement metal detectors on his campus he would need the resources to ensure that every person entering the building has passed through a metal detector to ensure the campus's security. Furthermore, he noted that by interacting with students inside and outside the building, resource officers have a unique perspective in identifying students who may exhibit strange behavior. He pointed out that security cameras also offer an excellent vantage point to identify problems and respond accordingly.

Officer Foley reiterated that communication is critical. In Midway ISD, lockdown may be triggered by any school personnel and from any phone within the school. The lockdown alarm is integrated into the school PA system, is loud, and accompanied by lights so that all school personnel are aware of the threat and can initiate lockdown protocols. Lockdown can only be lifted by the school resource officer entering each classroom to announce an all clear.

Lastly, Officer Foley noted that emergency detentions are a useful tool in removing students demonstrating threatening behavior from the classroom and allow police and school officials the time necessary to evaluate a threat, determine the capability to act on a threat, and to get troubled students the help they may need.

A line of questioning regarding the school marshal program led to member discussion regarding the training and hazards of the program.

Mike Matranga, Executive Director for Security and School Safety of Texas City ISD, stated that both metal detectors and armed school personnel, other than school resource officers, are largely ineffective and create a false sense of security. While infrastructure and building design is important to addressing this problem, he noted that it is not the only solution. He recommended a focus on active threat assessment in conjunction with training to triage and respond to events, eliminate situational chaos, and allow for reduced reaction times to nullify a threat. Furthermore, by examining and identifying pre-attack indicators schools and law enforcement can prevent active shooter situations from developing. Prevention should be the first method of school security according to Mr. Matranga.

Mr. Matranga stated funding that may go to metal detectors or other physical security would be better allocated for additional police officers on campus and to additional fusion centers to monitor, evaluate, and respond to threats made against schools. Senator Creighton noted that while physical security enhancements may not be perfect, they allow a realistic and expedient avenue to improve security in schools.

RECOMMENDATIONS

Regarding its interim charge on school infrastructure and design, the Committee makes the following policy recommendations:

- Consider legislation to allow additional funds for school districts to implement enhanced physical security including metal detectors, alarm systems, cameras, and hardened entrances.
- Consider updates to school building codes to ensure best practices are used in designing new school facilities.
- Consider legislation to clarify that school districts must identify a campus administrator who is responsible for identifying and maintaining contact with local law enforcement, local emergency agencies, and fire departments in their security audits.
- Consider legislation giving TEA oversight to ensure required school security audits are being completed and ensure TEA has the staff necessary to oversee compliance.
- Direct the State Fire Marshal's Office to review and provide guidance on procedures and sequences concerning school evacuations for unverified emergencies and the required number of fire drills mandated for schools.

INTERIM CHARGE 2

Study school security options and resources, including, but not limited to, the school marshal program, school police officers, armed school personnel, the Texas School Safety Center, and other training programs to determine what improvements can be made to provide school districts and charter schools with more robust security options.

The Senate Select Committee on Violence in Schools and School Security (Committee) held a hearing on June 12, 2018, and received both invited and public testimony on school security programs. A digital recording of the hearing is available via the Committee's website.

The hearing included invited testimony from the following individuals:

- Kathy Martinez-Prather, Director, Texas School Safety Center
- Chief Allen Banks, Round Rock Police Department
- Craig Bessent, Assistant Superintendent, Wylie ISD
- Kim Vickers, Executive Director, TCOLE
- Mitzi McEwen, Retired Principal, Friendswood ISD
- Dr. Pete Blair, Executive Director, Advanced Law Enforcement Rapid Response Training (ALERRT) Center
- Sheriff Jim Skinner, Collin County
- Steven McCraw, Director, Texas Department of Public Safety

SUMMARY:

The Committee encouraged testimony on all aspects of security options available to schools as well as what improvements can be made to ensure school safety. Witnesses testified to the resources and programs currently available for school districts to access, what can be done to strengthen these programs, and the steps state and local leaders can take to prevent future tragedy.

Director Kathy Martinez-Prather of the Texas School Safety Center (Center) began testimony by noting the comprehensive approach the Center takes in educating schools on how to prevent, mitigate, prepare, respond, and recover from emergency situations, as well as the work they do with bullying, suicide prevention, dating safety, drug awareness, and digital safety. Robust training programs for school based law enforcement officers in interacting and intervening with students is also of paramount importance. However, Director Martinez-Prather noted that, although schools are required to conduct a safety and security audit of their facilities, the Center has no statutory authority over school districts to ensure this requirement is met, or to mandate training. She suggested a reporting requirement so that the Center could monitor implementation of school security plans, suggest best practices, and create a standard for training. She also encouraged the creation of mental health and behavioral assessment teams on school campuses.

The Texas School Safety Center was created by the legislature in 1999 following the Columbine school shooting in Denver, CO to serve as a resource to provide training, research, and technical assistance to schools and community colleges. Located at Texas State University, the Center

employs 10 staff and receives \$1,800,000 in appropriations per biennium, in addition to several federal and independent research grants.

Responding to a line of questioning from Vice-Chair Huffman, Director Martinez-Prather noted that 435 districts attended training in fiscal year 2017, and she has no way to know how many additional districts accessed the online resources the Center makes available. The Center's curriculum originates mostly from academic study and law enforcement. Additionally, the Center leverages existing state and federal resources to evaluate and instruct.

Director Martinez-Prather stated that the Center does follow up with districts and makes assessments as to what knowledge was learned, and conducts six month evaluations as to how their training is being implemented on campus and what might not be working for an individual school.

Texas has the largest number of police officers on school campuses in the country. Director Martinez-Prather noted that there are over 240 ISD police departments, some of which are inactive, in addition to the 117 school districts that allow school personnel to carry firearms. 24% of school districts also employ school resource officers.

Steven McCraw, Director of the Texas Department of Public Safety, testified that current training is already saving lives within the state, highlighting the bravery of law enforcement, cross-disciplinary response for state and local agencies, and the optimization of information within the state. He testified that lives can be saved by the use of school hardening, metal detectors and magnetometers, and other facility upgrades. However, he noted that deterrence and prevention are more effective. Director McCraw pointed out the success of fusion centers to take in and coordinate information to make available for all agencies. He also highlighted the Iwatch Texas mobile phone application recently released by DPS, which makes confidential reporting of potential security threats easier and provides quick analysis and referral to relevant law enforcement and school officials.

Discussion focused on the profiles of past shooters and the success of fusion centers in identifying and evaluating potential threats.

