

SCHOOL SAFETY:

**A COMMUNITY
RESPONSIBILITY**



**SPECIAL SUMMIT ON
SCHOOL SAFETY REPORT**

Office of the Nevada Attorney General



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EXECUTIVE SUMMARY

On March 14, 2018, after the high-school shooting in Parkland, Texas, Nevada Attorney General Adam Paul Laxalt convened a special law enforcement summit to gather Nevada officials and jointly assess the vulnerabilities to Nevada's schoolchildren. Nearly 100 individuals attended in Carson City and Las Vegas (linked by videoconference). A third of the attendees represented the school community: public and private institutions, the Nevada Department of Education, and school police departments in Clark and Washoe Counties. Another third were law enforcement officials: sheriffs, police department leaders, and FBI special agents. The last third included officials from the Nevada Department of Public Safety and the Clark County Fire Department, physical security experts from a school-construction company, and staff from the Governor's Office. More than half the counties in Nevada were represented.

“First, the priority for most law enforcement is response time. Second, past experience indicates that the vast majority of school shootings are carried out by students at the schools they attend.”

Many topics on school safety were discussed along with other safety subjects not pertaining directly to schools. As described in the following report, the Attorney General's Office has recommendations addressing seven major topics that relate directly or indirectly to school safety. These recommendations draw from the several themes that emerged from the summit. First, the priority for most law enforcement is response time. According to FBI research, 43% of mass shootings are fully carried out by the time law enforcement arrives. Thus, for instance, attendees agreed on the necessity of well-developed “active-assailant” plans that outline in advance, so far as possible, the tactical response to an attack. Other attendees stressed the need to have officers at schools, both to deter shooters and to minimize the time that elapses before a uniformed officer confronts a shooter.

Second, past experience indicates that the vast majority of school shootings are carried out by students at the schools they attend. School shooters obtained guns from their parents or their relatives, and planned their methods of attack well in advance of the shootings. Moreover, shooters frequently disclosed or hinted at their plans in

communications with other students, family members, or through social media. These facts underscore the need to increase and improve communications between law enforcement and school officials, refine threat assessment methods and evaluative tools, and strengthen mental health programs. However, due to the limitations of using experience as an exclusive guide to the future, the following discussion proposes some measures that do not necessarily implicate previous school shootings.

Increase School Resource Patrols to Reduce Response Time

Law enforcement participants unanimously agreed that if funding were no object, it would be desirable to place at least one school resource officer in every school in the state. As an alternative, school resource officers could be assigned to patrol small groups of schools in close proximity to one another. Of course, neither approach may be entirely feasible, especially in rural counties where any given school may have a relatively small student population and be located at a significant distance from other schools. For example, in Humboldt County, 11 schools share a single “school resource officer.” Metro, by contrast, each day has some 120 school resource officers in Clark County schools for 322,000 students. Washoe County has 38 sworn school resource officers for 64,000 students; this number has remained static even as the school population has grown over the years. Experience has shown that a prompt law enforcement response significantly reduces the probability that an assailant will inflict mass casualties upon a student population. Ideally, law enforcement budgets should be augmented in a way that enables officers to respond as quickly as possible to potential attacks.

Recommendation: The Attorney General’s Office recommends that law enforcement budgets be augmented in a way that decreases the law enforcement response time to a potential attack on any given school within the state. While local agencies should assess their individual needs and pursue, when appropriate, any federal funding options that may become available, the Legislature should also consider appropriating funds for school resource officers independent of any appropriations from the distributive school account.

Improve the Central Repository's Comprehensiveness and Accessibility

Housed within the Department of Public Safety, the Central Repository for Nevada Records of Criminal History compiles and manages records of arrest and dispositions originating from criminal justice agencies within Nevada. Officers in the field use the systems of the Central Repository to assess whether suspects or persons of interest may pose a threat of violence. The Central Repository also manages the Point of Contact (POC) program on behalf of the Federal Bureau of Investigation's Criminal Background Check (NICS) Office. In managing the POC program, trained members of the Central Repository's staff determine whether the proposed transfer of a firearm by a federally licensed firearms dealer to a consumer would violate state or federal law.

Although previous school shootings did not suggest problems with records management or the performance of background checks, the Central Repository nonetheless plays an important public safety role in Nevada. The records housed by the Central Repository should be as comprehensive, current and accessible as possible because the Central Repository's systems provide officers with critical information about potentially dangerous situations. However, the quality of those systems depends upon the successful transmission of records to the Central Repository.

