

SCHOOL AND FIREARM  
SAFETY ACTION PLAN

GOVERNOR GREG ABBOTT

MAY 30, 2018



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# BETTER PROTECTING OUR STUDENTS & TEACHERS

On May 18, 2018, a 17-year-old Santa Fe High School student walked in to an art class at his school with a shotgun and a .38 revolver that were legally owned by his father.<sup>1</sup> He opened fire on students and school employees, killing ten people and injuring 13 others.<sup>2</sup> He also had crudely constructed IEDs that failed to detonate.

On Tuesday, May 22, the Governor met with superintendents, administrators, and law enforcement officials to discuss possible improvements to the physical safety of Texas schools. As part of the discussion, the Governor focused on listening to what changes to existing school safety practices laws should be made. The overall theme of the day was the importance of schools partnering with local law enforcement to plan for emergency situations. Superintendents and other school officials also discussed zero-tolerance policies for serious threats made in the classroom. They indicated that they feel hamstrung by the current laws of the state and are forced to keep students in classrooms who represent a threat to themselves, teachers, or other students.

On the second day of the roundtables, Governor Abbott led a discussion focused on mental health and firearm safety issues. The first half of the discussion focused on the causes of mass shootings and the current resources and expertise available in the state to address mental and behavioral health issues. In the second part of the discussion, attention was given to firearm safety. The Governor framed the discussion as a debate between sides traditionally opposed on gun control issues. The discussion focused on policies that could increase the safety of schools and communities while preserving Second Amendment rights.

During a third roundtable discussion, Governor Abbott met with survivors of mass shootings and members of communities impacted by gun violence. Over the course of this meeting, the Governor received valuable feedback on the ways that these shootings could have been prevented, including through increasing law enforcement capabilities, training and arming school employees, “hardening” of schools, improving campus culture, and intervening before tragedies take place by reporting of suspicious or criminal activity through conventional and digital means.

Common themes of all the discussions were:

1. Making Schools Safer Places
2. Identifying Threats in Advance and Resolving Them
3. Improving Mental Health Assessments and Services

Participants in the roundtables put forward the recommendations in every section of the proposals below. Focusing on making schools safer through increased law enforcement, better threat assessment and intervention, and mental health interventions, these recommendations outline both immediate actions that the state will take before the start of the 2018-2019 school year to reduce the likelihood of another tragedy, as well as legislative proposals that lawmakers should evaluate to improve school safety in the coming years.

The following proposals provide about three dozen strategies that can be implemented by Texas schools, law enforcement, and healthcare providers before the next school year begins. Through federal funding strategies and grants provided by the Criminal Justice Division in the Office of the Governor, Texas already has access to nearly \$70 million in funds to help schools implement these strategies; and as additional federal programs release recently

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<sup>1</sup> “Alleged shooter at Texas high school spared people he liked, court document says,” Jason Hanna, CNN, May 19, 2018. Online at: <https://www.cnn.com/2018/05/18/us/texas-school-shooting/index.html>.

<sup>2</sup> “10 dead, 13 injured in shooting at Santa Fe High School,” KTRK, Houston, May 19, 2018. Online at: <http://abc13.com/10-dead-13-injured-in-shooting-at-santa-fe-high-school/3490869/>.

appropriated funds from the Consolidated Appropriations Act of 2018, Texas can reasonably expect to successfully compete for an additional \$40 million. Additional funds and strategies can be offered by the Legislature.

## IMMEDIATE FUNDING ASSISTANCE TO SANTA FE

### GOVERNOR'S CRIMINAL JUSTICE DIVISION GRANTS

The school shooting in Santa Fe, TX necessitated an immediate victim services response to ensure that survivors and those who experienced direct or vicarious trauma receive coordinated, long-term direct services.

To respond to those needs, the Governor's Criminal Justice Division (CJD) has provided grants for the following:

**1. Deploying Crisis Response Counselors To Meet Immediate Mental Health Needs** – A crisis response team (CRT) consisting of 4-6 rotating crisis certified counselors from the National Organization of Victim Assistance (NOVA) was deployed immediately to provide psychological first aid, trauma mitigation, and education to the community. They are working to ensure continuity of services to the community by setting up a Family Resiliency Center (FRC). The FRC will include multi-disciplinary services available to community members in need and will be operational for 2-3 weeks at which point Gulf Coast Center (the Local Mental Health Authority (LMHA)) will take over. This follows the standard crisis response model, and trained FRC staff from Parkland, Florida are on-site assisting. CJD has an application open for NOVA to reimburse for personnel costs, travel, lodging, per diem and other associated costs.

**2. Assisting Texas Health and Human Services Commission (HHSC) Efforts to Provide a Long-Term Behavioral Health Response** – HHSC will be providing the oversight and coordination needed for the long-term behavioral health response in Santa Fe, following the evidence-based Substance Abuse and Mental Health Services Administration (SAMHSA) Disaster Behavioral Health model that is currently being used in the Hurricane Harvey response. CJD grant funding will assist in covering associated costs.

**3. Ensuring First Responders Have Mental Health Resources** – Sam Houston State University (SHSU) has set up an off-site location outside incident command perimeters that is serving as a station for respite and psychological first aid for law enforcement and first responders. First responders exposed to mass violence and trauma should participate in Critical Incident Stress Debriefing (CISD) to mitigate the impact of the traumatic incident and facilitate the normal recovery processes of those who are distressed by unusually disturbing events. This is done in a controlled, peer-based environment 72 hours after the event. Several post-critical incident seminars (PCIS) are planned, and CJD funds will reimburse SHSU for personnel, transportation, lodging and per diem costs. This project will serve as a pilot project for other CISD/PCIS grant projects planned.

**4. Providing Additional Counselors to ISDs in the Santa Fe Area** – In order to build immediate capacity for counselors in the region, CJD funds will be used to provide four contractual counselors to Education Service Center (ESC) Region 4 who will work with Santa Fe ISD counselors and the surrounding region. ESC 4 counselors will provide counseling to school districts in the area on an as-needed basis on request from other ISDs. ISDs with limited to no mental health resources will request the ESC's counseling staff to provide ad-hoc counseling services for campuses if students have been identified as being exposed to crime (including trauma) at home or at school. These counselors will provide early in-person intervention to these students with behavioral health issues. This project could serve as a pilot for future mental health resources located at ESCs which when combined with the Telemedicine Wellness Intervention Triage and Referral (TWITR) Program expansion will ensure more comprehensive mental health services in educational settings.

**5. Providing Highly-Trained Counselors to Santa Fe ISD for the Upcoming School Year** – Santa Fe ISD is currently in need of crisis response certified counselors who will be provided by NOVA at this time. While the current volume of counseling requests from students is low, those who are in need of services are requiring highly intensive and specialized care. In order to ensure long-term care is provided to Santa Fe ISD next school year, CJD is providing funding for 4-6 counselors who will receive advanced training to serve this population and help school staff identify warning signs of behavioral health issues on campus. This should be closely coordinated with the federal SERV grant discussed below – a funding stream that is more expansive on eligible uses but will take longer for Santa Fe to receive and use than CJD’s funding.

**6. Coordinating Long-Term Community Mental Health Efforts** – As the designated LMHA, Gulf Coast Center (GCC) will be responsible for coordinating and conducting long-term behavioral health care for the community. Once the immediate CRT response has concluded in mid-June, GCC will be developing individualized care plans, counseling services, and coordinating referrals. CJD funding will provide for licensed therapists and clinicians, trauma specialists, case workers, outreach workers and administrative staff.

#### U.S. DEPARTMENT OF EDUCATION GRANT

Already, the Office of the Governor has worked with the U.S. Department of Education to immediately deliver \$1 million to Santa Fe ISD through the School Emergency Response to Violence (SERV) program. The grant allows school districts to respond to the trauma that follows a school shooting. These grants seek to restore the learning environment for students and staff by funding mental health services, overtime for teachers, counselors, and security staff, and payment of substitute teachers.

## MAKING SCHOOLS SAFER

### IMMEDIATELY INCREASE LAW ENFORCEMENT PRESENCE AT SCHOOLS

Among those who attended the roundtables, students, education leaders, and law enforcement officials agreed that the best way to deal with a school shooting is to prevent it in the first place. One way they suggested doing so was with a greater law enforcement presence on campus. There are multiple ways to achieve that goal.

**Recommendation: Schools should collaborate with local law enforcement to heighten police presence on school campuses.**

This can be done by adding campuses to regular patrol routes and allowing law enforcement to use campus facilities for breaks, lunch, or to file reports. Additionally, schools should strive to provide office space for a local or state law enforcement official to work from. A greater presence on campus may also create bonds between students and law enforcement.

To assist this process, the state should consider offering a \$10,000 matching grant to schools that draw down federal funds to help defray any increased costs of patrols or making accommodation for law enforcement to otherwise be present on campuses as an augment to existing security.

**Recommendation: Prioritize hiring retired peace officers – specifically police, sheriffs, and constables – and military veterans for school security.**

School law enforcement personnel – often referred to as School Resource Officers (SROs) – are praised by students, faculty, and parents. Many recommendations have flowed in to increase SROs by using veterans and former law enforcement officers.

Texas public schools are permitted to hire any person who is a licensed peace officer to provide campus security. Texas retired and off-duty peace officers already have extensive firearms and emergency response training, and many would be willing and able to protect Texas campuses. Texas should authorize schools to prioritize recruitment and hiring of such personnel to protect their campuses and their student bodies, faculty, employees, and guests. Hiring should prioritize individuals with the most applicable skill sets (i.e., former police, sheriffs, and constables).

In addition, the state should create a pathway for our veterans – many of whom have extensive firearm training – to help protect our schools through a modified school marshal program that ensures they have the appropriate training to transition their expertise into the campus environment. Veterans who complete tailored training and background checks should have the ability to once again serve their communities in times of need.

## TRAIN MORE SCHOOL MARSHALS AND IMPROVE THE PROGRAM

"Arming teachers, and not knowing who is armed, that is what we need," said a Santa Fe senior who participated in the Governor's roundtable discussion. Her sentiment was shared by many students and parents.

School marshals serve as one of several options school districts may use to arm security personnel on campus. Some educators stated that the program is not right for their school. That may be true, but hundreds of school leaders have found it to be another tool to dissuade potential shooters from attacking their campuses and a strategy to swiftly respond to a shooter if he makes it onto campus.

The Legislature should encourage adoption of the school marshal program by improving the program requirements and focusing the training components on those issues that will improve a marshal's ability to respond to an active shooter.

### **Recommendation: Increase the number of school marshals by funding training this summer.**

The Texas Education Agency should issue a letter to Administrators no later than June 8, 2018, encouraging them to identify personnel to participate in the marshal program. Using funds from the Governor's Criminal Justice Division, all costs of training from June-August of 2018 will be paid to help reduce the threat of active shooters in the 2018-2019 school year.

### **Recommendation: Increase the number of school marshals that can be appointed per school.**

Current law only allows for one school marshal for every 200 students, equal to about one marshal for every 8-10 classrooms. Schools should be allowed to recruit up to one marshal for every 100 students, or about one marshal for every 4-5 classrooms, to provide for more comprehensive campus protection.