Director of the Texas Commission on Law Enforcement (TCOLE) Kim Vickers testified about existing programs available for school security, including the school marshal program, school resource officers, and "guardians."

The school marshal program, created by HB 1009 during the 83rd Legislative Session, allows districts the option of having selected employees trained to protect students from armed intruders. Marshal candidates must already hold a current concealed handgun license, complete a mandatory 80-hours of training, undergo psychological and background checks, and complete a 16-hour license renewal course every two years. Additionally, Director Vickers noted what has been termed as "the guardian program" is actually a provision in Texas Penal Code Chapter 46.03 authorizing school districts to set policies that allow individuals to carry concealed weapons on campus. There is no state required training for these individuals and TCOLE has no method by which to track how many individuals have been granted these permissions. Discussion focused on the training requirements placed on school marshals and other individuals

authorized to carry firearms in school facilities, as well as interaction and engagement with local law enforcement. Members discussed methods by which authorizations to carry on campus may be monitored and reported, as well as defining minimum training standards for those authorized to carry.

Chairman Taylor asked the panel to clarify if someone carrying a concealed weapon on a school campus under a provision in Penal Code Chapter 46.03 could do so without a license to carry a concealed handgun. Director McCraw stated a person carrying a concealed handgun without a license would be breaking the law regardless of a school board's permission. Senator West noted that the penal code does not have this requirement, and the matter needs to be further clarified in statute by the legislature.

Currently, 207 independent school districts have their own active police departments with 2,987 officers. Director Vickers also noted that since the shooting at Santa Fe ISD, 13 new districts have contacted TCOLE about creating new ISD police departments. In addition, school districts can partner with local law enforcement to appoint school resource officers to be placed on their campuses.

Sherriff Jim Skinner of Collin County testified on the success of the North Texas Fusion Center under his command in identifying and acting on social media threats. Adding to Director McCraw's testimony regarding suspicious activity reporting, Sheriff Skinner noted that through reporting and law enforcement coordination throughout the state, threats are more quickly identified, evaluated, and responded to before they can be acted upon. The North Texas Fusion Center covers a 20 county area of over eight million people and involves more than 200 law enforcement agencies. By incorporating and synthesizing data from many reporting platforms, including Iwatch and social media monitoring, the fusion center is able to get expedited intelligence to affected agencies and districts. Along with federal grants, the funding for the fusion center comes from the budget of the Collin County Sheriff's office.

Sherriff Skinner stated that, on average, there is a three minute response time by law enforcement to an active shooter situation in a municipality. In rural places response time can be as much as 20 minutes or longer. Sherriff Skinner noted the frequency with which active shooters will take their own life when confronted by law enforcement or when force is applied toward them, and stated his belief that the only way to end an active shooter situation is with force. Law enforcement cannot be the only method to end an active shooter situation and with proper training and qualification, Sheriff Skinner believes school personnel should have the agency to be armed in schools.

Sheriff Skinner also highlighted the need for seamless communication between school officials and law enforcement. In addition, he recommended that local law enforcement implement policies where officers are seen in and around schools, and are involved in school activities. Sheriff Skinner described his policy by which all deputies must do a school walk through during their shift in order to gain familiarity with the facilities, students, administrators, and educators. Additionally, the Collin County Sheriff's Office assumes the cost of recruitment and training for school resource officers to be placed in schools.

Sheriff Skinner testified that the state should ensure teachers have the tools to protect themselves and their students. Door blocking mechanisms deny shooters access to rooms and give the time necessary to react to a threat. He advised that students and teachers should be taught to control their responses to disaster situations and recommended the Advanced Law Enforcement Rapid Response Training (ALERRT) offered by Texas State University to accomplish this. First aid training would also teach school personnel to respond and react to life-threatening injuries.

The panel was asked to elaborate on how law enforcement collaborates when responding to an active shooter situation. Director McCraw noted that standardized training has ensured law enforcement will react to these situations uniformly and the chief of police in an affected city is in charge of the scene with other agencies providing support. Senator Lucio stated his belief that cooperation within police departments and with school districts is crucial to stopping these shootings.

Senator Whitmire asked Sheriff Skinner if mental health resources are provided to students identified by fusion centers and how his officers work with young children. Sheriff Skinner stated the situation dictates the response and he operates on a "common sense" principle. Sheriff Skinner also offered that state officials have prioritized mental health response to these issues.

Chief Allen Banks of the Round Rock Police Department (RRPD) spoke about his efforts to create a police department within Round Rock ISD. He noted that although the school district falls within the jurisdictional boundaries of three law enforcement agencies, the fast growth of the district convinced him that the resources on hand were not adequate to secure the district's schools. RRPD provides 12 resource officers to the district, with two of those serving a mostly administrative purpose.

Chief Banks explained that when an officer is assigned as a school resource officer that officer is taken off of regular patrol dealing with adult offenders so the officer is able to better interact and build relationships with students, as well as to commit the time necessary to serve as a mentor and resource within the school.

Members' questions and discussion focused on how police officers are deployed and the adequacy of resources and supports provided.

Chairman Taylor asked the panel of law enforcement officials to rate the state's interoperability in responding to a disaster such as a mass shooting. Director McCraw said the state is on the high end of the nation in responding to such events, and the high-level training provided to first responders is already yielding results. Chief Banks expanded on that, mentioning the different scenarios not only dealing with mass shooters, but also to many mass casualty events and medical responses. Chairman Taylor also asked the panel if they had access to camera feeds within schools from their patrol cars. Chief Banks said they have partial access but are still working on total access.

Craig Bessent, assistant superintendent of Wylie ISD testified about his experience administering the school marshal program in his district as well as being a school marshal trainer. He noted that in the aftermath of the Sandy Hook Elementary School shooting his district began reviewing current safety precautions including facility hardening and security personnel. As most active

shooter events are over in three to five minutes, with an average eight to nine murder attempts per minute, the district believed the one school resource officer assigned to their campus was not adequate to address the threat of an active shooter and entered the school marshal program as the best option to respond to a threat in under three minutes. Additionally, the TCOLE licensure and training accompanying the school marshal program reassured the district that their marshals would be qualified to respond to any threat.