Given the important public safety function of the Central Repository, the staff currently faces the formidable challenge of collecting, processing, interpreting, compiling, and maintaining records of criminal history that are generated by hundreds of criminal justice agencies spread throughout a multitude of different jurisdictions. Because Nevada's criminal justice agencies do not employ a common system for formatting, uploading and/or transmitting records to the Central Repository, much of the work of the staff at the Central Repository involves manual data entry, visual inspection and interpretation of records, and constant person-to-person communication with court administrators and others. The Central Repository is comprehensive and reliable, and because it supplements NICS as a means of determining eligibility for firearm transfers, it provides Nevada with screening capabilities that are superior to those of the many states that do not participate in the FBI's POC program. Nevertheless, the current process of compiling and maintaining records of criminal history is labor intensive and would benefit significantly from technological upgrades. These would include, most importantly, a single data transmission system with which the Central Repository could seamlessly interface in real time when processing electronic records from different sources.

Recommendation: The Attorney General's Office recommends that the Legislature evaluate whether to automate current manual processes at the Central Repository, thus making accurate and complete records of criminal history available, possibly in real-time, to all law enforcement agencies. At a minimum, the Legislature should consider whether to make funds and other resources available for the acquisition and implementation of a unified transmission system that will relay data to the Central Repository in a common electronic format. This will ultimately require the cooperation of public officials at both the state and local levels of government. Since public safety in Nevada will plainly benefit from the creation of an enhanced background check system, the Attorney General's Office is confident that there is a strong desire among all public officials to make the records housed by the Central Repository as comprehensive, current and reliable as possible. The Office has identified federal grants that may provide funding for technological improvements to the current background check system, and will collaborate with the Nevada Department of Public Safety to apply for those grants and effectuate the necessary enhancements.

Plan for Safer School Buildings

a. Safer Construction Considerations

Summit participants drew from the expertise of one of the nation's largest school builders. This builder detailed some of the design changes that have been adopted in the last decade. For instance, secured-perimeter fencing excludes intruders and channels legitimate entrants toward a property's single point of entry. Since these fences can easily be equipped with panic hardware, such that they do not trap students during an emergency, they can provide a significant layer of security for schools that might otherwise be vulnerable. Additionally, a single point of entry—appropriately staffed by school personnel checking items that students bring into the school—is a highly desirable safety feature, the builder explained, but so is entrance into a vestibule, equipped with cameras and bullet-resistant materials, from which a person may enter the school only after receiving a signal from school officials.

Surveillance equipment is another important security feature. An officer's ability to remotely access live camera streams is extremely valuable, but many schools are without the hardware and software necessary to operate a comprehensive surveillance system. A separate issue concerns the number of cameras necessary to serve a useful surveillance function. In the Clark County School District, there is one camera for every 1,000 feet of school space, though not all have live feeds. Video surveillance of perimeters, corridors, and entryways are most important. Summit attendees raised the issue of whether law enforcement can access feeds from private or charter schools. The building expert noted that more schools are installing classroom cameras for remote learning purposes; these cameras can also be leveraged as a security measure, in case of emergency, to provide an immediate visual of a classroom.

Another modern construction technique incorporates bullet-resistant materials into the building's structure. Yet another links the activation of fire alarms to smoke detection, in order to better prevent false alarms (which can be triggered as a way to get students in more vulnerable hallways or gathering spaces). Alarm systems should also be programmed to transmit messages other than fire alerts. Schools should ensure public address systems are capable of communicating with the student population on school grounds and promptly notifying family members of emergency situations.

The use of key cards is yet another useful safety tool that can keep a school automatically locked all day and create records of all entries, but any key card system must ensure that law enforcement has complete access and is not inadvertently denied entry to all parts of the premises. Other security measures less dependent upon technology could include aftermarket door locks within classrooms that create a physical barrier between the assailant and potential victims, affording law enforcement additional time to respond.

Finally, it should be noted that construction companies, design professionals, and security experts are often willing to share their expertise with school officials at no initial cost to school districts. For example, officials from Core Construction recently met with members of the Nevada Association of School Boards to educate them about the various options that are available to retrofit existing schools with critical security features. The meeting also provided participants with the opportunity to exchange ideas about how to address security concerns in the most cost-effective manner. In the near future, as Nevada's population and economy continues to grow, similar meetings will facilitate regular communications between security and construction experts, law enforcement, and school officials, thus keeping stakeholders abreast of the most current developments in construction methods and security technology. Over the long term, new schools will likely be constructed with modern current security features, but older schools may lag behind if they are not properly retrofitted.

Recommendation: The Attorney General's Office recommends that every school endeavor to establish a single point of entry into buildings, leading in turn to secured areas where school staff can inspect the items that students are bringing into the school. At locations where this may be cost prohibitive in the short term, schools should nonetheless erect perimeter fencing equipped with panic hardware.