### **Recommendation: Remove the firearm storage requirement for school marshals who are in direct contact with students.**

Current law requires school marshals to store their firearms in a safe while on campus, making the weapon hard to access and use in the event of a crisis. Leaving the marshal's weapon locked away counters the purpose of having armed security on campus in the first place. The storage requirement should be repealed, allowing marshals to keep their firearms on their persons.

### **Recommendation: Revamp marshal training requirements to focus more time on firearms training.**

In the 2013 Protection of Texas Children Act, school districts were granted the authority to commission school marshals – specially trained staff members who could immediately respond to deadly violence in their school. Contrary to some criticism that elementary school teachers, for example, are hired to educate students rather than wield guns, the marshal program is not intended to arm all teachers or to require any teacher to be armed against their will. Instead, its purpose is to arm any willing school staff member, which often includes school personnel other than teachers.

This program has been underutilized due, in part, to the burdens imposed directly on these willing volunteers. A marshal must take an 80-hour course, often at his or her own expense and utilizing his or her vacation time. Firearms must often be stored locked away, decreasing a marshal's response time and undermining the very purpose of the program.

State law (Tex. Ed. Code Sec. 37.0811) allows a school district or charter school to appoint one or more specially trained and licensed employees as school marshals. The appointment must be made by the board of trustees and



the marshal must have the appropriate licensing and certification by the Texas Commission on Law Enforcement (TCOLE). The current school marshal course, developed by TCOLE, is designed to do five things:

1. Emphasize strategies for preventing school shootings and for securing the safety of potential victims of school shootings;
2. Educate the trainee about legal issues relating to the duties of peace officers and the use of force or deadly force in the protection of others;
3. Introduce the trainee to effective law enforcement strategies and techniques;
4. Improve the trainee's proficiency with a handgun; and
5. Enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter.

However, the current 80-hour instructional course required to obtain a school marshal license is onerous and includes information that does not improve the individual's ability to respond to an active shooter scenario. The burdensome instructional course has contributed to limited adoption of the school marshal program. In order to increase adoption, the training course should be streamlined to focus primarily on material that will improve the individual's ability to respond to an active shooter scenario.

Examples of course materials that could be streamlined include:

- The course introduction designed to identify the history of the School Marshal **(2 hours)**
  - Objectives: I.1 Summarize the legislation enabling the creation of the School Marshal Licensure
  - I.2: Summarize the role of the Texas Commission on Law Enforcement
- Chapter 1.0 designed to identify the applicable laws pertaining to School marshals. **(10 hours)**
  - Objectives: 1.1.0: Explain the Texas Occupations Code Chapter 1701 and Title 37 of Texas Administrative Code
  - 1.1.1: List the requirements for initial licensure as a School Marshal
  - 1.2.1: Explain the Texas Code of Criminal Procedure as it relates to the School Marshal
  - 1.2.3: Review the Texas Education Code relating to the School Marshal

**Recommendation: Require annual refresher courses to maintain school marshal skills.**

Any campus security personnel should take annual refresher training in order to ensure that they stay up-to-date on the latest law enforcement tactics and work toward continuously improving the safety of their campuses. This will allow for both former and new peace officers, as well as military veterans, to refine and hone their skills. Additionally, all campus security personnel must be fully trained and integrated into crisis response plans.

## PROVIDE ACTIVE SHOOTER AND EMERGENCY RESPONSE TRAINING

**Recommendation: Protect students and teachers by better preparing campus security to respond to active shooters.**

Another resource is active shooter response training by licensed instructors, which prepares course graduates to deal with a crisis situation involving a hostile active shooter. Texas must ensure that all school security officers receive similar training to ensure that they are as prepared as possible for active shooter incidents. When an active shooter incident arises, seconds can mean the difference between life and death. An immediate response by a trained security professional could avert tragedy. During the Governor's roundtable discussions, the importance of training school law enforcement and other school personnel was repeatedly mentioned.

Texas already has high-quality options available to school districts. In the wake of the Santa Fe shooting, funding should be provided to train school officials across the state. Advanced Law Enforcement Rapid Response Training (ALERRT) has trained more than 105,000 police officers nationwide and over 86,500 civilians in active shooter scenario-based training. In June 2013, in a White House Press Conference, the FBI announced a partnership with the ALERRT Center at Texas State and named ALERRT their standard for active shooter response.

CJD has provided a \$1.25 million grant to ALERRT to be used to deliver 75 classes this summer, training approximately 2800 students, most of whom are law enforcement. This training will be provided free of charge for any participating school district or charter school for the remainder of 2018.

**Recommendation: The Texas School Safety Center will deliver a workshop-based course that allows for hands-on application of high-quality planning practices.**

The importance of preparedness was addressed during the roundtables in that schools and first responders must collaborate when developing emergency operations plans for schools. This process involves identifying all threats, hazards, and vulnerabilities; assessing capabilities for response; developing effective response protocols; and training and drilling to the plan. To assist schools with the planning process, training on developing high-quality multi-hazard emergency operations plans will be delivered to school personnel. The Texas School Safety Center will deliver a workshop-based course that allows for hands-on application of high-quality planning practices. This will be provided at no cost to schools.

**Recommendation: The Texas School Safety Center will partner with the I Love U Guys Foundation to provide training in the Standard Response Protocol and the Standard Reunification Method for school personnel**

The importance of an effective response to minimize the loss of life during an act of violence is critical. Therefore, training in the Standard Response Protocol and the Standard Reunification Method will be delivered to school personnel, which is a multi-hazard-based response protocol for critical incidents that can be incorporated into an emergency operation plan. These trainings will be delivered using a train-the-trainer model, which acts as a force multiplier in that trainers are able to offer this material in their regional areas. These will be delivered in partnership with the I Love U Guys Foundation<sup>3</sup> at no cost to schools.

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<sup>3</sup> <http://iloveuguy.org/index.html#programs>

## HARDENING OF CAMPUS FACILITIES

### **Recommendation: Improve the infrastructure and design of Texas schools to reduce security threats.**

School facilities are soft targets. Although our schools are filled with children, we often leave them vulnerable and exposed to external threats. As Texas continues to respond to the threat of active shooters on campus, every possible solution must be evaluated. In order to provide a comprehensive understanding of the role school infrastructure and design play in preventing an active shooter, the Legislature should consider improvements to security, including the potential use of metal detectors or deadbolt locks for certain doors, and greater control of entrances, exits, and external access.

Discussions in the last week have included architects, law enforcement, superintendents, teachers, and students. Their diverse viewpoints made it clear that no one-size-fits-all program or recommendation exists. For example, some roundtable participants wanted more metal detectors, while other participants explained the shortcomings of that strategy.

School hardening can mean several different things, and ultimately the decision on what and how many security measures to take is up to the locally elected school board. Parents, teachers, and principals should all be involved in the school board's determination of what security measures are needed to protect their students. Everyone involved must be sensitive to resisting the impulse to simply turn our schools into armed fortresses. Instead, we must integrate the needs of security with the essential mission of our schools – educating the next generation of Texas students.

Further dialogue and information sharing is essential to develop a slate of best practices, flexible and adaptable recommendations that schools can use to suit their local needs. These recommendations should include options for the retrofit of existing buildings as well as a set of design principles that should guide new construction. Schools should be able to access a list of trusted partners to implement these plans to ensure they are working with the best vendors possible. All of these recommendations should be periodically updated to keep pace with new technological developments and lessons learned by other districts.

The Texas School Safety Center has collected data on the current safety of Texas school facilities. According to a 2015 – 2016 survey done by TSSC:

- 79% of schools have a visitor sign-in process.
- 93.8% of administrators said that metal detectors were never used in their school.
- 44% of school districts have law enforcement officers on their campus regularly.
- 80% of schools have staff who monitor school buildings before and after school.
- 87.7% of districts use CCTV cameras.
- 96.1% of administrators lock their campus doors to limit access to the school.
- Around half (54.9%) of teachers said "most" teachers at their school monitor hallways between classes, while 19.8% said "all" teachers monitor the hallways.<sup>4</sup>

School hardening can take several different forms, none of which is mutually exclusive. Typical infrastructure hardening is one option. Structural improvements could include:

- Building front offices closer to entrances and creating vestibules where doors must be remotely unlocked before visitors can enter into the school;
- Erecting barriers around campuses and stadiums that prevent vehicles from being driven into crowds or students;

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<sup>4</sup> <https://locker.txssc.txstate.edu/f460091c5eda8166c7e8coa450569bdc/2016-School-Safety-Practices-Survey-Report.pdf>.

- Installing metal detectors at school entrances;
- Installing security systems that monitor and record entrances, exits and hallways;
- Providing telephones or radios in every classroom so that teachers can quickly report threats;
- Installing active shooter alarm systems; and
- Controlled access to campus facilities.

The hardening of school facilities is important. While it is not the only solution to keeping schools safer, it is an important defense in cases where a student has already decided to harm themselves, their peers, or educators. Through rigorous safety procedures a school district can protect students from harm. More information and resources can be provided by the Texas School Safety Center.

Upgrades to existing facilities are costly, though a variety of federal funds for equipment, technology, and security personnel are available to ISDs. The Legislature should consider evaluating these options and providing guidance to school districts on the issue.

## PRIORITIZE INCREASED FEDERAL FUNDING TOWARD IMMEDIATE SCHOOL SAFETY IMPROVEMENTS

**Recommendation: TEA will work with school districts to prioritize \$62.1 million in new federal funding toward immediate school safety improvements, including school hardening, increased law enforcement patrols, implementation of mental health programs, and other recommendations discussed in this plan.**

Under the Student Support and Academic Enrichment Grant Program (SSAE), the Texas Education Agency has historically awarded federally-funded grants to school districts for many purposes, including school safety. This year, Texas' SSAE funds will increase significantly, from \$36.3 million to \$98.4 million. This \$62.1 million increase in federal support should be prioritized to immediately implement school safety improvements.

Governor Abbott will direct TEA to modify the school district grant application to encourage school districts to use these additional funds to improve safety on our campuses. A safe learning environment for all students is crucial to advancing the purposes of the SSAE program. To further those purposes, TEA will urge school districts to submit SSAE applications that prioritize increased spending on school safety.

The federal grant has many allowable uses that fall within the broad categories of 1) well-rounded education opportunities, 2) safe and healthy students, and 3) effective use of technology. TEA will encourage districts to direct these funds to those allowable uses that are key to student safety, such as either physical safety improvements – like metal detectors – or additional law enforcement patrols. Also within these eligible uses of funds, districts may be able to prioritize funding for implementation of the Telemedicine Wellness Intervention Triage and Referral (TWITR) Program (discussed later), or other similar mental health efforts that emphasize early intervention through screening and counseling to help prevent school shootings and other forms of school violence.

## STRENGTHEN EXISTING CAMPUS SECURITY PROGRAMS

The Legislature should consider making the following proposed statutory changes to increase the safety of Texas schools and strengthen coordination between school districts and law enforcement officials.

**Recommendation: The Texas Education Agency (TEA) should review school districts' and charter schools' school safety and security audits.**

TEA should create a formal review process to review districts' school safety audits, with the advice and input of the Texas School Safety Center (TSSC). This review should be done once every three years for a school district. By reviewing a school's safety audit, the agency will have a clear picture of the emergency operations plan and the everyday safety and security procedures that the district has in place. The three-year cycle of TEA review does not remove a school district's requirement that they conduct a safety audit every year, it only provides a regular check on the quality of a school district's audits. This new requirement will ensure that the audits that districts are conducting meet the quality standards recommended by the Texas School Safety Center. TEA and TSSC should work with districts that do not meet quality standards on improving and eventually resubmitting their audits.