Mr. Bessent testified that the school marshal training is intense and begins with initial evaluations to determine if a candidate possesses the ability and aptitude to accurately fire a concealed weapon. With most of the 80-hour training requirement spent on a shooting range, accuracy is stressed and candidates must meet the same TCOLE standard of accuracy required by law enforcement in the state. Additionally, candidates are trained to understand the situations in which they may access their weapon and appropriate responses to high pressure situations. Upon completion of the initial training, marshals are required to attend training once a month and qualify on a range twice a year. Mr. Bessent also offered that school districts entering the marshal program must pay for travel and lodging for prospective marshals to attend training and suggested mitigating costs by providing training facilities in every Educational Service Center, thereby creating 20 training facilities within the state. Additionally, he advocated for a state reimbursement program for marshal training.

Mr. Bessent testified that Wylie ISD now has anonymous school marshals at every campus. If a marshal is a classroom teacher, the weapon must be stored in a lockbox or safe in a classroom and cannot be carried on the marshal's person, and may only be accessed in the event of an active threat. The marshal brings the weapon to campus every day in a locked gun bag, stores the weapon in a lockbox or safe before students enter the classroom, and retrieves the weapon only after students exit the classroom. Mr. Bessent did advocate reviewing these constraints to allow these marshals to conceal carry their weapons in situations in which the marshal will be repeatedly leaving and entering campus, stating that most accidental discharges occur when storing a weapon.

Senator Whitmire stated that while the school marshal program may work in Mr. Bessent's district, it is relied on too much as a response to active shooter situations. In more urban districts school officials may struggle to implement a school marshal plan, and much of what works in Wylie ISD may lead to problems in other settings. Mr. Bessent noted that many other areas of the state are not familiar with the program because they have other alternatives.

Executive Director of the Advanced Law Enforcement Rapid Response Training (ALERRT) Center, Dr. Pete Blair, testified to the program's current training. The center is located at Texas State University in San Marcos and is a database organization researching empirical data and experimental studies into responses to different kinds of events. Additionally, they are the primary training site for first responders and are primarily focused on mitigation. ALERRT has trained 36,000 law enforcement officers with 950 agencies on its research-based training programs.

Regarding prevention, Dr. Blair testified that the primary profile of a school shooter is a male, current or former student, who has planned the attack, has some kind of grievance with which they are not able to cope, and has broadcast their intent to attack via social media or by verbal

threat. He noted that threat assessment and mental health teams in schools that interact with students before they become violent would be ideal.

To reduce threats, Dr. Blair testified the first step is to stop the shooter, or to isolate and distract. Next, coordinated casualty evacuation prevents further loss of life. Last, recovery includes investigation work, reuniting families, and material and psychological help to return to a "new normal" for a school and for a community.

Mitzi McEwan testified that a teacher's relationship with their students is crucial in mentoring young people and creating a welcoming environment for children. She advocated for smaller class sizes to allow teachers to foster these bonds, as well as to get a better understanding of issues affecting children. Ms. McEwan also stated that school counselors are too often tasked with non-counselor duties and are unable to meet the individual social and emotional needs of their students.

Ms. McEwan testified that campus hardening, specifically metal detectors, can be useful but are not a complete answer to school violence. Furthermore, she indicated that most teachers do not want to carry a weapon in the classroom and that the safety concerns outweigh perceived benefits and that training for teachers to identify and deal with emotional or behavioral issues is preferable. These trainings should also be available to teachers at times other than just the summer.

Chairman Taylor agreed with Ms. McEwan about the relationships being formed between students and teachers facilitating good school atmospheres and reiterated his beliefs that these relationships should also be stressed among students to interact with each other and recognize when a person is showing signs of needing help.

RECOMMENDATIONS

Regarding its interim charge on school security options, the Committee makes the following policy recommendations:

- Consider the appropriate level of funding for and involvement of fusion centers.
- Review Penal Code Chapter 46.03 and provisions by which school districts authorize individuals to carry concealed weapons onto campus and consider establishing a minimum standard for training hours.
- Consider legislation to allow additional funds for training for school marshals and individuals licensed to carry under Chapter 46.03 of the Penal Code.

INTERIM CHARGE 3

Examine the root cause of mass murder in schools including, but not limited to, risk factors such as mental health, substance use disorders, anger management, social isolation, the impact of high intensity media coverage — the so-called “glorification” of school shooters — to determine the effect on copy cat shootings, and the desensitization to violence resulting from video games, music, film, and social media. Recommend strategies to early identify and intercept high-risk students, as well as strategies to promote healthy school culture, including character education and community support initiatives.

The Senate Select Committee on Violence in Schools and School Security (Committee) held a hearing on July 18, 2018, and received both invited and public testimony on its cause of mass murder charge. A digital recording of the hearing is available via the Committee's website.

The hearing included invited testimony from the following individuals:

- Dr. Teandra Gordon, Director of School-Based Behavioral Health, Legacy Community Health Agency
- Andy Keller, PhD, President and CEO, Meadows Mental Health Policy Institute
- Dr. Clifford K. Moy, Director of Behavioral Health, TMF Health Quality Institute
- Dr. Jeff Temple, Director of Behavioral Health and Research, UTMB
- Kyle Ward, Executive Director, Texas PTA
- Adrain Hudson, Teach Plus Texas, Houston ISD
- Dr. Iram Kazimi, Associate Professor Department of Psychiatry and Behavioral Sciences, UTHealth McGovern Medical School at Houston
- Mor Regev, Social Worker, KIPP Texas Public Schools
- Michelle Sacks, Safe School Institute Director, Crime Stoppers of Houston
- Sharon Bey, CSC, Texas School Counseling Association
- Morgan Craven, Director, School-to-Prison Pipeline Project, Texas Appleseed
- Lisa Descant, LPC-Supervisor, COO, Communities in Schools of Houston
- Dr. Stephanie Barbre, LSSP, Texas Association of School Psychologists

SUMMARY:

The Committee met to consider testimony on all potential causes of mass shootings and examine methods of threat assessment in school districts. Witnesses testified regarding the populations likely to commit these crimes, steps to encourage a healthy school culture, and how to best serve those in need of additional support.

Dr. Andy Keller, CEO of the Meadows Mental Health Policy Institute, began testimony by reviewing the role of mental health within the scope of school violence. Dr. Keller testified that mental illness by itself is not a risk factor for violent acts and we see only a small change in the preponderance of violence among those with severe mental illness as compared to the general

population. Two out of every one hundred people within the general population are likely to commit an act of violence. Three out of every one hundred being treated for severe mental illness are likely to commit an act of violence. As the majority of mass murderers do not have a recognized treatable mental illness, Dr. Keller stated his belief that while the state can focus on this most at-risk population, there is no reason to believe focusing solely on this population will prevent future events.