Another Attorney General's Office recommendation is for schools to eventually install multiple cameras with all necessary hardware and software to establish comprehensive surveillance systems that are readily accessible to law enforcement. Meanwhile, school, law enforcement and construction officials should jointly evaluate whether existing cameras can be upgraded to provide off-site live access to law enforcement.

Additionally, the Attorney General's Office recommends that schools immediately adopt low-cost security measures such as reducing shrubbery so assailants cannot hide in school yards, purchasing aftermarket classroom locks, and ensuring that universal key-card access is available to law enforcement in emergencies.

Finally, the Attorney General's Office recommends that the Legislature work with local elected officials and other stakeholders to develop new mechanisms for financing or directly

funding security-related capital improvements for school districts so that all of Nevada's schools are constructed and equipped with the latest security features and surveillance technology.

b. Make Use of School Floor Plans

The summit featured extensive discussion of floor plans. Knowledge of a particular school's floor plan is crucial, for instance, to reducing response times, to locating shooters, to ensuring safe evacuation, and to verifying that students are not left behind. The training in the school districts in Clark and Washoe Counties is keyed to the floor plan and type of building. In Washoe County, moreover, floor plans, as well as access points, media staging points, helicopter landing points, evacuation and reunification points, and interior pictures are all stored on a secure website. One official from Reno noted that in some large high schools, fired blanks are practically inaudible to officers in other parts of the building, and sound less like gunshots than the thump of distant construction. One school-safety officer in Las Vegas cautioned that the Las Vegas Metropolitan Police Department ("Metro") might not be able to conduct realistic exercises based on specific school floor plans, but expressed the view that for this reason (among others) school resource officers are essential to neutralizing an assailant before Metro officers arrive. One rural sheriff said that local school floor plans were shared electronically, and stored on iPhones (which has the added benefit of allowing a sheriff's department to track officers). A less technological spatial orientation solution for those encountering the building for the first time would incorporate a detailed reference system for various building entries, making them comprehensible for first responders. For instance, a door can be named and marked "Side 1 [of the building name], Door 7," to allow a measurable reference, instead of referring to the "door by the southwest corner" (which requires a degree of orientation) or the "building near the stadium" (which might be known only to those familiar with the school).

Recommendation: The Attorney General's Office recommends that all law enforcement agencies obtain copies of the floor plans of schools within their jurisdiction if they do not already have them. These plans should be reviewed, incorporated into training, and stored so as to be immediately accessible to law enforcement responding to the scene of a crisis. To guarantee that responding officers and incident command supervisors have immediate access to a centralized source of information about school buildings and adjacent structures, floor plans should also be shared with and maintained by the Division of Emergency Management and/or the Fusion Centers (discussed below).

Plan for and Establish Incident Command

“Incident command” is the concept that every crisis requires a nerve center to effectively manage: (1) the initial response; (2) the subsequent accounting for students, school personnel and law enforcement officers; (3) the process of reunifying students with family members; (4) the post-incident media presence; and (5) the return to full and normal operations. A member of Washoe County law enforcement recounted the 2013 shooting at Sparks Middle School. He explained the necessity of incident command in making critical decisions such as when to evacuate students or to task a public information officer with the responsibility of transmitting information to affected parents, the media, public officials, and other interested persons.

During the Sparks shooting, coordination between law enforcement presented a challenge. Different law agencies—the Sparks and Reno Police departments, Washoe County Sheriff’s Office, FBI, and the Washoe County School Police Department—all “self-dispatched,” arriving on scene independently. While everyone was quick to respond, this complicated the situation for those trying to manage the incident. Crisis managers did not recognize some officers on the scene, especially those in plain clothes. For instance, at the Sparks shooting, some arriving detectives parked and locked their cars but later could not be located; this blocked emergency vehicles. Finally, a unified command also ensures continuity of information and rapid accurate responses. “You can’t outrun social media,” one participant said, mentioning that, during another public-safety incident, students were texting with each other, and parents anxiously calling law enforcement, practically before law enforcement became aware of the situation.

Recommendation: The Attorney General’s Office recommends that every school district and law enforcement agency determine, in advance, who will have overall incident command during a school shooting. The designated agency will manage the command center and be the final authority for critical decisions.

Design Effective Active-Assailant Training and Plans

a. Develop or Refine Active-Assailant Response Plans Specific to Schools

An active-shooter protocol—or active-assailant protocol, since attacks can involve weapons like knives or cars—is a plan that sets out a detailed response plan in advance of a possible attack. Reno, for instance, has developed the “Regional Active Assailant Response Protocol,” which covers, among other things, critical tasks such as stopping the threat, addressing life safety concerns, reunifying families, and supporting victims. Plans vary depending on local conditions, but the local law enforcement officials at the summit unanimously agreed the protocol should require that the assailant be neutralized as the first priority.