**Recommendation: Specifically require certain members of the community to serve on an ISD or charter school's safety and security committee.**

Under current law, every school district must have a School Safety and Security Committee that develops and implements the emergency operations plans, reviews the district's school safety and security audit, and reviews any reports required to the TSSC. According to statute, the committee membership and methods must be in accordance with TSSC guidelines. The TSSC guidelines recommend representation from many fields, including district faculty, staff, emergency management, and the community.<sup>5</sup>

Several of the TSSC recommended options should be formalized in specific statutory requirements. The individual members of a committee should include:

- One or more representatives from the county or city emergency management coordinator's office;
- One or more representatives from the local police department or sheriff's department;
- One or more representatives from the school district's police department, where applicable;
- One or more representatives from the municipality with territory included within the boundaries of the district;
- The president of the school district or charter school's board of trustees, board of managers, or board of directors;
- A member of the school district or charter school's board of trustees, board of managers, or board of directors other than the president;
- If a school district partners with a charter school to provide instruction to students, a member of the charter school's board of directors or her designee;
- Two parents or guardians of students in the school district;
- The district 's superintendent; and
- One or more designees of the district's superintendent, one of whom must be a classroom teacher in the school district or charter school.

By formalizing in statute the minimum standards for School Safety and Security Committee membership, the state can ensure the participation of local officials in the committee. During the recent roundtable discussions, participants routinely emphasized the importance of schools collaborating with law enforcement and emergency managers in creation of their emergency operations plans. While current statute requires that schools follow the TSSC guidance on committee membership, there is concern that districts do not adhere to the recommendations.

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<sup>5</sup> For a full list, see: <https://locker.txssc.txstate.edu/503edae356d17f288d7cb80260167e82/Safety-and-Security-Committee-Guidelines.pdf>.

There is no reason for a school to not rely on the expertise of law enforcement and emergency managers in formulating their emergency response. In TEA's review of the school's safety audit, the membership and participation of the committee can be verified by the Texas Education Agency.

During the roundtable discussion, the Hays County Sheriff's Office explained their efforts to form partnerships and collaborations between local law enforcement and school districts. Through training students on the Standard Response Protocol, Hays County has worked to ensure that there is collaboration between students and law enforcement, as well as school district administration and teachers.

**Recommendation: The School Safety and Security Committee should be required to discuss with local law enforcement the expansion of patrol zones to include the school district.**

The School Safety and Security Committee should consider asking local law enforcement to expand their patrol zones to cover the school. In the case of an active shooter, law enforcement's response time is critical. By expanding the law enforcement patrol zone to regularly include campuses, the likelihood of a quicker response time by law enforcement will significantly increase.

**Recommendation: The School Safety and Security Committee should hold meetings at least three times per year.**

Mere membership on the committee is not enough to ensure effective emergency planning for schools. The committee should meet regularly to review and potentially update the emergency operations plan. The committee should meet at least three times a year, once each semester and during the summer. For districts that are on a year-round schedule, meetings should be scheduled every four months.

**Recommendation: School Safety and Security Committees should periodically provide updates to the school board.**

The School Safety and Security Committee should be required to report emergency plan updates to the school board at least twice every year, once prior to the school year beginning and once in the spring semester. These updates should include discussions on recommended facility improvements and emergency operations planning developments. It is critical that locally elected leaders engage in emergency planning operations; the institution of a reporting requirement will ensure that the school board is kept up-to-date on emergency operations planning in the district. During these meetings, parents, students, teachers, and community members should be allowed to comment on the emergency operations plan. This does not mean that the plan needs to be made publicly available. In fact, doing so could result in the district being less safe. However, individuals can comment on the statements made to the school board by the committee's representative and offer their own insights and evaluations of the school's emergency planning.

**Recommendation: Schools should be required to notify parents if a significant threat to students' safety occurs.**

Parents and guardians of students need to be notified when significant threats to a student's school occur. The School Safety and Security Committee should be required to report to the school board or charter school board of directors how the school district will notify parents of an incident. For example, if a student brings a gun to school, parents should be notified. Discussions during the Governor's roundtables often mentioned parental involvement in keeping schools safe. By facilitating better parental notification of threats, parents could be encouraged to talk with their children about the issue.

## PREVENTING THREATS IN ADVANCE

### PROVIDE MENTAL HEALTH EVALUATIONS THAT IDENTIFY STUDENTS AT RISK OF HARMING OTHERS AND PROVIDE THEM THE HELP THEY NEED

**Recommendation: To enhance school safety and ensure additional behavioral health services are available to students on-campus, expand access to Texas Tech Health Sciences Center’s Telemedicine Wellness Intervention Triage & Referral (TWITR) Project.**

Effectively identifying and treating children with mental health issues can help prevent the loss of critical developmental, academic, and emotional maturity.<sup>6</sup> Early intervention can significantly minimize delinquent and violent youth from a future of crime.

The Telemedicine Wellness Intervention Triage and Referral (TWITR) Project has created a model for identifying students at risk for committing school violence and intervening with those students before acts of violence occur. The project leverages telemedicine services to intervene with junior high through high school students who are at risk for injury or harm to others or themselves in school settings. The TWITR program was created through grant funding from the Criminal Justice Division of the Office of the Governor. The goal of the project is to intervene with students who are a risk to themselves or others or who have mental health conditions such as anxiety or depression that are causing behavioral problems. *All services provided by TWITR are done with parental consent.* School districts currently using the service are Abernathy, Crosbyton, Frenship, Idalou, Levelland, Lubbock Cooper, Plainview, Ralls, Roosevelt, and Tahoka.<sup>7</sup>

Students are identified by trained school staff and screened for risk-based behaviors by Licensed Professional Counselors in schools then provided psychiatric services by Texas Tech University Health Sciences Center (TTUHSC) over a telemedicine link. Two telemedicine psychiatry sessions are provided through the project. If, through the assessment, a student is identified as requiring mental health care, either a referral for individual and/or family counseling is made or the student is referred to a medical school department of psychiatry for additional telemedicine psychiatric services.

Since the TWITR Project’s launch, more than 400 students have been referred to the program, of which 200 students were screened for anxiety, depression, loneliness, isolation — and screened for whether they were prone to violence or violent thoughts. Those screenings led to psychiatric appointments and, sometimes, immediate hospitalizations and arrests for planning violent incidents like shootings. In four years, the program has resulted in 25 students being removed from school, 44 placed in alternative schools, and 38 admitted to a hospital.

The effectiveness of the project is also demonstrated by improvements in student outcomes, decreases in truancy referrals, and fewer discipline referrals in schools. A 37% reduction in truancy and discipline referrals has been seen for students receiving TWITR services.

State resources should ensure this strategy has the broadest possible impact. Last session, HB 13 created a grant program to support community mental health programs. On May 23, 2018, HHSC announced these grant awards, which included expanding the TWITR project to 12 ISDs in the Amarillo area.

<sup>6</sup> TTUHSC F. Marie Hall Institute for Rural and Community Health, “Mental Health and Education,” available at <https://1.cdn.edl.io/gBnHQtwvWGyUXajjMAjzQPPrRoCcgYV7z58TKbaAZfZO6yhE.pdf>.

<sup>7</sup> <http://twitrproject.org/Documents/TWITRDataBrief43018.pdf>.



The next short-term step is to provide extensive TWITR training to an additional 10 ISDs across the state. This training will lay the necessary groundwork to expand the full array of TWITR services the following year.

In the long term, the Governor's Office and the Legislature should identify \$20 million to begin to expand the capacity of the TWITR program and similar programs with the ultimate goal of ensuring students on every campus across the state have access to needed behavioral health services through innovative, proven programs like TWITR. As a point of reference, the costs of expanding the TWITR model into 10 additional ISDs would be approximately \$1 million per biennium.

## INCREASE MENTAL HEALTH FIRST AID TRAINING

Mental Health First Aid is an eight-hour, evidence-based program designed to develop the skills to identify, understand, and respond to signs of mental illness. The program was created in 2001 by an Australian nurse specializing in health education. This program is often compared to CPR training. A person with no clinical training learns to assist a person experiencing a mental health situation until a trained person arrives.<sup>8</sup> The program is designed for all members of the community including professional associations, educators, and human resource directors.

In 2013, SB 3793 directed the Department of State Health Services (DSHS) to provide grants to Local Mental Health Authorities (LMHAs) for their staff to become certified trainers of Mental Health First Aid. These certified trainers provide free Mental Health First Aid training to school district employees.<sup>9</sup> Since 2014, Texas has trained approximately 24,736 public school employees, 875 instructors, 503 university employees and 18,133 community members.<sup>10</sup> However, barriers do exist in expanding the numbers of teachers because it can be difficult for LMHAs to access local school districts.<sup>11</sup> Although the training registration is free and counts toward an educator's required continuing education requirements, it is not considered a required training, and therefore many educators focus their continuing education hours in other areas. Also, school districts indicate they do not have resources to provide funds for travel. The Mental Health First Aid program is a train-the-trainer based program and capacity of the program is limited to the number of certified trainers in Texas.

### **Recommendation: Increase Mental Health First Aid training during summer 2018**

The General Appropriations Act for Fiscal Year 2018-2019 includes \$5 million GR for grants to LMHAs for Mental Health First Aid training. As of May 29, 2018, HHSC indicates \$2 million will be expended during the summer of 2018 to provide Mental Health First Aid training. The Health and Human Services Commission (HHSC) and the Texas Education Agency (TEA) will work with the LMHAs to increase the number of Mental Health First Aid training opportunities for educators during the summer of 2018. HHSC and TEA will also seek potential federal funding opportunities for Mental Health First Aid made available through the FY 2018 Omnibus Appropriations Act.

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8 <https://www.mentalhealthfirstaid.org/faq/>.

9 HHSC, "Report of Mental Health First Aid Program for Fiscal Year 2016," December 2016.

10 Testimony to the House Committee on Public Health. Trina Ita, May 17, 2018; see: <https://hhs.texas.gov/sites/default/files/documents/laws-regulations/reports-presentations/2018/leg-presentations/house-public-health-mental-health-may-17-2018.pdf>

11 HHSC, "Report of Mental Health First Aid Program for Fiscal Year 2016," December 2016.

## PROVIDE SCHOOLS WITH BEHAVIORAL THREAT ASSESSMENT PROGRAMS

During the roundtable discussions, teachers and other educators suggested they were often the first to know if a student was demonstrating behavioral problems. Those educators, who often have the best ability to observe student behavior, need training and tools to help them identify potential threats to themselves, their students, and schools.

**Recommendation: The Texas School Safety Center will partner with SIGMA Threat Management to deliver training on Behavioral Threat Assessment to school personnel.**

Recommendations from the Governor's roundtable discussions stressed the importance of prevention by identifying early warning signs of students in crisis and providing them with the appropriate interventions to avert potential acts of violence. To provide school personnel with the skills to appropriately assess threats and identify proper interventions for students, training on Behavioral Threat Assessment will be delivered to school personnel.