Dr. Keller stated that among the 4.9 million Texas children between the ages of six and 17 years old, 1.9 million are identified with behavioral health needs. Of those, the Meadows Mental Health Policy Institute estimates the 20,000 children most at risk to commit violence are those with the most severe needs and fewest economic and family resources. Within that population, 900 children with new psychotic disorders are at the highest risk to commit homicide. If left untreated, they are roughly fifteen times more likely than their peers to commit murder. Additionally, these children are twenty-four times more likely to attempt suicide. Today, treatment is delayed for an average of seven years post-onset due to lack of identification and diagnosis.

Dr. Keller testified that early identification and treatments are key to dealing with these populations. Half of all mental health conditions manifest by age 14, and interventions are most effective at the early stages of onset when symptoms are less severe. By young adulthood, 75% of mental health conditions will have presented. Dr. Keller identified three key components for the mental health treatment for children:

- Helping local schools identify needs and link to help:
 - Early, before situations become harder to treat; and
 - Fast, when a severe need arises and expertise is essential to maintain safety and functioning;
- Helping pediatric primary care providers find and treat mental illness early when it is mild to moderate; and
- Making intensive treatment available to children and youth with the most severe needs quickly when needs emerge.

Dr. Keller testified that all schools need an identified trained professional to coordinate identification and serve as a liaison to treatment. He stated that school counselors who have time dedicated for student mental health, school-based clinics, Communities in Schools, or similar programs would be ideal to fill this need. When a severe need arises, schools must be able to get expert evaluation quickly, and teachers and staff must have rapid and reliable access to advice and care from trained experts. There are Texas schools that have these experts on staff who can address these situations, but many Texas schools do not. Dr. Keller encouraged legislators to explore the use of telemedicine to serve these gaps in coverage. According to Dr. Keller, the Telemedicine Wellness Intervention Triage and Referral (TWITR) Project operated by Texas

Tech University has had success in using telehealth networks to connect individuals with mental health needs to the care they need.

Dr. Keller pointed out that 75% of children with mental health issues who receive care are receiving it in a primary care setting and that with the right early support, most identified children would not need a specialist. Further, he stated 30 states have implemented Child Psychiatry Access Programs, most located at academic medical centers, to serve as a regional system of children's behavioral health consultation and referral. Dr. Keller estimates each hub can serve up to 900,000 children once fully operating.

Specialty care for the most troubled and at-risk populations is a team-based approach that starts assertive and intensive treatment as soon as diagnosed. Texas currently has 12 Coordinated Specialty Care teams located in 10 community centers. Each team expects a caseload of 30 patients who are typically over the age of 18 years old, meaning that identification of these individuals is occurring too late for interventions that can yield the most effective results. Dr. Keller stated his belief that the state should expand these programs for youth 14 to 18 years old, leveraging the expertise of both community centers and medical schools to work in collaboration to provide this care. As an example, Dr. Keller mentioned the success of Harris County's Multi-Systemic Therapy (MST), which has seen a 75% decline in violent crime among its patients after identification and treatment.

Dr. Clifford K. Moy, Director of Behavioral Health at TMF Health Quality Institute, testified on behalf of the Texas Medical Association (TMA) regarding the indicators of mental health issues in youth, as well as to many of the issues being addressed in adolescence today. He reiterated the point that most mass shooters have not had diagnosed severe mental illness at the time of a shooting, but many have demonstrated several stressors or have exhibited attack indicators before they commit a violent action. Dr. Moy offered perspective on youth at risk in high schools, mental health screenings for children, and the TMA recommendations moving forward.

Quoting the 2017 National Youth Behavioral Study, Dr. Moy testified that 19% of students have reported being bullied on school property, and 7.4% were threatened or injured with a weapon on school property. Reports also show 26.7% of students were offered, sold, or given an illegal drug on school property in the past 12 months, 26.8% had at least one drink of alcohol on one or more of the previous 30 days, 14.9% had used prescription pain medicine without a prescription, and 16.4% of students reported that they had been forced to perform sexual acts against their will by someone they were dating. Dr. Moy testified that this data indicates behavior within our schools that is hostile and intimidating.

More than one third of Texas high school students have reported stopping usual activities because they feel sad or hopeless almost everyday for at least two weeks and demonstrate other symptoms of depression. Over the past 10 years, attempted suicide rates among Texas high school students have increased from 8.4% to 12.3%, and attempts requiring medical treatment

increased from 2.6% to 4.5%. Dr. Moy indicated these increases are due to a lack of access to support and treatment.

Dr. Moy testified that relationships between students and adults during these developmental years are critical. The Centers for Disease Control identifies campus connectedness as an important factor to prevent risk behaviors and improve academic achievement. Encountering these stressors without necessary supports contributes to toxic stress which can lead to troubling or violent behavior. The regular presence of a supportive and trusted adult may drastically reduce the impact of childhood adversity on mental well-being and reduce the adoption of worrying behavior.

Dr. Moy then went on to advocate for mental health screenings for all children, noting that up to one half of mental illness develops by the age of 14. Approximately one fourth to one fifth of youth in the U.S. meet the criteria for having a mental disorder that will result in severe impairment across their lifetime. Dr. Moy testified that mental health screenings are recommended by TMA for adolescent children, but there is little information as to whether or not children are receiving them. He stated that in 2016, 25% of Texas adolescents aged 12 to 17 did not receive any type of preventive care that offers the opportunity for mental health screening. Effective July 2018, Texas Medicaid's early preventative screening diagnosis program, Texas Health Steps, now covers annual health screening for Texas adolescents 12 to 18 years of age.

Speaking to the issue of access, Dr. Moy noted the importance of school-based counselors, particularly for rural and low income areas, to serve as the key support to children dealing with stressors. Furthermore, surveys reveal that a large portion of students who enter the juvenile justice system have a wide-range of mental health issues and substance abuse disorders. More than 800 children 10 to 17 years old are admitted to the juvenile justice system each year. In 2017, almost one third had a suspected history of abuse or neglect. State supports for these children includes residential treatment, but Dr. Moy noted these services appear insufficient.