Many felt strongly that officers should be trained to respond to the “sounds of violence” (including screams) as opposed to sounds of gunshots. In one training exercise, officers, trained for active shooters, missed a mock assailant with a knife. It is critical to have officers train with medics, so that officers can immediately pursue the assailant while medics render first aid on the spot—and not, as in the past, after police secure an area. Larger jurisdictions like Washoe County possess written active-shooter protocols that are specific to schools. In smaller communities, protocols are typically generalized for a response to any type of institution.

Active-assailant response plans should be shared with Fusion Centers or state emergency management officials for their situational awareness and to facilitate the sharing of resources and intelligence. Ideally, active-assailant response plans and protocols will be stored in electronically accessible format and filed in a central database so as to be accessible to other members of law enforcement. Because the protocols will contain sources and methods, response plans should be designated accordingly, not as a policy, to ensure that they remain publicly inaccessible.



Finally, one officer noted that while first responders often include, of necessity, coaches and teachers, members of the school staff should not be relied upon to adhere to the active-assailant plan, such as in evacuation, since in most cases they will have been victims themselves, and will be experiencing trauma that potentially makes them unreliable.

Recommendation: The Attorney General's Office recommends that every law enforcement agency have an active-assailant protocol specific to the schools in their counties. This protocol should be updated annually, shared with the Fusion Centers, and used as the basis for training, both live and for planning purposes, and cover not only the initial response but also the long-term aftermath.

b. Share Written Response Plans in a Manner that Protects Their Confidentiality

Previous law enforcement summits, as well as the special summit on school safety, have consistently demonstrated the benefits of sharing training methods, recurring law enforcement challenges, proposed solutions and other critical information. Law enforcement participants have overwhelmingly supported the idea of meeting periodically to compare notes and exchange ideas between the many discrete agencies and jurisdictions that protect and preserve public safety in Nevada. Active-assailant protocols will, by necessity, differ from one jurisdiction to the next, but they should also have much in common if best practices are

evaluated and adopted, and then reevaluated and amended periodically in light of experience and technological advances. While summit participants agreed that it would be a relatively simple matter to create a shared database where any given agency could access and learn from the response plans of their sister agencies, participants also expressed concerns about their ability to maintain the legal confidentiality of individual response plans once they are placed in a central location for purposes of training or education. In summary, participants expressed concern that existing public records laws may create an unacceptable risk that a potential assailant could gain a tactical advantage over law enforcement simply by obtaining a response plan in advance of a planned attack. To address these concerns, the Nevada legislature should consider making appropriate amendments to the Nevada Public Records Act so as to ensure the confidentiality of shared active-assailant response plans.

Recommendation: The Attorney General's Office recommends legislation clarifying an exception to the Nevada Public Records Act. The proposed legislation would afford law enforcement agencies the ability to share active-assailant response plans without subjecting those documents to disclosure under the Nevada Public Records Act "balancing test" adopted by the Nevada Supreme Court in *Donrey of Nevada v. Bradshaw*, 798 P.2d 144 (1990).

c. Supplement and Refine Training Programs

Well-conducted training exercises ensure that school staff, students, law enforcement agencies, and other first responders understand their roles and responsibilities during an incident. Typically this includes specific drills to test critical-incident response plans and lockdown drills. Recent experience teaches the necessity of varied training. For instance, training should involve both school-shooter threats that emerge from within, and from outside, the school. Furthermore, training often occurs on the presumption that students are in class, and therefore within contained, securable areas. But training should also involve scenarios where students are at lunch or recess or in hallways or leaving for the day. Training should test the act of evacuation but also shepherding students into safe rooms.

With respect to more generalized concerns about training, one law enforcement official from Northern Nevada emphasized that officers cannot know shortcomings until live training is conducted; in one case, an exercise between cooperating agencies revealed an incompatibility between radio systems. Aside from its value in exposing such logistical issues, live training is important because it emphasizes assailant neutralization and then student evacuation, and will ideally incorporate the latest techniques, such as the door-reference system noted previously. Live training should be conducted with cooperating

agencies to ensure the interoperability of communications systems and mutual familiarity with personnel.

Since 2016, the Attorney General's Office has participated in two full-scale interagency training exercises involving simulated active-shooter threats to public buildings in Las Vegas and Carson City, and will continue to build upon that expertise through its participation in future active-shooter exercises, including upcoming trainings by the FBI and Metro.

Recommendation: The Attorney General's Office recommends that jurisdictions review their training protocols to ensure they cover a variety of scenarios.

d. Incorporate FBI Training

For officials who request it, the FBI has offered to provide training on how to combat, mitigate or escape the threat posed by an active assailant. The FBI, among other training activities, promotes a "run, hide, fight" message to students. It has found that instructing children merely to hide often serves to keep students in danger.