The school threat assessment model developed by the United States Secret Service and U.S. Department of Education provides a how-to guide for school personnel, law enforcement professionals, mental health professionals, and community members on how to set up and operate school threat assessment teams. The threat assessment process makes it possible to intervene with the person who is planning an act of violence and get them the help they need. The Texas School Safety Center will partner with SIGMA Threat Management to deliver these trainings at no cost to schools.

In an effort to equip as many school personnel throughout the state with the necessary knowledge and skills to keep their schools safe and secure learning environments before the start of the new school year, the Texas School Safety Center will provide a variety of additional school safety training opportunities throughout this summer. These trainings, which will be available in July and August, are intended to focus on the threat assessment process and planning for potential threats in collaboration with local first responders, as well as ensuring effective response protocols during an emergency. These programs will be funded through grants from the Governor's Criminal Justice Division. Additional trainings will be held throughout the school year as well.

## BETTER UTILIZE AND EXPAND ON-CAMPUS COUNSELING RESOURCES

**Recommendation: Prioritize the importance of the mental and behavioral health needs of students by freeing up counselors to focus on those needs, encourage school district's to add more counselors at the campus level, and appropriate funds to fill in gaps.**

On the first two days of the Governor's roundtable meetings, participants repeatedly mentioned that school counselors' time should be devoted more to mental health needs of students. The point was made that many counselors do not have the opportunity to utilize their mental health training, because often their time is spent on academic issues. The state should consider creating two classes of school counselors: one focused on academic issues (college acceptance, student assessment, etc.) while the other would focus on behavioral or mental health issues. The behavioral counselors would be those with certifications as licensed mental health professionals, while the academic counselors could have other backgrounds such as former teachers who have a particular interest in academic counseling issues. Many counselors employed by Texas schools are licensed in mental and behavioral health, but because of the other responsibilities placed on them, are unable to care for health needs of their students. Changing the way that school districts view counselors and better utilization of existing staffing resources could be part of a solution to address the mental health needs of students.

It is important to remember that while more mental health counselors are needed in many schools, not all schools or ISDs are lacking them. There are some districts that employ dozens of PhDs. What is important is that the school districts and campuses with the greatest need have access to adequate resources to employ those counselors. As more funding is considered for counselors in the state, policies to encourage school districts to house these experts at the campus, instead of in the administrative offices, should be actively encouraged. One possible method of finance for this proposal is the removal of restrictions on weighted student funding in the school finance system. Through removing the limits on how funds should be spent, districts can pool resources to better prioritize students' emotional and mental health needs. Principals, Assistant Principals, and teachers all need help in supporting high-needs students. Whether academically or behaviorally, the school counselor is an important piece in the mosaic of care in Texas schools.

## EXPAND CAMPUS CRIME STOPPERS PROGRAMS

Texas Crime Stoppers organizations work towards the goal of reducing crime and arresting criminals by offering cash rewards and guaranteeing anonymity. Campus Crime Stoppers can help prevent potentially dangerous and illegal activity from taking place at schools. To provide a vehicle for students, school employees, parents, and other citizens to relay information about school crimes to law enforcement agencies, school districts should adopt a Crime Stoppers organization.

**Recommendation: Expand Crime Stoppers operations and launch an awareness campaign for school employees and students to encourage the reporting of tips related to school crime.**

Crime Stoppers of Houston (CSOH) is one of the largest Crime Stoppers (CS) organizations in the country. They have developed a Texas safe school program that is the largest in the state and serves 39 ISDs and allows students to anonymously report acts of bullying, violence, unusual behavior, weapons, drugs, stolen property, self-harm, and other felony and misdemeanor crimes through a tip line, website, or app that is truly anonymous (cannot be subpoenaed). Crime Stoppers organizations are community-based, nonprofit organizations and are funded by donations, fundraisers, court-ordered probation fees, and partly with a dedicated GR account administered by the Governor's Criminal Justice Division.

Because CSOH has the most staff and resources of any CS program and the best developed Campus CS program, the Governor's Criminal Justice Division has asked CSOH to put together a plan to expand CSOH's Safe School Program (SSP) to as many ISDs as possible. The plan is as follows:

1. CSOH will hold quarterly trainings in Houston to train programs on how to implement and run their SSP based off their curriculum.
2. CSOH will identify different levels and capacities of existing CS organizations across the state by developing a "readiness assessment" checklist that CS programs will fill out. This will identify programs that have the capacity and bandwidth to successfully implement CSOH's SSP to ensure program fidelity. Many of these programs are staffed by unpaid volunteers and need training on marketing, outreach, and networking with campuses and ISDs. For smaller CS programs, CSOH will tailor their quarterly trainings and scale down the program depending on agency size. Part of the readiness assessment should include letters of support from an ISD, business sponsor, or other entity to ensure that community buy-in is present. Many large CS agencies such as Dallas have requested CSOH send program curriculum but training is needed first to ensure the program is followed appropriately.
3. Campuses without a CS program in their community can roll their crime stopper tips into CSOH. CSOH will provide basic information such as posters that have the tip line and can do remote training videos for students and staff in any part of the state. CSOH will hire a statewide coordinator to oversee this.

Campuses will need to develop agreements with school administrators and law enforcement outlining roles and responsibilities. Tips will be investigated by a school administrator or School Resource Officer (SRO).

One example of the effectiveness of Campus Crime Stopper Programs is that more than 100 weapons were taken off school campuses without incident as a result of CS programs in 2017.

## USE DIGITAL TECHNOLOGY TO PREVENT ATTACKS

The iWatch Texas is a statewide system that enables citizens and police officers to report pre incident threat indicators and other suspicious activity through a mobile application, over the internet, or by telephone confidentially or anonymously. Using a single, state-wide reporting system, as opposed to a school-specific system, ensures that tips from various parts of the community are all integrated, providing a more holistic picture.

**Recommendation: Increase the use and awareness of DPS' "iWatch Texas" reporting system to enable and encourage parents, students, and teachers to easily report potential harm or criminal activity directed at school students, school employees, and schools.**

**1. Launch the DPS' "iWatch Texas" App.** Texas DPS' "iWatch Texas" app will launch on June 7, 2018 as a standalone app, rather than as a function embedded within Texas DPS' primary app. Expanding the iWatch Texas system to include students, teachers, and parents will ensure that essential information related to school threats is linked to other reported threat data in or outside of the school campuses across the state and that this information is acted upon.

Using a single, statewide reporting system, as opposed to a school-specific system, ensures that tips from different parts of the community are all integrated linking critical data. The iWatch initiative is part of the DPS Intelligence and Counterterrorism Division (ICT), which serves as the central clearinghouse for the collection, management, analysis, and dissemination of law enforcement and homeland security intelligence in Texas. DPS has the iWatch system integrated with the Fusion Center's Watch Center for coordination with local law enforcement. The Fusion Center's Watch Center is a 24/7 unit that works with federal, state, regional, and local law enforcement and serves as the state repository for homeland security information and incident reporting.

The Watch Center provides real-time intelligence support to law enforcement and public safety authorities and consolidates information and data on suspicious activities and threats from all jurisdictions and disciplines. DPS should work to ensure school districts, school police departments, and other necessary school entities are integrated into the system for proper notification.

For example, a student may report strange behavior and statements made by another student. Later that day, a citizen reports that the same student was attempting to purchase ammunition at a sporting goods store and became belligerent when refused. The iWatch system would link these separate incidents, and all future reports involving this student on or off campus would be monitored by law enforcement.

**2. Make tip reporting easier.** DPS iWatch allows for online reporting at <https://iwatchtx.org> or directs a tipster to submit a tip by phone at 1-844-643-2251. However, email and text-based reporting functionality should be added to the system, in line with program offerings in other states, like Colorado and Michigan. In Michigan, citizens are able to report tips through the ok2say app, website, phone, email, and text. Similar to iWatch Texas, Michigan also allows tips to be submitted with attachments. In Texas, the Dallas Police Department's iWatch Dallas system allows for text-based reporting.

**3. Statutorily protect the confidentiality of a tipster's identity.** While the iWatch system allows for anonymous reporting, it is not a statutory requirement in Texas. Both Colorado and Michigan have recognized that protecting a student tipster's identity from disclosure will make students feel more comfortable to provide tips. In order to prevent abuse of the system, tips should not be fully anonymous (law enforcement would know who made the tip), but that information should be protected from disclosure absent the tipster's consent or a court order.

**4. Increase awareness and outreach programs to school districts to encourage responsible use of the system.** Michigan reported that in-school presentations by specially trained staff have been the most effective way to raise awareness and drive adoption of the system. DPS should explore whether to partner with existing organizations, like Crime Stoppers, and groups that speak in schools about violence and bullying issues to include information about the reporting system, or to create their own teams with specifically targeted messages about the system.

Michigan emphasized that it was important to incorporate former teachers and a diverse group of presenters who discuss current events, both nationwide and specific to the particular school or community attending the presentation.

**5. Ensure that DPS staff are trained to and have the ability to make appropriate referrals.** Not all tips will merit a law enforcement response. In these cases, DPS staff who receive tips need to be trained to identify the appropriate response and given the tools and resources to make contact with the appropriate authorities. Appropriate authorities could include school officials, district officials, local law enforcement, child protective services, mental health services, and even online counseling or crisis line suggestions to the tipster. DPS will need additional personnel to monitor the expected increase in tips coming in through the iWatch system.

## DEPLOY MORE FUSION CENTERS TO MONITOR SOCIAL MEDIA FOR THREATS

**Recommendation: Increase the number of fusion centers in Texas to improve law enforcement's ability to identify, process, and resolve potential threats that appear on social media.**

As the iWatch system grows in functionality, so to must law enforcement's ability to process the information derived from it and other sources.

Several recent perpetrators of mass shootings had left clues as to their potential homicidal or suicidal intent on publicly accessible social media sites in the months before committing their crimes. In the wake of the violent protests in Charlottesville in 2017, the University of Virginia entered into an \$18,500 annual contract with Social Sentinel, a private security firm, to monitor the social media accounts of its students and others.<sup>12</sup> Similarly, in Texas, Katy ISD is considering a three-year contract with Social Sentinel for \$80,968.75 a year to scan 12 different social media sites for words like 'kill,' 'gun,' and similar threatening words.<sup>13</sup> A crisis management team of Katy Police Department officers would review any posts flagged by the system for threats.<sup>14</sup> In Orange County, Florida, home of Orlando, an \$18,000 school district contract with a similar data firm called SnapTrends ultimately led to 12 police investigations in its first year.<sup>15</sup>

Social media monitoring programs like the above can only see *public* posts and not private or direct messages or any content protected by adequate privacy settings.<sup>16</sup> Information exchanged in private chat groups, via text message, or in other online forms would not be accessible by the service.<sup>17</sup>

A more robust alternative would be to deploy more fusion centers. Fusion centers serve as key locations for information sharing between state, local, and federal law enforcement entities. The state's primary fusion center – the Texas Joint Crime Information Center (TxJCIC) – as well as recognized fusion centers across the state will play vital roles in ensuring that information regarding identified threats is shared with appropriate law enforcement across the state.

At least one Texas recognized fusion center currently engages in open source data mining to prevent criminal activity. When large amounts of data are examined by software algorithms, key words associated with potential threats are identified, and law enforcement is able to quickly intervene to prevent school violence.