Dr. Moy then provided TMA's policy recommendations:

- Work with medical schools and residency programs to train students to recognize mental health disorders in adolescents
- Increase the number of beds in state psychiatric hospitals
- Work within Juvenile Justice to identify and intervene with adolescents displaying mental health disorder symptoms
- Promote the development of School Health Advisory Committees and their ability to recognize stressors
- Expand public school mental health training programs, and focus on providing students access to school counselors who are trained to deal with mental health issues
- Encourage schools and districts to develop relationships with local mental health authorities

Dr. Jeff Temple, director of Behavioral Health and Research at UTMB, began his testimony by noting that mental illness is not the driving factor of violence and that those with diagnosed mental health conditions are more likely to hurt themselves or be hurt by someone else than to harm another individual. Dr. Temple also noted the high likelihood that social isolation, abuse towards women, and a misogynistic world view are factors leading towards a troubled student becoming a mass shooter. Dr. Temple suggested that state efforts to end violence in schools should not be focused on identifying potential mass shooters, but should focus on simply identifying children who need help. Universal primary prevention, such as "The Fourth R: Strategies for Healthy Youth Relationships" curriculum used in Galveston ISD, guarantees that all students are exposed to curriculum dealing with healthy relationships and interpersonal interactions to ensure all students have the skills necessary to deal with the stressors they will face on a daily basis. Universal prevention also provides a more efficient use of resources by focusing on all students and their ability to interact with the world around them, rather than diverting resources to individual programs that isolate and target a fewer number of children who are unable to deal with specific and much more rare situations.

Responding to a question from Senator Huffines regarding the change in society and urbanization of our culture since the 1970s, Dr. Moy mentioned the change in society due to technology, but noted that these events are not necessarily new. He also elaborated on social media being used as medium to spread social contagion, noting independent events such as cluster suicides as a model to understand these events.

Dr. Temple testified that rural suicides are more common and that mass shootings have happened in the past. There has been an increase in the feelings of social isolation and a continuation of a "Columbine mindset" due to many factors, noting the attention school shooters get as well as increased access to illegally obtained guns. Dr. Temple also made the argument that social media is here to stay, and that attempts to police social media would be a misallocation of resources and yield little result.

Dr. Andy Keller also added that while there has not been an increase in overall school violence since the 1970s, mass shooting events have increased in frequency. However, Dr. Keller pointed out mass shootings are still rare, and that it is now statistically safer than ever to attend Texas public schools. Dr. Keller also elaborated that while positive behavioral treatments should affect every child, universal treatments will not work for every child. Once some children are identified as suffering severe adverse childhood experiences additional interventions will be needed.

From a school safety perspective, Dr. Temple recommended a review of placement of students in Disciplinary Alternative Placement Education Programs (DAEP), stating that they are not an effective model to address behavior, particularly in young children, and often exacerbate the feelings of social isolation many children may feel.

Chairman Taylor asked the panel if teenage sleep deprivation exacerbates the issues students face daily and received a unanimous response on the importance of sleep. Dr. Temple elaborated that there is some correlation between a lack of sleep and violence, and that sleep deprivation will increase the severity of every mental health problem. Dr. Moy added that we know teenagers need more sleep than adults, and that an inability to sleep can be a warning sign of other issues.

Dr. Teandra Gordon of Legacy Community Health testified to the success their school-based mental health interventions are having within the KIPP and Yes Prep charter school systems, as well as to the way their healthcare professionals interact with families and school personnel. Legacy Health operates within 18 schools in the Houston area, providing primary care for all students and other interventions when identified. This program eliminates barriers to healthcare for in-need students, such as stigma, cost, and transportation. The program also uses what is called a "warm handoff," by which school personnel can introduce students and their families to medical practitioners making repeat visits likely and greater screening possible.

Students can be referred to Legacy Health mental health professionals by school nurses, teachers, or administrative staff when behavior exhibits warning signs. The student is screened and treated onsite, which adds healthcare to a normal part of the school experience. Additionally, Legacy Health practitioners have training in threat assessment indicators to identify those students most at risk for harming themselves or others.

Dr. Gordon reiterated that most students receiving mental health services are not likely to become violent, and that while mental health training can be a tool in combating school-based violence, it should be one of many. Dr. Gordon encouraged the Committee to review the creation of a competitive grant for schools in need of hiring additional school-based mental health professionals. She noted the demand for school-based mental health programs consistently outpaces their ability to provide it.

Dr. Stephanie Barbre, LSSP, Texas Association of School Psychologists, testified on her experiences as a Licensed Specialist in School Psychology (LSSP), as well as to the shortage of qualified LSSPs within the state and available to school districts. Much of her time is spent evaluating how students qualify for different special education services, and providing mental health services to students displaying behavioral health problems or who have demonstrated violent behavior in the classroom.

Dr. Barbre serves five different districts in the Lubbock area and specified that this is indicative of the lack of districts covered by LSSPs within the state. She estimates there is one specialist available for every 2,197 students enrolled in Texas public schools. Dr. Barbre further indicated this ratio should ideally not be more than one LSSP for every 500 to 700 students based on the needs of that area.

Texas is one of only three states that uses the term Licensed Specialist in School Psychology in lieu of the industry's preferred term of school psychologist. Dr. Barbre believes by aligning the term to mirror what is being done in the other 47 states, Texas could solve a visibility issue that is leading to a deficit in understanding by the public as to the resources available, and remove a barrier preventing qualified people from entering the profession.

Dr. Barbre also offered the Texas Association of School Psychologists' recommendations to the Committee in combating school violence:

- Encourage social emotional learning for all grades
- Teach and reinforce life skills
- Be more inclusive of students who would otherwise be removed from the classroom
- Encourage healthy sleep patterns

Sharon Bey, who serves as the Counseling Coordinator for Waller ISD and spoke on behalf of the Texas School Counseling Association (TSCA) regarding the role of the school counselor, teaching coping and social skills, and offered recommendations on behalf of her organization.

Ms. Bey offered that school counselors are trained to address different student situations and identify triggers, and can also deal with crisis response issues when needed. The capabilities and training of school counselors is set forth in the Texas Model for School Counseling, which aligns statute with best practices as determined by the TEA and the TSCA. There are four counseling program delivery systems proposed in the model:

- Guidance curriculum- systematically provide services to facilitate growth and development and transferrable skills in the areas of educational, career, personal, and social development.
- Responsive services-counselors intervene on behalf of students whose immediate personal concerns or circumstances interfere with a healthy personal, social, emotional, education, or career development growth. Services can be punitive, remedial, or serve as crisis response depending on the student or situation.
- Individual planning-Guiding all students as they plan and monitor and manage their own career, social, and emotional development.
- System support-identifying and coordinating all services available to students.