Recommendation: The Attorney General's Office recommends that local law enforcement obtain training by the FBI. The Office will invite the FBI to its next statewide law enforcement summit to present the training.

Improve Communications Between Schools and Law Enforcement

a. Maintain Working Relationships Between Schools and Law Enforcement

Preparation to handle a critical event at a school requires that lines of communication between school and law enforcement officials be established before they are needed. Schools can provide immediate essential information, such as the name and picture of a suspect. Cell phone numbers should be exchanged, and school staff should periodically conduct “tabletop exercises” with members of the law enforcement community. These are discussions in a classroom setting about how school staff can most effectively react to various scenarios, thus increasing the probability that they will facilitate rather than impede the tactical response by law enforcement. One rural sheriff noted that the sheriff’s office had a “texting relationship” with local school principals and reached an agreement where groundskeepers would meet the sheriff during a crisis in order to guide law enforcement to needed parts of the buildings and to provide keys for access. Some schools share emergency plans with local police.

Recommendation: The Attorney General’s Office recommends that each law enforcement agency immediately establish a working relationship with local principals, if they have not already done so. Each law enforcement agency should request each school’s existing emergency plan from the local school district.

b. Continue to Invest in and use Fusion Centers

Fusion Centers are collaborative efforts of two or more agencies engaged in the collection, analysis, and dissemination of actionable intelligence information to anticipate and prevent criminal acts. Nevada has two Fusion Centers: the Southern Nevada Counter Terrorism Center (SNCTC) for Clark County; and the Nevada Threat Analysis Center (NTAC) for Nevada counties other than Clark County. (The NTAC receives adjunct support from the Northern Nevada Regional Intelligence Center, or NNRIC.)

The Southern Nevada Counter Terrorism Center has an agent devoted specifically to assessing threats to schools. Moreover, the SNCTC’s “School Violence Initiative” aims to prevent school shootings—but also threats such as fights—by monitoring social media 24 hours a day and by allowing for the intake of suspicious-activity reports (or “SARs”). NTAC, however, does not have an officer devoted solely to school-related threats.

Fusion Centers rely heavily on predictive analytics to develop threat assessments and the critical sources of intelligence needed to identify, evaluate, and mitigate threats. This information can include academic data, disciplinary records, histories of bullying, or child-protective services information. School staff members are likely to see behavioral escalations

in students over time and often have information to help prevent health and safety emergencies. The Fusion Centers are benefiting from the hundreds of tips received through the SafeVoice program (mentioned below). The tips, monitored 24/7, are processed in real time. The analysis of statistical data by the Fusion Centers is based upon the type of tip and the timing of its disclosure. Attendees noted a spike in tips after the Parkland shooting, likely due to copycat threats but also to heightened vigilance and reporting. Tip information is shared with the FBI.

Fusion Center officials reported at the summit that they gain the most actionable information from conversations overheard at the school or viewed on social media. This is the principle means of early detection. In one instance, through these sources, officials intercepted a teen with plans to commit a school shooting. The decision was made, moreover, not to arrest the student but to deliver him to a clinician and to evaluate his family situation and to see if he had access to insurance and health care.

One problem identified at the summit is that frequently a behavioral or disciplinary history does not follow a student from school to school. In Clark County, the Family Tracs System provides school administrators with generic information about a student's recurring encounters with the juvenile justice system. This system does not exist in other counties, however, and it has limited value as a threat assessment tool because it does not include specifics about a student's conduct. As a practical matter, the system helps Clark County administrators to identify schools that have amassed a disproportionately large population of students with disciplinary issues, but it does not assist them to evaluate the particulars of any single potential threat. A statewide system would potentially have greater value to administrators and school staff by providing them with immediate access, in a single database, to a student's school disciplinary history, encounters with the juvenile justice system, mental health treatment information, and school counselor notes.

Recommendation: The Attorney General's Office recommends that the NTAC assign an officer dedicated to assessing threats in schools, and seek funding for the role, if needed.

Additionally, a relatively detailed history should follow a student from one school to the next, so that school administrators can properly assess whether the student poses even a marginal threat of violence to other students and teachers.

Along these lines, the Legislature might consider whether to enact legislation authorizing and/or funding a statewide system similar to Family Tracs in Clark County, but with more detailed information about a student's relevant history with school staff, juvenile justice authorities, and mental health professionals.

The amount of information to be provided to school administrators, and the level of detail, would necessarily involve a balancing of student privacy interests against public safety concerns. This complex task should be undertaken during the 2019 Legislative Session.