In addition to the TxJCIC, the state currently has six recognized fusion centers:

- Austin Regional Intelligence Center; Austin, TX
- Dallas Fusion Center; Dallas, TX
- El Paso Multi-Agency Tactical Response Information eXchange (MATRIX); El Paso, TX
- Houston Regional Intelligence Service Center; Houston, TX
- North Texas Fusion Center; McKinney, TX
- Southwest Texas Fusion Center; San Antonio, TX

<sup>12</sup> "University of Virginia Hires 'Social Sentinel' to Monitor Students' Social Media Posts: 'They are being watched, and that's a problem,'" Kayla Stetzel, Reason Magazine, March 22, 2018. Online at: <https://reason.com/blog/2018/03/22/uva-monitors-its-students-social-media>.

<sup>13</sup> "Katy ISD considering Social Sentinel service to monitor social media threats," Sophia Beausoleil, Click 2 Houston, April 17, 2018. Online at: <https://www.click2houston.com/news/katy-isd-considering-social-sentinel-service-to-monitor-social-media-threats>.

<sup>14</sup> Ibid.

<sup>15</sup> "Schools are helping police spy on kids' social media activity," Karen Turner, Washington Post, April 22, 2016. Online at: [https://www.washingtonpost.com/news/the-switch/wp/2016/04/22/schools-are-helping-police-spy-on-kids-social-media-activity/?utm\\_term=.661191115609](https://www.washingtonpost.com/news/the-switch/wp/2016/04/22/schools-are-helping-police-spy-on-kids-social-media-activity/?utm_term=.661191115609).

<sup>16</sup> "To Detect Threats And Prevent Suicides, Schools Pay Company To Scan Social Media Posts," Lynn Jolicoeur and Lisa Mullins, WBUR, March 22, 2018. Online at: <http://www.wbur.org/news/2018/03/22/school-threats-suicide-prevention-tech>.

<sup>17</sup> Stetzel, supra.



To meet the future demands of processing and disseminating information to keep our school safe, the state should create at least two more regional fusion centers. With this added capacity, law enforcement will be able to investigate flagged social media activity, crowdsourced threat reports, and other reports.

## IMPROVE MENTAL HEALTH CRISIS RESPONSE INFRASTRUCTURE

**Recommendation: To better respond to the needs of students and school faculty in the aftermath of a crisis, expand the Texas Critical Incident Stress Management (CISM) Network to improve outcomes.**

The Texas Critical Incident Stress Management (CISM) Network was established in 1992 to assist emergency service providers and first responders who have experienced a “critical incident” in the line of duty.<sup>18</sup> The Department of State Health Services (DSHS) quotes Jeffrey Mitchell, Ph.D., with the National Center for Crisis Management, in defining a critical incident as:

Any situation faced by emergency service personnel that causes them to experience unusually strong emotional reactions which have the potential to interfere with their ability to function either at the scene or later. All that is necessary is that the incident, regardless of the type, generates unusually strong feelings in the emergency workers.<sup>19</sup>

While the Health and Human Services Commission (HHSC) organizes and helps coordinate this program, direct services are provided through Local Mental Health Authorities (LMHAs). LMHAs across the state have teams of volunteers in place and ready should the unthinkable occur and first responders experience a tragedy that requires support services.<sup>20</sup> These teams, comprised of peers, behavioral health specialists, and chaplains with specialty training, are deployed to critical incident sites and provide crisis intervention and stress management education services free of charge which, according to DSHS, “return the emergency worker to duty faster and healthier.”<sup>21</sup> In some cases, these CISM providers are even able to work with other state health and human services programs to provide respite services to first responder teams.

The CISM Network model marshals available resources to help fellow Texans in need. Individuals with the specialty and training to assist in the worst of situations make themselves available on a 24-hour basis to support their neighbors in need.

This program should be improved and expanded upon to include a larger pool of behavioral health providers who are able to step in with these teams and provide services not only to emergency services personnel, but also directly to victims of tragedies and their loved ones.

Under this newly envisioned model, expanded teams of licensed behavioral health professionals around the state would be trained and ready to deploy to critical incident sites. While the current program serving first responders is run through LMHAs with coordination and dissemination of information through HHSC, the facet of the program focused on direct victims’ services may well be a better fit directly within HHSC’s Mental Health and Substance Abuse (MHSA) Division, which includes mental health crisis services.<sup>22</sup> This would allow the agency to hire a small number of full-time staff who can focus on improving the current program and building the expanded volunteer provider network.

There are licensed behavioral health professionals already employed within school districts, local community colleges, and universities that could be utilized during critical incidents. For example, the Cypress Fairbanks ISD employs more than 240 school counselors, 14 social workers,<sup>23</sup> and more than 30 doctorate level behavioral health

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<sup>18</sup> Department of State Health Services (DSHS), “Texas Critical Incident Stress Management Network,” available at <https://www.dshs.texas.gov/mhsa-disaster/cism/>. Note- although this page is still hosted on the DSHS site, this program has since transitioned to the Health and Human Services Commission (HHSC) as part of the consolidation of services under SB 200 (84R).

<sup>19</sup> Ibid.

<sup>20</sup> DSHS, “Texas CISM Network Teams,” available at <https://www.dshs.texas.gov/mhsa-disaster/cism/teams/>.

<sup>21</sup> “Texas Critical Incident Stress Management Network,” *supra*.

<sup>22</sup> HHSC, “Mental Health and Substance Abuse,” available at <https://www.dshs.texas.gov/mhsa/>.

<sup>23</sup> Cypress Fairbanks ISD, “Guidance & Counseling Responsibilities,” available at <https://www.cfishd.net/en/about/know-your-district/departments/guidance-counseling/>.

staff, as well as interns who assist in running the ISD's Family Counseling Clinic.<sup>24</sup> Austin ISD runs year-round School Mental Health Centers (SMHCs) staffed by licensed clinical social workers, professional counselors, and psychologists.<sup>25</sup> And, the University of Texas at Austin Counseling and Mental Health Center employs professional staff who also utilize supervised trainees to provide an array of services, including individual, group, and crisis counseling.<sup>26</sup> These examples are not provided to single out any particular school or entity, but rather to demonstrate that there are qualified professionals already employed by public schools and government-run entities around the state.

To that end, HHSC should focus efforts on getting necessary staff in place and immediately begin executing interagency agreements and memorandums of understanding with school districts, community colleges, and university systems that employ such professionals so teams can be ready to deploy. This volunteer network should not be limited to only school and university employees, but these existing resources do provide an invaluable and immediate starting point for building out this new network of critical incident providers. In addition, state staff should also ensure that any volunteer network providers, within both the existing and expanded CISM network, are current in specialized crisis management training and implement uniform governance standards, with the goal of ensuring consistency across these statewide teams.

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<sup>24</sup> Cypress Fairbanks ISD, "Psychological Services," available at <https://www.cfisd.net/en/about/know-your-district/departments/psychological-services/>.

<sup>25</sup> Austin ISD, "School Mental Health Centers," available at <https://www.austinisd.org/student-health/mental-health>.

<sup>26</sup> University of Texas at Austin Counseling and Mental Health Center, "CMHC Staff," available at <https://cmhc.utexas.edu/staff.html>.

## INCREASE THE SAFETY OF CHARTER SCHOOLS

As the state takes aggressive action to address school safety and continues to actively encourage policies that promote the growth of charter schools, the Legislature should treat charter schools and school districts with greater parity in these areas.

**Recommendation: Include charter schools in the same school safety requirements as Independent School Districts.**

Charter schools are not required to have a School Safety and Security Committee. Nor are they required to conduct school safety audits and report the results of those audits to the Texas School Safety Center or the Texas Education Agency. As the state continues to encourage the expansion of charter schools, it is important that the safety of charter school students is ensured by requiring the schools to follow the same school safety protocols as school districts. All policies that the Governor proposes relating to safety, particularly the ones described in this Policy Plan, should apply to charter schools as well.

**Recommendation: Allowing charter schools to access similar safety options as Independent School Districts.**

There are four options for security providers available to school districts in the Texas Education Code: School Resource Officers, School District Commissioned Police Officers, Private Security Personnel, and School Marshals. Of these, only the school marshal program explicitly applies to charter schools under current law. Statute should be amended to ensure that charter schools have more options to protect their students.

## REMOVE FROM THE CLASSROOM STUDENTS WHO THREATEN TEACHERS

Threats to teachers and students should never be tolerated. In a survey by the Texas Classroom Teachers Association, 74% of teachers responded that “schools should do more to discourage violence.”<sup>27</sup> Another survey found that teachers felt that they lacked consistency and support from administrators on discipline issues:

- “17 percent of elementary teachers, 33 percent of middle school teachers, and 26 percent of high school teachers said administrators don’t consistently enforce rules for student conduct.”<sup>28</sup>
- “14 percent of elementary, 23 percent of middle and 16 percent of high school teachers” stated they “don’t feel administrators support teachers’ efforts to maintain discipline in the classroom.”<sup>29</sup>

The state should empower teachers to immediately remove from the classroom a student who threatens bodily injury to his or herself or another. Students that are placed into alternative learning environments because of disciplinary issues should have access to quality educators and support so that they can be restored to the classroom environment more quickly and with fewer incidences of reoccurrence.

Within these discussions, it is important to remember students served by special education may have a Behavior Intervention Plan written by a committee of administrators, parents, and teachers of that child. When a student acts out because of his or her disability, the school district should already have a plan of action for addressing any harm caused by the student.

**Recommendation: Protect school employees by implementing a zero-tolerance policy for students who commit assault.**

In the 85th Regular Session, the Legislature passed a law to remove teachers who assault students. Now, Texas needs a law to protect schools from students who assault teachers.

During the 2011-2012 school year, 5.7% of Texas public school teachers reported that they were threatened with injury or physically attacked by a student in the previous twelve months.<sup>30</sup>

According to testimony by the Texas Classroom Teachers Association (TCTA), teachers cited a lack of administrative support in student discipline matters as one of the top factors in their decisions to stay in or leave the profession.<sup>31</sup> Included with the testimony was a sample of concerns teachers had shared with TCTA regarding school discipline. One particularly horrifying example was of a student threatening to bring a gun to school and kill a teacher. The student was suspended for three days. However, upon return, he brought a gun to school in his backpack, gave the gun to another student in the teacher’s class, and discussed killing the teacher.

Furthermore, in a survey by Temple ISD on teacher retention, “student disciplinary issues and failure to follow through on referrals by administration” was the top response for why teachers left the district.<sup>32</sup> Texas should support our teachers and empower them to have authority in the classroom. This allows teachers to create an environment conducive to learning.

Texas must protect all school employees, especially teachers, and ensure the safety of all students by removing students if they intentionally, knowingly or recklessly commit against a school employee an act that:

1. Causes bodily injury;

<sup>27</sup> See TCTA Survey Results, available upon request.

<sup>28</sup> “As Austin ISD Cuts Student Suspensions By 30%, Some Raise Concerns,” Austin American Statesman, May 29, 2018. Online at: <https://www.statesman.com/news/austin-isd-cuts-student-suspensions-some-raise-concerns/3qmA4TKw8a6VdbG8crYUEP/>.

<sup>29</sup> Ibid.