Chapter 33 of the Texas Education Code (TEC) addresses school counselors and counseling programs throughout. TEC Chapter 33.006 specifically outlines general duties for school counselors. TEC Chapter 21.003(b) also states the credential requirements for counselors, LSSPs and school nurses. Additionally, State Board for Educator Certification (SBEC) rules relevant to counselors can be found in Chapter 239 of the Texas Administration Code.

The TEC does not include any specific requirements for school nurses, nor does the State Board of Educator Certification (SBEC) regulate school nurses.

Ms. Bey highlighted that when schools fully implement comprehensive school counseling programs students feel safer, disciplinary referrals decline, attendance rates increase, and students improve and are more likely to pursue post-secondary degrees. Ms. Bey stated that because these programs are so effective it is a problem that they have not been implemented on all campuses as there is no mandate to do so. Schools are not required to employ a school counselor, and in many instances, the counselors that are available are being tasked with non-counseling duties meaning they are unable to deliver the services that are beneficial to students.

The TSCA made the following recommendations to the Committee:

- Get better data on where school counselors work by directing TEA to update the Public Education Information Management System (PEIMS)
- Mandate duties assigned to school counselors
- Modify continuing education for principals and superintendents to include training on how to use school counseling programs
- Dedicate a portion of funding specifically to school counseling and designate a staff person at TEA to work on school counseling programs. Currently, this is done through the office of curriculum

Based on information provided by TEA, 156 local educational agencies representing 13% of all school districts and charters in Texas, reported having zero direct employees of the district serving as a counselor. Additionally, according to information provided by TEA, 364 local educational agencies, representing 30% of all school districts and charters in Texas, reported having zero direct employees of the district serving as a nurse.

According to TEA, while a district may report not having a direct full time equivalent (FTE), this doesn't necessarily mean that these schools do not provide these services. Districts may employ an outside contractor to provide these services. However, data provided to TEA will only account for direct FTE's of the district, and therefore, it is indeterminate to ascertain the level of service of districts and charters who utilize contractors for this purpose.

Social worker Mor Regev at KIPP Courage College Prep and Spring Branch ISD testified on behalf of the National Association of Social Workers (NASW) about the broad range of duties assumed by a school social worker. Ms. Regev testified that much of her time was spent coordinating services and identifying resources, crisis management, providing counseling services, or working with other school personnel to develop and implement education plans on behalf of individual students. As the duties of a school social worker can be so diverse, Ms. Regev suggested the Committee review codifying the assigned duties of a social worker.

Ms. Regev noted that the NASW recommends having one school social worker for every 250 students, but as of today there are only 800 school social workers in the state. Ms. Regev also testified that restorative practices that keep students in the classroom in lieu of traditional punishments can foster relationships and can be useful in helping children process the stressors they deal with daily. Ms. Regev mentioned these practices can include group discussion or other moderated conversation between students in conflict.

Dr. Iram Kazimi, Associate Professor in the Department of Psychiatry and Behavioral Sciences at UTHHealth McGovern Medical School at Houston, testified to the importance of identifying risk factors, in particular violent video games, and deploying state resources in the most efficient ways possible.

Dr. Kazimi testified that studies have shown that while exposure to violent media may not cause increased violence, it does lead to more aggressive behavior, and noted that 97% of teens now play video games with about 33% of those games being violent. Children who play violent video games are 2.5 times more likely to exhibit aggressive behavior and thinking. Dr. Kizimi believes these effects are caused by three independent factors:

- "Priming"- Being exposed to a violent environment causes children to form more violent associations in daily life.
- "Arousal"- Being exposed to a violent environment causes children to be more reactive and diminishes their ability to make associations.
- "Mimicking"- Reenacting the violent events witnessed.

Dr. Kazimi stated the way a child develops and thinks about the world around them is affected by constant exposure to a violent environment. Children are exposed to multiple types of media at a very young age, much of it violent, which diminishes their ability to self-soothe and develop self-confident behaviors.

- By the age of 18 the average teenager has seen over 100,000 people killed in media.
- From the ages of two to 11, children watch an average of 26 hours of media a week.

Dr. Kazimi said efforts should be made to change the way children think about the world around them and having more counselors and psychologists trained and available would be ideal, but due to time and fiscal constraints other ideas need to be considered. Dr. Kazimi noted the success of mentallization therapy which involves taking the time to think about the way other people think and what their experiences are, and noted teachers and school counselors can be trained to administer this therapy.

Michelle Sacks, the Safe School Institute Director for Crime Stoppers of Houston, testified on the programs already being implemented in Houston area schools at no charge, as well as to the success the organization is having. Crime Stoppers of Houston's Safe School program began as a tip line in the 1990s and has evolved into a nexus related towards crime prevention. The

organization offers 30 presentations to students, teachers, school staff, school based law enforcement, and parents. Over 1 million students have been reached by these presentations. In addition, Crime Stoppers of Houston's anonymous tip line offers awards of up to \$5,000, programming to support the tip line, and three ways for students to report suspicious activity: the tip line, website, and mobile application. Ms. Sacks suggested the program can be expanded and replicated within the state to address school safety issues, and is already expanding to rural areas around Houston.

Morgan Craven, director of the School-to-Prison Pipeline Project for Texas Appleseed, spoke to the importance of identifying unintended consequences before further action is taken, as well as to the unintended consequences of "zero tolerance" policies that remove students from classrooms. Ms. Craven stressed that school officials need the discretion to deal with behavioral issues in appropriate and reasonable ways, and too often children are being unnecessarily pushed into the justice system for school behavior.

Ms. Craven noted that following the Parkland, Florida shootings, her organization began tracking a spike of arrests of children in schools for "exhibition of firearms" and "terroristic threats." In many of these cases, the students were being arrested for what they were saying or for making hand gestures rather than actually bringing a firearm into the school. From January to May of 2018, over 1,400 children have been arrested in Texas schools, a 156% increase for arrests of terroristic threat compared to the same time period the previous year, and a 600% increase for arrests for exhibition of firearms compared to the same time period the previous year. In many of these situations no substantive threats were being made.

Ms. Craven stated these increases are indicative of an overreaction by schools and shows many children are being unnecessarily funneled into the criminal justice system. Ms. Craven also noted the high preponderance of 10 to 13 year olds in these populations, as well as an over representation of African American students. She attested that putting these children into the criminal justice system is not getting them the guidance or services they may need, and is actually more damaging to the student. Instead, schools should be discovering what the root causes of these behaviors are, and engaging resources to ensure these children have the supports they need.