As a final matter, the Attorney General's Office has identified federal grants that may provide funding for technological improvements and training programs related to threat reporting and assessment, and emergency communications. The Office will coordinate with the appropriate state and local agencies in making applications for these grants as funds become available.

c. Encourage Students to Download the "SafeVoice Nevada" Mobile Application

A smartphone app introduced in 2017 allows Nevada students to send anonymous tips to law enforcement. These submissions are monitored 24/7. The students can report information by location and type of issue (anger, battery, bullying, etc.). The app is already bringing in hundreds of tips a month. The third largest category so far is threats to a school generally. The information is being processed in data analytics. Such reporting allows the early identification of behavior that, if not addressed, could become dangerous or criminal. The SafeVoice program is a partnership of the Department of Education and Department of Public Safety and housed within the Office for a Safe and Respectful Learning Environment, which was created by Nevada Senate Bill 504 (2015). It is available in ten school districts and will be available statewide next year. Although it appears to be working well overall, there is currently one element of the system that requires additional scrutiny. Based upon prevailing interpretations of the legislation that authorized the SafeVoice program, persons who self-report threatening or problematic thoughts or behaviors are afforded anonymity even when they disclose their identities. Working in consultation with the Attorney General's Office, Governor Sandoval has proposed a regulation that would provide for limited dissemination of the person's identity in order to protect the immediate safety and well-being of that person and others. A copy of the proposed regulation, and the prefatory statement about the regulation, is attached hereto as Appendix A.

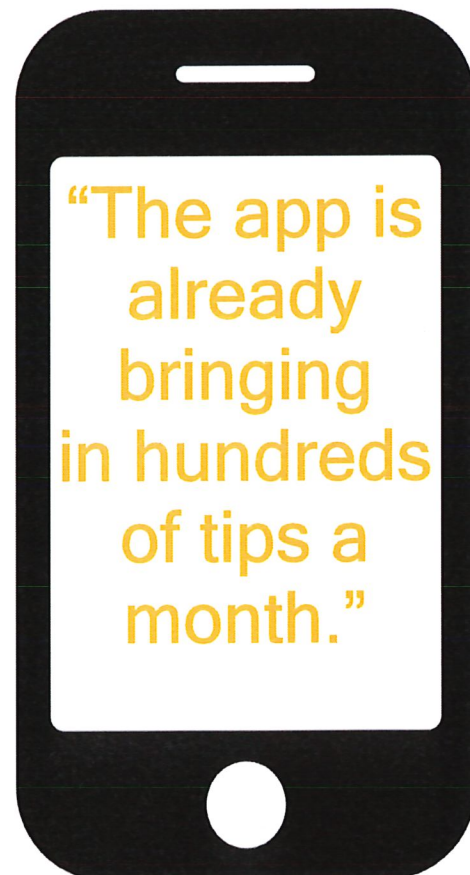
Recommendation: The Attorney General's Office recommends that school administrators and law enforcement officers invite all students (perhaps through their parents) to download and use the SafeVoice Nevada app.

The Attorney General's Office also recommends that Appendix A be used by the 2019 Legislature as a basis for enacting more permanent amendments to the anonymity provisions of the current SafeVoice Nevada statutory scheme.

d. Correct Misconceptions About FERPA

The federal Family Educational Rights and Privacy Act of 1974 (FERPA) has caused some confusion among school administrators about the extent to which they can share student information with law enforcement. FERPA generally requires parent permission before such information is released. But there is a health and safety exception, exercisable in the school's discretion. FERPA, in short, is no obstacle to identifying, reporting, and mitigating threats to Nevada schools. If schools and law enforcement agencies maintain good working relationships, FERPA should rarely impede the flow of relevant information about potential threats to school safety.

Recommendation: The Attorney General's Office prepared a memorandum explaining how FERPA can help facilitate the flow of information between schools and law enforcement agencies. With the release of this report, including the memorandum on FERPA attached hereto as Appendix B, the Attorney General's Office notes that FERPA does not pose an obstacle to real-time collaboration between school administrators and law enforcement.



Adopt Measures Related to Family Safety

a. Leverage Existing Temporary Protection Order (TPO) Law

Since 2007, Nevada has disqualified an individual subject to an extended protection order for domestic violence (an order issued after notice and a hearing) from obtaining or possessing a firearm. To our knowledge, no previous school shooter has been the subject of an extended protective order for domestic violence, but existing Nevada law does provide law enforcement officers with an opportunity to proactively mitigate threats of a type that may not, at first glance, share a nexus with prior tragedies. A person subject to an extended protection order must surrender or sell the person's weapon within 24 hours of the judge's entry of an order, and if there is probable cause to believe that the subject of the order has not given up the weapon, the judge may issue a warrant to retrieve the weapon. Nev. Rev. Stat. §§ 33.0305; 33.033.