<sup>30</sup> “Indicators of School Crime and Safety: 2016,” National Center for Education Statistics, May 2017. Online at: <https://www.bjs.gov/content/pub/pdf/iscs16.pdf>.

<sup>31</sup> Testimony to the Senate Education Committee, Holly Eaton, TCTA, March 26, 2018. Online at: [https://tcta.org/sites/tcta.org/files/senateedstudentdisciplinetestimony\\_032618.pdf](https://tcta.org/sites/tcta.org/files/senateedstudentdisciplinetestimony_032618.pdf).

<sup>32</sup> Ibid.

2. Threatens with imminent serious bodily injury; or
3. Causes physical contact when the student knows or should reasonably believe that the employee will regard the contact as offensive.

A stronger zero-tolerance policy will ensure that teachers and administrators remove students who constitute a violent threat to their classmates and teachers or who offensively touch others without permission.

**Recommendation: To improve the learning environment by making campuses safer, expand the list of offenses for which a student may be expelled or placed in a disciplinary alternative educational program.**

While mass shootings at educational institutions may not be everyday occurrences, other crimes and disciplinary problems are all too common on campus. According to surveys from the National Center for Education Statistics, in 2013, 7.1% of Texas students reported that they were threatened or injured with a weapon on school property.<sup>33</sup> Additionally, 7.7% of Texas students said that they felt unsafe and therefore skipped school at least once during the thirty days prior to the study.<sup>34</sup>

Texas law allows the board of trustees of a school district, or the board's designee to, after a hearing, expel a student and place them in an alternative setting if the student is found to have engaged in certain offenses and the board determines the student's presence in the classroom is threatening, detrimental, or not in the best interests of the district's students. Chapter 37 of the Texas Education Code provides a list of offenses for which a student may be expelled or placed in a disciplinary alternative educational program (DAEP) regardless of when and where the offenses took place. The law specifies that a student may only be expelled or placed in DAEP upon receiving deferred prosecution, an adjudication of delinquent conduct, probation, deferred adjudication, conviction, being referred to juvenile court, charged, or arrested for certain offenses.<sup>35</sup> These offenses include felonies under the Penal Code for:<sup>36</sup>

- Criminal Homicide
- Kidnapping, Unlawful Restraint, and Smuggling of Persons
- Trafficking of Persons
- Sexual Offenses
- Assaultive Offenses
- Aggravated Robbery

While troubled students must have the opportunity to learn, all students must have a safe learning environment. To ensure students who pose a threat to the safety of students and school employees are not allowed to be in the classroom, Texas should add the following offenses, upon receiving deferred prosecution, an adjudication of delinquent conduct, probation, deferred adjudication, conviction, being referred to juvenile court, charged, or arrested, as grounds for expulsion or placement in DAEP:

- Stalking
- Cruelty to Animals
- Any weapons felony under Chapter 46 of the Texas Penal Code
- Any organized crime offenses under Chapter 71 of the Texas Penal Code

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<sup>33</sup> Texas School Safety Center "School Violence," available at <https://txssc.txstate.edu/topics/school-violence/>.

<sup>34</sup> Ibid.

<sup>35</sup> Tex. Ed. Code Sec. 37.0081.

<sup>36</sup> Id.

**Recommendation: When a student is placed in a DAEP classroom, the school district should implement a cycle of restorative practices designed to address the underlying mental or behavioral health issues, including screenings from the TWITR project or similar programs.**

As the state takes a stronger stance on what behaviors will no longer be tolerated in classrooms, the state should also take a stronger stance in focusing on restorative educational models that address the underlying causes of misbehavior. Certainly, some students simply misbehave. However, for many students there are underlying causes of misbehavior – such as anxiety, stress, lack of relational or family stability – that cause the misbehavior. Roundtable participants discussed with the Governor the need to equip these students with coping and emotional management strategies to moderate and retrain the responses that drive their misbehavior.

When students are placed in DAEP, there should be a focus on involving parents and assessing the cause of these behaviors. Prior to placement, the campus behavior coordinator or an appropriate administrator should meet with a student and a parent/guardian. Administrators should have the authority to create a behavior contract signed by the administrator, student, and parent/guardian stating that, if the student continues to engage in behavior violating the campus code of conduct, the student will be expelled.

Counseling and behavioral assessments should be made available to students during their time in DAEP. Mandatory screenings by the TWITR project, or similar programs, should be considered for students in DAEP. These experts will be able to assess the student and determine what, if any, health care services the students might need. By screening these students and offering school districts more help in treating the underlying causes of misbehavior, the state will strengthen the mental health apparatus of the public school system.

When a student is removed from the regular learning environment, he or she should be provided supports that will drive that student's outcomes while addressing any social and emotional needs. Mere punishment for misbehavior is unlikely to address the underlying causes of that behavior. During the Governor's roundtables, there was discussion about school districts placing lower performing personnel into DAEP classrooms. Instead, school districts should place skilled educators trained in curriculum and classroom instructional methods that teach citizenship, responsibility, and relationship building into these environments. These educators should have a record of success in high-quality instruction and creating positive classroom environments. Schools like the Momentous Institute or evidence-based programs like the Fourth R could provide support for TEA as they develop a list of best practices or behavioral health curriculum to be used in DAEP programs. TEA could develop resources and trainings for school districts on ways to alter the DAEP environment to be restorative. A continual cycle of punishment and reoccurrence does not improve the learning environment for DAEP students or their peers.

Additionally, placing skilled teachers into DAEP classrooms or campuses could more likely lead to the identification of students who may represent a sustained and legitimate threat to the safety of a school. Skilled educators understand the emotional and relational life of students, and they will be able to partner with administrators and counselors to further separate students who are credible threats from regular and other DAEP students. It is important that the state equip and empower administrators to prioritize DAEP programs as they consider where to place their most capable staff.

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## ENHANCING FIREARMS SAFETY

The fundamental right to gun ownership was enshrined by our Founding Fathers in the Second Amendment to the U.S. Constitution. In 2008, as Attorney General, Governor Abbott filed an amicus brief on behalf of 32 states that challenged the constitutionality of a Washington, D.C. ordinance that effectively banned all handguns, with the ordinance being overturned by the U.S. Supreme Court in *District of Columbia v. Heller*.<sup>37</sup> Two years later, successfully arguing in *McDonald v. Chicago* that the Second Amendment's protections apply to state and local governments as well, then-Attorney General Abbott asserted on behalf of 38 states that "just as local governments cannot constitutionally act as 'laboratories' for initiatives to abrogate their citizens' right to free speech or their freedom from unreasonable searches and seizures, nor can they nullify the fundamental right to keep and bear arms secured by the Second Amendment."<sup>38</sup>

However, the Supreme Court of the United States, the Texas Supreme Court, as well as Federal and Texas Law, have long recognized that there is a legal basis for limited regulations of firearms to ensure they are not used for criminal purposes. Proposals discussed at the roundtables convened by Governor Abbott include the following action items to lessen the illegal and irresponsible use of firearms:

- Closing gaps in information reporting for background checks by creating a case management system for Texas judges.
- Encouraging the legislature to study the possibility of creating a "red flag" law to identify persons who are a danger to themselves or others and who either have access to or own firearms.
- Work to make sure that adjudications affecting the right to legally purchase and possess firearms are reported within 48 hours. This 48-hour requirement should also extend to protective orders and family violence convictions.
- Strengthening the Safe Firearm Storage Law.
- Mandatory reporting of lost or stolen guns.

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<sup>37</sup> "Texas Attorney General attends 2nd Amendment Argument," KLTV, March 3, 2010. Online at: <http://www.kltv.com/story/12069317/texas-attorney-general-attends-2nd-amendment-argument>.

<sup>38</sup> Ibid.



## CLOSE CRITICAL INFORMATION GAPS TO HELP PREVENT SHOOTINGS LIKE THAT IN SUTHERLAND SPRINGS

**Recommendation: Create a statewide case management system to provide magistrates immediate access to critical information and to speed the timely reporting of court records for federal background checks.**

With the passage of the Fix NICS Act, the federal government has indicated that improving the timely and accurate reporting of data to the NICS should be a priority. Texas must step up in the wake of recent tragedies to ensure that the criminal justice system has the best tools to ensure we have the highest quality of reporting. The federal regulations regarding the release of funds under the Fix NICS ACT are yet to be determined; however, previous discretionary funds under the NICS Act Record Improvement Program (NARIP) have required the state to create a plan, calculate the associated costs, then apply to receive the federal funds.

The Office of Court Administration (OCA) should pursue all available federal funds for this purpose and report to the Texas Legislature if additional funding is needed. With these funds, the OCA should contract with an outside entity to establish a uniform Court Management System (CMS) that can be accessed by counties, focusing primarily on counties with a population under 20,000.

Currently, many counties with a population under 20,000 are unable to collect data directly from an automated system.<sup>39</sup> The inability to collect data in a CMS weakens the state's ability to ensure accurate data, to share data with other state agencies such as DPS, and to provide for interaction with other state-supported technology systems.<sup>40</sup> Many smaller counties are unable to contract with a private vendor to establish a CMS due to complexity and cost. The new CMS system will include the ability to capture case statistics and other judicial data, including mental health adjudications and subjects of a domestic violence protective order. The data will be automatically reported to various state agencies, reducing reporting errors and the potential public safety risk of those errors. Additionally, the system will be fully integrated with the E-filing system and other state reporting systems for seamless interaction with state agencies.

Creating a new case management system will require investments in physical and virtual infrastructure to ensure that data is collected, stored, and disseminated. In order to be effective, it must be remotely available to a magistrate across the state, in a wide variety of settings. This will likely require integration with the Texas Crime Information Center / National Crime Information Center and possibly the Texas court information system currently under development by Tyler Technologies, in beta testing as re:SearchTX<sup>41</sup>.

However, a statewide CMS system is cheaper than each county contracting with a private vendor on their own due to the economies of scale and the benefits extend beyond NICS reporting. Taxpayer dollars will be saved in the long term by speeding up court processes and giving OCA an objective tool to analyze case data and how our system operates.

The system would also allow for data to be collected to analyze the effectiveness of reentry and diversion programs designed to reduce the likelihood of recidivism and safely reintroduce offenders into society. For instance, the courts currently have no way of determining how many offenders are referred to reentry and diversion programs or how many of those offenders go on to commit another offense. Additionally, the CMS system would help facilitate the implementation of a subsequent recommendation to shorten the reporting requirement for mental health adjudications.

Finally, setting appropriate bail amounts and conditions is one of the most critical aspects of a magistrate judge's responsibilities. It requires carefully balancing the constitutional rights of the accused with the need to protect

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<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> <https://research.txcourts.gov/>.

specific victims and the community at large<sup>42</sup>. In Texas, the majority of these bonds are set by a Justice of the Peace who may not have sufficient insight into the circumstances of the offense and the accused to make a carefully considered decision. The creation of a case management system would provide judges across the state with a consistent, comprehensive source of information in making these determinations.

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<sup>42</sup> Tex. Code Crim. Proc. Art. 17.15. The amount of bail to be required in any case is to be regulated by the court, judge, magistrate or officer taking the bail; they are to be governed in the exercise of this discretion by the Constitution and by the following rules:

1. The bail shall be sufficiently high to give reasonable assurance that the undertaking will be complied with.
2. The power to require bail is not to be so used as to make it an instrument of oppression.
3. The nature of the offense and the circumstances under which it was committed are to be considered.
4. The ability to make bail is to be regarded, and proof may be taken upon this point.
5. The future safety of a victim of the alleged offense and the community shall be considered.