Ms. Craven went on to mention that the behavioral threat assessment model created by the United States Secret Service and the United States Department of Education recommends a strong focus on school culture and developing strong relationships versus the increased use of law enforcement. If a student is determined to be a substantive threat, law enforcement should become involved, but if a student is a transient threat some other type of intervention is necessary. One percent of threats made in school are substantive, or only 15 students of the 1,400 arrested in Texas from January to May of 2018.

Lisa Descant, COO of Communities in Schools (CIS) of Texas, spoke regarding their programs currently being operated within this state and the success they are having in intervening with troubled youth. CIS leverages existing state funding, combined with private fundraising, to employ mental health professionals to reach students who have experienced traumatic events or exhibit concerning behavior. Early interventions prevent issues from evolving into serious conditions. CIS provides mental health evaluations, mental first aid training, expansion of counseling services, and utilizes restorative practices and rehabilitation.

Kyle Ward, Executive Director of the Texas Parent Teacher Association (PTA), offered that parents should be part of any solution in combatting school violence. Texas PTA is already involved with several programs dealing with community involvement, child response to media, anti-bullying and anti-suicide initiatives. Mr. Ward mentioned the PTA has several initiatives that seek to educate parents as to their role in school safety.

Adrain Hudson, a fourth grade teacher in Houston ISD, representing Teach Plus Texas, testified about his personal experience teaching at-risk students as well as his experience as a student. Mr. Hudson suggested the Committee review initiatives that provide more counselors to students, and provide teachers more training in recognizing and intervening with students who demonstrate worrying behavior.

RECOMMENDATIONS

Regarding its interim charge related to root causes and prevention, the Committee makes the following policy recommendations:

- Consider legislation to direct TEA to incorporate school counselor data into PEIMS regarding location and number of students served.
- Review the effectiveness and unintended consequences of "zero tolerance" policies in Texas schools.
- Consider methods to increase the availability of school counselors, Licensed Specialists in School Psychology, and school social workers in schools, particularly in rural and remote areas of the state.
- Consider legislation codifying the duties and responsibilities of school counselors, Licensed Specialists in School Psychology, and school social workers.
- Consider legislation incorporating threat assessment teams into Health Advisory or School Safety Committees already on campus.
- Expand the availability of Mental Health First Aid training for all school district employees interacting with students.
- Review the use of Disciplinary Alternative Placement Education Programs (DAEP) and consider behavior intervention methods.
- Consider expanding the use of telemedicine and telepsychiatry to help children in crisis obtain access to mental health services before violence occurs.
- Consider legislation to strengthen the state's mental health system by leveraging the expertise of state medical schools by creating psychiatry hubs that connect pediatricians seeking consultation with experts in mental health.

INTERIM CHARGE 4

Examine whether current protective order laws are sufficient or whether the merits of Extreme Risk Protective Orders, or "Red Flag" laws, should be considered for seeking a temporary removal of firearms from a person who poses an immediate danger to themselves or others, only after legal due process is provided with a burden of proof sufficient to protect Second Amendment rights guaranteed by the United States Constitution.

The Senate Select Committee on Violence in Schools and School Security (Committee) held a hearing on July 24, 2018, and received both invited and public testimony on extreme risk protective orders. A digital recording of the hearing is available via the Committee's website.

The hearing included invited testimony from the following individuals:

- Danna Half, Volunteer, Moms Demand Action for Gun Sense in America
- David Slayton, Administrative Director, Office of Court Administration
- Shannon Edmonds, Director of Government Relations, Texas District and County Attorneys Association
- Gyl Switzer, Executive Director, Texas Gun Sense
- Edwin Walker, Walker & Taylor, PLLC

SUMMARY:

The Committee met to take up and examine Extreme Risk Protective Orders (ERPO), or "Red Flag" laws as commonly known, as well as the efficacy of current protective order laws. David Slayton with the Office of Court Administration, opened testimony with an overview of ERPOs, their use nationally, and applicability in courts. In his testimony, Mr. Slayton detailed the types of evidence that most states require to determine an individual's level of risk to himself or others, and various procedures for the surrender or transfer of firearms.

Implemented in eleven states, ERPO laws enable law enforcement and different individuals depending on the state to petition a court to temporarily remove an individual's access to firearms if evidence is provided that the individual is a potential harm to themselves or to others. Senator Huffman questioned the difference between ERPO laws and current state laws and asked for an overview of current protective order laws in Texas. Mr. Slayton noted that state protective order laws largely mirror federal law, with a couple of exceptions. As under federal law, firearm possession is generally prohibited for convicted felons, those convicted of domestic violence, or who are subject to certain restraining orders. Additionally, individuals may be prohibited from purchasing or possessing a firearm due to a diagnosed mental illness under two conditions: (1) the individual has been involuntarily committed to a mental hospital; or (2) a court or government body declares the individual mentally incompetent. However, state law extends the

prohibition of firearm possession to ammunition as well, and expands the definition of domestic violence to include those in a dating relationship, and those convicted of stalking and human trafficking.

Mr. Slayton offered a discussion of some of the critical issues to consider with ERPO laws, including: jurisdiction of courts, mental health evaluations requirements; the necessity of appointed counsel and costs involved regarding attorneys, fees, and evaluations; notification of rights; penalties for false reporting; and requirement of search warrants. He concluded with an overview of some of the legal challenges to ERPO laws. Challenges have questioned the ability of law enforcement to seize firearms from a legal owner absent a disqualifying criminal conviction, as well as the potential for mistakes or abuse in denying an individual of their constitutional rights.

Shannon Edmonds, with the Texas District and County Attorneys Association and Chris Ponder, assistant district attorney in Tarrant County, offered testimony on how protective orders work. Mr. Edmonds noted that with the protective order in domestic violence cases, the victim is able to call law enforcement for help if their abuser shows up with a firearm. He also clarified that any individual convicted of a felony may not possess a firearm for five years after serving their sentence and then may only possess a firearm in their home.

Mr. Ponder highlighted his experience working in the mental health case unit and the process involved in restricting firearms for those suspected of mental health issues under current state law. In Tarrant County, over 5000 cases were brought to the court in 2017 alone. He stated that when a police officer believes an individual has a mental health issue and poses a risk to themselves or others, they take them to the mental health unit and confiscate their firearm. Within 48 hours, the individual must be evaluated and either committed to a mental health hospital or released. If committed, the individual must be given access to an attorney and set a hearing within 14 days. The case must be decided within 14 days. Mr. Ponder stated that in the majority of the cases brought to them, the individual is released, with fewer than 10 percent being committed.