This is significant because Nevada law defines "domestic violence" broadly. It includes assault and battery, but also larceny, trespassing, or harassment, and applies not exclusively to intimate partners or their children, but to anyone related by blood or marriage and to current or former roommates. Also, there is a strong link between mass shootings and domestic violence. By some estimates, in nearly 60% of mass shootings (those with at least four victims), the perpetrator also shot a current or former spouse, intimate partner, or family member. This correlation between mass shootings and domestic violence underscores the value of temporary protection orders as a means of removing firearms from volatile or violent homes, especially when those firearms are readily accessible to troubled minors or young adults. In 2017, nearly 8,800 domestic violence protection orders were issued in Nevada, about one every hour of the year, but it is not clear how often they are actually leveraged as a tool to secure firearms.

When a perpetrator's access to firearms is at issue in any case involving domestic violence, an associated protection order should be steadfastly enforced as a means to secure those firearms pending further evaluation of the potential threat not only to the victim, but to others. To facilitate this process, victims of domestic violence can be educated by officers on the scene at a domestic-disturbance call. Educating victims about domestic violence orders is important because they can provide more than a mere stay-away order, but can also disarm emotionally unstable persons.

On a larger scale, the Attorney General's Office, through its Domestic Violence Ombudsman and its Committee on Domestic Violence, is in the process of expanding its

VINE system, and will continue to educate victims about the process for obtaining protective orders and the ways in which these orders protect the safety of Nevada's families.

VINE, an acronym for Victim Information and Notification Everyday, is an automated system that notifies victims, via text message, when someone subject to a protection order is released from prison or jail, or is transferred into the custody of a different facility. The current system does not store or compile records regarding a person's history of domestic violence.

Once expanded, VINE will include a database, accessible to both law enforcement and victims, of the history of temporary and expanded protection orders to which a person has been subject. This will be an essential supplement to the Central Repository (discussed above) because the Central Repository does not contain protection orders that have expired by their own terms. In summary, the VINE expansion will enable law enforcement to readily identify serial offenders and take appropriate steps to mitigate the threat that they may pose to others.

Recommendation: The Attorney General's Office recommends that law enforcement officers explore methods to better leverage existing TPO laws.

The Attorney General's Office also recommends that law enforcement make use of the expanded capabilities of the VINE system as soon as those capabilities are available.

Study Red Flag Laws as a Possible Model for Similar Laws in Nevada

A number of states, including Texas and Indiana, are either considering or have already adopted "red flag" laws. Similar to TPO laws in the way that they operate, red flag laws allow law enforcement officers, prosecutors, and/or family members to petition the courts for civil orders authorizing the temporary seizure of firearms from the custody of persons who have demonstrated, through specific speech or actions, that they pose a serious and immediate threat of violence to themselves or others. When such laws are equipped with the necessary procedural safeguards, they can strike an appropriate balance between individual rights and public safety concerns.

Of course, procedural safeguards must preserve the rights of accused persons to defend against false or misleading accusations, and relieve them of unduly burdensome conditions on the right to recover firearms within a reasonable period time after undergoing appropriate counseling or mental health treatment, or taking other remedial action as directed by the court. Red flag laws should not be used as a substitute for enforcing criminal laws, when applicable, nor should they be enacted without complementary provisions that provide accused persons with appropriate treatment options for mental health conditions. The enactment of red flag laws in other states provides Nevada legislators with an excellent

opportunity to study the process and outcomes in those states and make informed decisions about how or whether to implement similar laws in Nevada.

Recommendation: The Attorney General recommends that the Nevada Legislature study the impacts of red flag laws in other states, and possibly consider enacting similar laws in Nevada as early as the 2019 legislative session.

b. Evaluate Mental Health Laws (Assembly Bill 253)

During the summit, the attendees discussed how mental health issues may lead to violent behavior. Law enforcement has found it difficult to obtain medical information, including mental-health adjudications such as court-ordered involuntary confinements. Until last year, the chief mechanism to obtain this information was to call the Department of Public Safety. This was inadequate for officers seeking real-time information about whether a suspect had a record of mental-health adjudications. Nevada Assembly Bill 253 (2017) is a partial solution. The solution is only partial because information relating to Legal 2000 holds (as discussed below), professional diagnoses, or juvenile mental health issues remains generally unavailable to law enforcement in a practical sense. Summit attendees expressed the view that this inaccessibility of information frequently results in “missed opportunities.” Furthermore, under current law, in most circumstances courts have as many as five days to deliver information to a requesting law enforcement agency. Many attendees noted that this is too long a period to be useful in a crisis situation.

One Northern Nevada sheriff noted that a freer flow of mental health information between medical sources and law enforcement would allow earlier treatment, creating a situation where law enforcement officers can quickly transfer custody of someone to appropriate mental professionals; more specifically, as the sheriff put it, it can mean treatment in living rooms instead of in school hallways. Indeed, there is consensus among officers that law enforcement access to mental health information promotes officer and public safety, and creates an additional means of identifying potential school shooters. Getting to the problem at the earliest possible time ensures a better and more effective “first line of defense” in protecting schools.