## STUDY A PROTECTIVE ORDER LAW TO KEEP GUNS OUT OF THE HANDS OF THOSE MENTALLY UNFIT TO BEAR ARMS, BUT ONLY AFTER LEGAL DUE PROCESS IS ALLOWED TO ENSURE SECOND AMENDMENT RIGHTS ARE NOT VIOLATED

As of March 2018, five states have laws that allow guns to be temporarily taken away by a judge if they believe individuals pose a threat to themselves or others.<sup>43</sup> A proper approach must focus on quickly identifying those who pose a risk without infringing on the rights of lawful gun owners by maintaining the highest standards of due process.

**Recommendation: Encourage the Texas Senate and House leaders to issue an interim charge to consider the merits of adopting a red flag law allowing law enforcement, a family member, school employee, or a district attorney to file a petition seeking the removal of firearms from a potentially dangerous person only after legal due process is provided.**

“Red Flag” or “extreme risk” protective orders create a mechanism to separate a potentially dangerous person from firearms for a period of time. Texas law currently has a system where victims of family violence can seek a protective order that protects victims and the due process rights of those they seek them against. Similarly, the Texas Family Code allows for the involuntary commitment of persons who pose a serious risk of harm to themselves or others, but only under stringent constitutional protections. Properly designed, emergency risk protective orders could identify those intent on violence from firearms, but in a way that preserves fundamental rights under the second amendment.

The legislature should consider whether the existing protective order laws are sufficient, or could be amended to include emergency risk protection, or whether emergency risk protective orders should be independently created. Texas Family Code Sec. 81.007 makes a county attorney or criminal district attorney responsible for filing family violence protective orders. A mental health protective order statute would likely have similar responsibilities under a red flag statute.

Mental Health Protective Order procedures would allow law enforcement, a family member, school employee, or a district attorney to file a petition seeking the removal of firearms from a person proven to be dangerous to himself or to others. The courts would then provide that person notice and a hearing, and only upon a finding that they pose a significant risk of danger to themselves or others would the court order law enforcement to take possession of firearms. These protective orders should be for a limited duration, provide for mental health treatment, and have a clear path to the full restoration of rights and return of firearms when the person is no longer a danger.

Such protective orders may not only protect the public but also protect dangerous individuals from themselves. Suicide is the 10th-leading cause of death in the U.S., with guns being the method most used.<sup>44</sup> An individual is more likely to use a firearm to commit suicide than mass murder.<sup>45</sup> In 2016, suicide accounted for 59 percent of deaths by firearms while homicide accounted for 37 percent.<sup>46</sup> In that year, firearms were used in a majority (51%) of all suicide deaths.<sup>47</sup>

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43 “Gun-Violence Restraining Orders Can Save Lives,” David French, National Review, March 1, 2018. Online at: <https://www.nationalreview.com/magazine/2018/03/19/gun-violence-restraining-orders-save-lives/>.

44 “Suicide Rate is Up 1.2 Percent According to Most Recent CDC Data (Year 2016),” American Foundation for Suicide Prevention, January 2, 2018. Online at: <https://afsp.org/suicide-rate-1-8-percent-according-recent-cdc-data-year-2016/>.

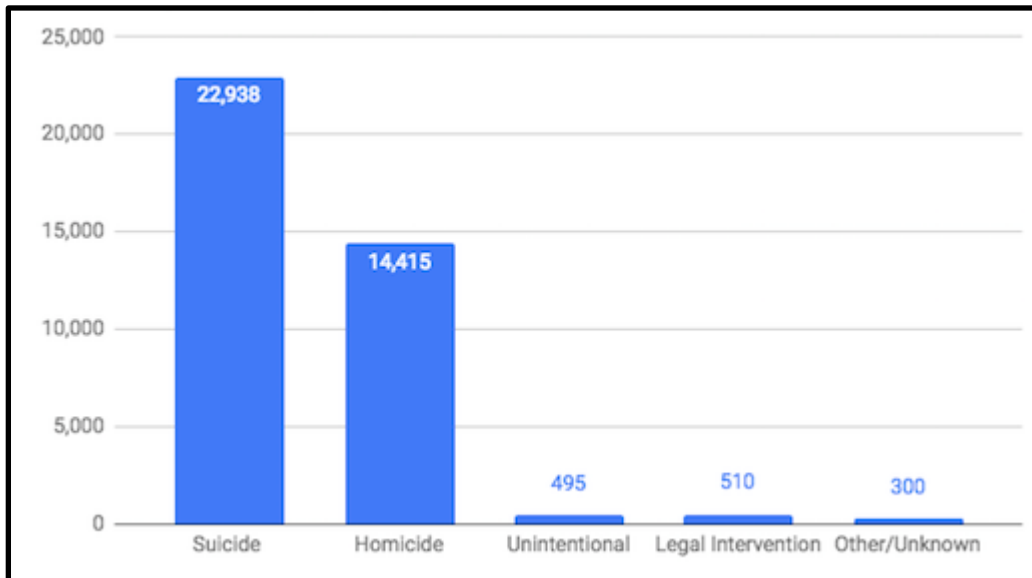
45 “Guns & Suicide: The Hidden Toll,” Madeline Drexler, Harvard Public Health. Online at: [https://www.hsph.harvard.edu/magazine/magazine\\_article/guns-suicide/](https://www.hsph.harvard.edu/magazine/magazine_article/guns-suicide/).

46 Injury Facts: Firearms. National Safety Council. 2017; See: <http://injuryfacts.nsc.org/home-and-community/safety-topics/firearms/>

47 American Foundation for Suicide Prevention, “Suicide Statistics,” available at: <https://afsp.org/about-suicide/suicide-statistics/>.

The orders contemplated by this proposal could have been used to prevent the shootings at Sutherland Springs and at Marjory Stoneman Douglas High School in Parkland, Florida.

**Deaths by Firearm in the United States (2016)**



*Source: Center for Disease Control*

## MANDATE A 48-HOUR REPORTING PERIOD TO CLOSE GAPS IN FEDERALLY MANDATED BACKGROUND CHECKS

**Recommendation:** Adjudications affecting the right to legally purchase and possess firearms should be reported within 48 hours. This 48-hour requirement should also extend to protective orders and family violence convictions. Courts should ensure that all disqualifying felony convictions are entered as soon as possible.

Once a mental health adjudication, Emergency Risk Protective Order, family violence protective order, or felony conviction occurs, that information should immediately be available to law enforcement. Reporting from county and district courts to the Texas Department of Public Safety Criminal Justice Information System (CJIS) is the bedrock of this information sharing. From CJIS, the information that a person is ineligible to purchase a firearm is immediately disseminated to the federal firearms reporting database for gun purchases. Additionally, this information is part of the computerized criminal history database so that law enforcement who have made contact with an individual know that they may be ineligible to possess a firearm.

Courts should ensure that all disqualifying felony convictions are entered within 48 hours. Courts should work diligently to ensure that all disqualifying felony convictions are entered as soon as possible.

The expeditious reporting of information to the CJIS has been an ongoing concern to county governments. Although baseline reporting levels have been required by Article 60.10 of the Texas Code of Criminal Procedure since 2009, it was not until 2012 when the Governor's Office Criminal Justice Division (CJD) required reporting as a condition of criminal justice grants that counties began to rapidly improve CJIS reporting. Any increase in CJIS reporting requirements would likely be seen by the counties and court systems as an "unfunded mandate" unless tied to additional grant funding. This may be available through either CJD, or through federal grant funds and the Texas OCA Protective Order Record Improvement Project. This OCA program was created specifically to increase the reporting of protective orders to the National Instant Background Check System.

At both the state and federal level, felons and those who commit family violence are no longer allowed to possess firearms. Those who have been adjudicated as mentally unfit to own firearms are not allowed access to them. The issuance of a family violence protective order or other protective orders that temporarily limit a person's ability to own or possess guns mean nothing if they are not immediately available to federal, state, and local law enforcement.

## STRENGTHENING THE SAFE FIREARM STORAGE LAW

Twenty seven states and the District of Columbia have laws addressing children's access to firearms. Texas first passed its law regarding safe storage of firearms around children, Texas Penal Code 46.13, in 1995.

Although Texas has a safe firearm storage law codified as Texas Penal Code 46.13, changes to this law may fill enforcement gaps and make it a more useful tool to law enforcement and for public safety. In the first twenty years of this law, more than 200 people were arrested for violating the law, but there were only 61 convictions<sup>48</sup>.

**Recommendation: To help ensure firearm safety, make three modifications to the Texas gun storage law.**

**1. Firearm storage law should be changed to include 17 year olds.** Under current law, "child" means a person younger than 17 years of age. The murderer at Santa Fe high school was already 17, and thus his parents were not obligated to securely store their firearms under this law.<sup>49</sup> Changing this definition to include persons under 18 years of age would enhance the safe storage requirements of the law<sup>50</sup>. Oklahoma and fifteen other states already use the age of 18 for this requirement. This law could also be expanded to cover preventing access to firearms for children under 18 year olds who have been adjudicated as having engaged in delinquent conduct in the juvenile justice system, or have been convicted of crimes of violence as an adult.

**2. Clarify "readily dischargeable" statutory definition.** One barrier to prosecution may be the requirement that the firearm be "readily dischargeable" in order to create any criminal liability<sup>51</sup>. This requires prosecutors to prove that the firearm was stored loaded with ammunition when it was accessed by the child. This requirement is difficult to prove, absent an admission by the parent or child. A better practice would be the elimination of the "readily dischargeable" requirement. This would require the secure storage of a firearm around children, whether it is loaded or not. This is also consistent with the best practice of storing a firearm separately from ammunition, as encouraged by the U.S. Concealed Carry Association<sup>52</sup> and firearm manufacturers.<sup>53</sup>

**3. Increase the penalty level to a 3<sup>rd</sup> degree felony when access results in death or serious bodily injury.** The penalties for a violation are currently low. Studies on the effectiveness of child access protection laws have demonstrated that the highest reductions in firearm fatalities are seen in states that provide for felony prosecution of violations.<sup>54</sup> These penalties should be enhanced under certain situations to emphasize the danger that unauthorized possession of a firearm poses. Currently, if a child does not cause death or serious bodily injury with the firearm, it is only a Class C misdemeanor, punishable by a maximum of a \$500 fine. Even if the child causes death or serious bodily injury as a result of gaining access to the firearm, it is only a Class A misdemeanor, punishable by up to a year in county jail. This penalty should be raised to the level of a 3<sup>rd</sup> degree felony when access results in death or serious bodily injury. Other possibilities include penalty enhancements if a firearm is subsequently brought to a school or if access is the result of knowing or reckless conduct by a parent, rather than simple criminal negligence.