Testimony and discussion also focused on the potential challenges in ERPO laws, including the required surrender of firearms, process for the return of firearms, and how to determine whether an individual may commit a future act of violence. Mr. Edmonds and Mr. Ponder both questioned the ability of local authorities to ensure compliance safely and effectively. Mr. Slayton also described the legal difficulties in determining if an individual is a future danger to themselves or others. Mr. Ponder discussed the process for having a gun returned, stating that there is little law on this and he has only seen gun rights restored once.

The second panel offered testimony from advocates for and against the implementation of ERPO laws in Texas. Danna Halff with Moms Demand Action for Gun Sense in America and Gyl Switzer with Texas Gun Sense testified to their group's support for ERPO legislation, as an essential solution to gun violence in the U.S. Ms. Halff proposed that red flag laws would fill a perceived gap in current protective order laws, by enabling family and household members, as well as law enforcement to seek an order to remove a gun from someone believed to be in

"crisis" and a risk to themselves or to others. Ms. Halff highlighted studies that suggest ERPO's in other states have lowered suicide rates.

Ms. Switzer followed with testimony highlighting the areas in current law where she believes there are gaps, including the absence of a requirement that firearms are removed from an individual who has been involuntarily committed to a mental hospital or who has been evaluated and released. She testified that, in considering ERPO legislation, Texas should include certain factors to be considered in an order, such as: recent acts or threats of violence; history of threatening or dangerous behavior; history of or current misuse of controlled substances and/or alcohol; unlawful or reckless use, display, or brandishing of a firearm; recent acquisition of firearms, ammunition, or other deadly weapons; and cruelty to animals. In addition, she testified against the use of mental or psychiatric diagnoses when considering an ERPO order since they stigmatize an individual.

Gary Wells and Edwin Walker, both practicing attorneys focusing on Second Right Amendment cases, detailed issues with proposed ERPO laws and the impact on individual rights to possess firearms. Mr. Wells detailed current statute, testifying that current statute provides a comprehensive framework for law enforcement to remove firearms and apprehend, detain, and seek treatment of individuals with a mental illness or who exhibit behavior to indicate they are a significant risk to themselves or others. Mr. Walker also highlighted the efficacy of current statute, noting Chapter 573 in Texas Health & Safety Code, which allows for the apprehension and removal of firearms by law enforcement when they believe that individual is a potential risk to themselves or others. He summarized that ERPO laws should not be considered due to the fact that orders are not based upon a mental health evaluation or a criminal conviction, and therefore, unduly violate an individual's rights.

In conclusion, the Committee considered the efficacy of ERPO laws enacted in other states, while examining the use and impact of current protective order statutes in Texas. Both invited and public testimony offered perspectives on the effectiveness of current protective order laws, and offered ideas on how to improve implementation. Members noted the possible need for clarification in current laws, and weighed the challenges with ERPO laws in protecting the public from gun violence while protecting constitutional rights to own firearms and to due process.

RECOMMENDATIONS

- Consider legislation to clarify current statute on whether and when an individual convicted of domestic violence may possess a firearm legally.
- Consider legislation to clarify current statute regarding the return of firearms to individuals who have been detained and declared to no longer be a risk to themselves or others.

LETTERS FROM MEMBERS

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SENATOR
EDDIE LUCIO, JR.

August 2, 2018

The Honorable Larry Taylor
Chairman, Senate Select Committee on Violence in Schools and School Security
PO Box 12068
Austin, TX 78701

Chairman Taylor:

Thank you for your leadership on the Senate Select Committee on Violence in Schools and School Security. As we learned in the hearings, school safety is a multifaceted issue impacting fields as diverse as education, criminal justice, law enforcement, and health, and bringing stakeholders in all those fields together under the common purpose of the safety of our students is a monumental achievement. From your efforts in this committee and your other work for education, I know that all of your constituents - especially those in Santa Fe - can be proud to call you their Senator.

I was particularly interested in testimony concerning the physical layout of schools and the security opportunities that exist in hardening access to school grounds and campuses. Our children are our most precious resource, and they deserve our best efforts to keep them safe while they are in the care of public schools.

As we learned, schools are already required to develop a safety plan and conduct regular audits to continuously improve campus safety. However, there is little guidance in law on best practices in building design and physical security aspects to emergency readiness and response. I am grateful that the report includes recommendations about updating building codes to take these best practices into account; beyond these efforts, though, I believe existing schools can also be more reflective about security measures they can take to keep students safe.

In the upcoming session, I encourage my fellow members to support the appropriation of financial resources for school districts looking to upgrade their security infrastructure. Likewise, I encourage the Legislature to consider improvements to the requirements of district emergency operations plans and audits. Additional statutory guidance can ensure that safety audits are comprehensive, encompassing every aspect of school safety including structural barriers to entry, school security personnel, student and staff lockdown or evacuation procedures, and any other information that will help school officials self-assess their readiness for an emergency situation.



Additionally, I give my strongest support to the committee's recommendations related to the provision of counseling and mental health services. Our school counselors, in particular, are a resource that we have regrettably failed to fully leverage to not only prevent school violence, but also to improve student wellbeing in general.

In my over thirty years as a state legislator, I have relentlessly advocated for policies that aim to increase the quantity and effectiveness of counselors in Texas, including legislation to ensure counselors spend most of their time on counseling – which is their primary responsibility. In discussions on that topic, many small school districts had concerns that such a requirement would erode their flexibility to staff their schools with limited resources. Although these concerns certainly have merit, these positions represent status quo. The solution is simple: be proactive, not reactive. The state must provide the financial support that is necessary to ensure all schools can most effectively leverage the powerful potential for student health that school counselors represent. We must let nothing - not the vast geography of Texas, nor the competing demands in our state budget - stand in the way of ensuring the health and safety of our children.

Again, thank you for facing the challenge of school safety head-on through your leadership on this committee. I look forward to tackling this and other educational issues by your side in the 86th Legislative Session; it is a privilege to serve as your Vice Chair of the Senate Education Committee.

Sincerely,

A handwritten signature in cursive script that reads "Eddie Lucio, Jr." with a stylized flourish at the end.

Eddie Lucio, Jr.
State Senator

ELJ/cwl