<sup>48</sup> "Texas rarely prosecutes people who fail to secure guns from children," Austin American-Statesman, Ciara O'Rourke, March 27, 2015. Online at: [https://www.mystatesman.com/news/crime--law/texas-rarely-prosecutes-people-who-fail-secure-guns-from-children/YtGFUXFpghVLHojdq5FULL/?icmp=statesman\\_internallink\\_invitationbox\\_apr2013\\_statesmanstubtomystatesmanpremium#od1b3b98.3554830.735685](https://www.mystatesman.com/news/crime--law/texas-rarely-prosecutes-people-who-fail-secure-guns-from-children/YtGFUXFpghVLHojdq5FULL/?icmp=statesman_internallink_invitationbox_apr2013_statesmanstubtomystatesmanpremium#od1b3b98.3554830.735685).

<sup>49</sup> It does appear that 46.13 is used as a basis for civil liability more often than for direct prosecution. See *Perez v. Lopez*, 74 S.W.3d 60 (Tex. App. 8th Dist. 2002); <https://www.houstonchronicle.com/houston/article/Family-of-teen-killed-in-Santa-Fe-shooting-seeks-12942630.php>.

<sup>50</sup> This change would also bring 46.13 into better agreement with other sections of the Texas Penal Code. See *Harvey v. State*, 123 S.W.3d 623, 629-30 (Tex. Ct. App. 6th Dist. 2003) "In numerous other definitions, to be a 'child' or 'minor,' the individual simply must be under eighteen years of age."

<sup>51</sup> "Readily dischargeable firearm" means a firearm that is loaded with ammunition, whether or not a round is in the chamber." Texas Penal Code 46.13(a)(2).

<sup>52</sup> <https://www.usconcealedcarry.com/properly-store-firearms/>.

<sup>53</sup> <http://www.waltherarms.com/walther-support/safety/#>.

<sup>54</sup> <http://www.nber.org/papers/w11613.pdf>.

## PROMOTE AWARENESS OF SAFE STORAGE PRACTICES

### **Recommendation: Promote voluntary use of gun locks.**

Several states impose additional requirements on licensed gun dealers with regard to child safety locks and other access prevention. In Ohio, a licensed dealer must make an offer to sell additional access prevention devices appropriate to the firearm. This could include trigger locks, integrated locking mechanisms, or secure storage containers. Maine requires that a dealer demonstrate the use of a trigger lock device. Texas could emulate these laws, which do not require additional purchases or use by consumers but ensure that they have the information to make intelligent decisions regarding firearm storage.

Another approach would be to work with the National Sports Shooting Foundation (NSSF) to promote proper storage and encourage the use of "gun locks" by creating a \$1 million grant program with funds from the Governor's Criminal Justice Division to support NSSF activities.

The NSSF "Own It? Respect it. Secure it" initiative was developed to promote and encourage firearm safety and safe storage. It also supplements ongoing firearm safety and education campaigns such as Project ChildSafe, which has distributed more than 37 million firearm safety kits that includes a cable-style gun lock, lock-installment instructions, and a safety booklet. Project ChildSafe firearm safety education kits are free to law enforcement agencies.

The NSSF Project ChildSafe initiative was launched when former Governor of Texas George W. Bush provided a \$1 million grant.

### **Recommendation: Increase notification and awareness of the law.**

Current Texas law requires that a firearms dealer post a sign with mandated language "in a conspicuous position" informing purchasers about Texas safe storage requirements. This may be insufficient notification and awareness. Regulatory changes could require that this safe storage law be emphasized in multiple ways, such as License to Carry classes, hunter education courses, through established shooting ranges, and with information provided with hunting and fishing licenses. This would help encourage the millions of law abiding, gun-owning Texans to embrace their personal responsibility for gun safety.

In February 2018, DPS launched a gun storage awareness program, providing information on its website detailing proper storage to prevent firearms from being stolen or falling into the hands of children. In recent a Public Safety Commission hearing, the Commissioners charged DPS staff to evaluate how this information can be more widely distributed. At a minimum, DPS should ensure that gun storage educational information is prominently available at all driver's license offices. It should also evaluate other means to disseminate such information.

## MANDATORY REPORTING OF LOST OR STOLEN GUNS

According to data from the Federal Bureau of Investigation (FBI), from 2012 to 2015, nearly half a billion dollars' worth of guns were stolen from individuals nationwide, amounting to an estimated 1.2 million guns.<sup>55</sup> A Harvard study estimated that only 63 percent of gun thefts get reported to law enforcement.<sup>56</sup> This discrepancy in reporting significantly hinders law enforcement efforts to trace the source of guns used to commit crimes.

After mass shootings, attention tends to fall on gaps in background checks with many calling for universal background checks.<sup>57</sup> However, many criminals are armed with firearms purchased through the black market where background checks would never apply.

A study on crime guns by NBC found that most stolen weapons are later found in the possession of a felon, a juvenile, or an individual otherwise prohibited under federal or state laws from possessing firearms.<sup>58</sup>

Stolen guns pose a significant risk to community safety. Whether stolen from a gun store or an individual gun owner, these guns often head straight into the illegal underground gun market, where they are sold, traded, and used to facilitate violent crimes. Between January 2010 and December 2015, 9,736 guns that were recovered by police in connection with a crime and traced by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) had been reported stolen or lost from gun stores.<sup>59</sup> The Austin Police Department alone received more than 4,600 reports of lost or stolen guns between 2010 and 2015.<sup>60</sup> Over that same period in Austin, lost and stolen guns were recovered in connection to at least 600 criminal offenses, including more than 60 robberies, assaults, and murders.

**Recommendation: To aid law enforcement, require gun owners to report when their firearms are lost or stolen within 10 days.**

Chapter 46 of the Texas Penal Code already covers rights, limitations, and responsibilities of firearm ownership. A new statute within Chapter 46 could require that any stolen firearm be reported to the county sheriff within 10 days of when the owner becomes aware or should become aware of their theft, and a violation of that requirement be a Class C misdemeanor. The county sheriff would then be required to report the relevant information to the Texas Department of Public Safety for entry into NCIC. It would also be possible to incentivize this reporting by making a report generated under the statute sufficient for an insurance claim and to limit the owner's liability if the gun is subsequently used in the commission of a crime.

Twelve states require firearm owners to report the loss or theft of a firearm. Michigan law ( Code 28.430, Sec. 10) requires, a person to report the theft of a firearm to the local police agency within five days after they know it is stolen, and a violation of the requirement is punishable by up to a \$500 fine. As stolen firearms are already entered into NCIC on a voluntary basis, no new infrastructure is necessary.

Reporting stolen firearms makes it easier for law enforcement to identify firearms in the possession of people who may engage in criminal activity, to accurately perform forensic analysis and tracing of firearms recovered at crime scenes, and to reunite recovered firearms with their rightful owner. Texas law already recognizes the serious consequences that stolen firearms pose to community safety. Under Texas Penal Code 31.03(e)(4)(C), theft of a

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<sup>55</sup> Uniform Crime Reporting Program Data: Property Stolen and Recovered. FBI. 2012-2017.

<sup>56</sup> "Only 11 States Require Gun Owners to Report Stolen Weapons to Police," Max Siegelbaum, The Trace, November 20, 2017. Online at: <https://www.thetrace.org/2017/11/stolen-guns-reporting-requirements/> (I couldn't find support for this statement in this article or anywhere else online.)

<sup>57</sup> "Gun Theft From Legal Owners Is on the Rise, Quietly Fueling Violent Crime Across America," Brian Freskos, NBC, November 20, 2017. Online at:

<https://www.nbcsandiego.com/news/national-international/Gun-Theft-From-Legal-Owners-Is-On-The-Rise-458307963.html>.

<sup>58</sup> Ibid.

<sup>59</sup> FFL Theft/Loss Reports Matching Firearms Subsequently Recovered and Traced. ATF. 2010-2015.

<sup>60</sup> Ibid.



firearm is a felony, punishable by up to 2 years in state jail and a \$10,000 fine. Although this penalty is available, law enforcement does not know that a firearm is stolen unless it is reported by its legal owner.

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## CONCLUSION

The policy proposals outlined in this plan are a starting point – not an ending place. This plan provides dozens of strategies that can be used before the next school year begins to keep our students safe when they return to school. These suggestions identify nearly \$110 million in total likely funding, including \$70 million that is already or will soon be available to begin this important work. Additionally, I have currently identified a specific need for \$30 million that I will work with the Legislature to fund next session.

This plan also provides strategies for the Legislature to consider. The strategy I most strongly encourage the Legislature to consider is greater investment in mental health – especially crisis intervention counselors. As long as mental health challenges trouble our children, there will never be enough safety barriers we can build to protect our students. If, however, we can address the mental health challenges faced by some of our students, it will do more than make our schools safer, it will build a better future for those troubled students and for our state.

*Governor Greg Abbott*

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## APPENDIX: FEDERAL FUNDING FOR SCHOOL SAFETY

The Federal Consolidated Appropriation Act of 2018 provided numerous sources of funding for activities that directly or indirectly enhance school safety. Most of the strategies outlined in this document should fall within the eligible uses of these federal funds. The Governor's Office will continue to work with the Texas Congressional delegation and our federal partners to ensure these federal dollars can be put to use protecting the students of Texas.

### **U.S. Department of Education:**

- \$90 million for school safety activities, with at least \$5 million for School Emergency Response to Violence (SERV) grants. Examples of activities that may be funded by Project SERV include mental health services, overtime for teachers, counselors and security staff, and payment of substitute teachers.
- \$1.1 billion for Student Support and Academic Enrichment Grants. Of this amount, \$98.4 million is estimated to be allocated to Texas. Allowable uses include counseling and mental health programs, addressing ways to integrate health and safety practices into school or athletic programs, and disseminating best practices and evaluating program outcomes relating to any local educational agency activities to promote student safety and violence prevention.

### **U.S. Department of Justice:**

- \$75 million for STOP School Violence Act. These grants can fund training, anonymous reporting systems, intervention teams, mental health training, training law enforcement, metal detectors, locks, lighting, technology for expedited notification of law enforcement, etc.
- \$10 million for VALOR (the Officer Robert Wilson III Memorial Initiative on Preventing Violence Against Law Enforcement Officer Resilience and Survivability) grants. Includes delivering no-cost training (professional education), conducting research, developing and providing resources, and establishing partnerships that benefit law enforcement officers.
- \$10 million for POLICE Act grants. Active shooter training programs that offer scenario-based, integrated response courses designed to counter active shooter threats or acts of terrorism against individuals or facilities
- \$94 million for Youth Mentoring grants
- \$20 million for Violent Crime and Gun Crime Reduction. These grants fund competitive and evidence-based programs to reduce gun crime and gang violence.
- \$4 million for Gang and Youth Violence grants. These grants fund gang and youth violence education, prevention and intervention, and related activities.

### **U.S. Department of Health and Human Services:**

- \$71 million for Project AWARE to provide state educational grants, grants to promote resilience in communities facing civil unrest, and mental health first aid grants.
- \$26 million for Healthy Transitions to provide grants to states to improve access to mental disorder treatment and support services for young people facing mental health conditions
- \$13 million for SAMHSA's Minority Fellowship program to improve behavioral health care outcomes for racial and ethnic minority populations
- \$75 million to help expand the behavioral health workforce, including rural and medically underserved areas, and increase access to child and adolescent services

While the Omnibus Appropriations Act was passed in March, the federal administering agencies are just beginning to publish rules, eligibility and allocation amounts and processes. The Governor's Office will continue to monitor and engage the appropriate offices to ensure the priorities outlined in this proposal are given every consideration.