Recommendation: The Attorney General’s Office recommends that the Legislature evaluate whether mental-health information, broadly defined—meaning medical diagnoses and Legal 2000 records, for instance, and not just formal court adjudications as to mental illness—should be made available, statewide, to law enforcement in real-time. If eventually put into effect through legislation, such a mechanism would have to be consistent with privacy laws.

c. Reform the Legal 2000 Hold Process

Authorized by Nevada Revised Statutes 433A, a “Legal 2000” hold is the mechanism by which an individual, who ostensibly poses a clear and present danger to himself or to others, is detained for examination by a medical professional and, potentially, transferred to a mental-health facility. Numerous law enforcement summit attendees expressed dissatisfaction with the current Legal 2000 process. For example, to effect a Legal 2000 hold, an officer typically must transport the prospective patient to the hospital, wait for an examination, and often drive the patient back from the hospital (sometimes directly to a jail). The process ties up an officer for hours; in one rural county, getting an individual to the nearest doctor and back consumes as many as seven hours in transit. Another rural sheriff said that his deputies perform this Legal 2000 transportation two or three times per week. Yet another officer estimated that in 40% of cases, the hospital determines that an individual should be released (though the deputy finds the patient’s condition doubtful). This leads, according to one Metro official, to a “revolving door” between street and institutions for sufferers of mental illness. Other attendees noted that the examination can, by law, be performed with the use of a checklist by a physician who is not a specialist in mental health. As a result, persons detained under the Legal 2000 hold process rarely receive effective mental health treatment.

Furthermore, when minors are taken into custody, their parents commonly terminate the Legal 2000 process in the middle of examinations, or even before the examinations begin. Due to legal uncertainties, mental health providers often refuse to begin or continue with the evaluation process in the absence of parental consent. Since early intervention with minors is a critically important tool in the endeavor to protect Nevada’s schools from would-be assailants, every effort must be made to improve the Legal 2000 hold program, and to educate parents about the benefits of treating troubled minors in an appropriate setting with skilled mental health providers.

Recommendation: The Attorney General’s Office recommends that the Legislature evaluate the policy and fiscal implications of establishing mental health facilities in all communities.

d. Fund Mobile Outreach Safety Teams

The law enforcement and mental health professions have formed partnerships in a joint effort to temporarily detain and treat persons who, for mental health reasons, pose an immediate threat of violence to themselves or others. These same persons, especially minors and young adults, often pose a longer term threat to students and teachers when their

mental health problems go untreated. Mobile Outreach Safety Teams (MOST) are partnerships between law enforcement and clinicians, such as social workers or nurses. Clinicians ride along with officers, often in bulletproof vests, and assist in assessing or de-escalating incidents prompted by mental health crises. MOST clinicians can also encourage treatment to ensure that medication is being taken as prescribed. A widespread concern among law enforcement is that they are transformed, for lack of an alternative, into mental health providers. MOST programs have been well received by participants as a mechanism to put actual mental-health providers on the beat with police officers.

Recommendation: The Attorney General's Office recommends that every county consider whether MOST programs should be established (or reestablished). The Attorney General's Office has identified federal grants that may provide funding for programs of this nature. The Office will work with the appropriate state and local agencies to apply for these grants, thus facilitating the formation of cooperative partnerships between mental health professionals and law enforcement officers. If it is determined that grant funds are insufficient to fully meet the needs of Nevada's law enforcement and mental health communities, Nevada legislators should consider whether to appropriate public funds for the establishment and support of MOST programs, or similar partnerships, in suitable locations throughout the state.

CONCLUSION

The special law enforcement summit on school safety drew from the collective experience and expertise of persons representing several professional disciplines, principally law enforcement, education, first responders, and officeholders, but also construction firms and legal advisors. As with previous summits, the participants in the special summit came together from across the state to exchange ideas, proposals and recommendations for building upon and bolstering the capacity of law enforcement to serve and protect the public. While participants discussed many topics, they focused primarily on measures to enhance the capacity of law enforcement, working with teachers, administrators, mental health professionals, and security experts, to identify, evaluate, mitigate, prepare for, and ultimately respond to threats of violence against our school children. The Office of the Nevada Attorney General extends its heartfelt gratitude to the summit participants for their indispensable role in developing and shaping the above report and its recommendations.



Appendix A

Proposed Regulation

Appendix A

Statement of Emergency
Regulations Allowing School Safety Teams to Provide Assistance to Students
Who Self-Report Safety Concerns

Public school systems across the United States and in Nevada are currently facing historic safety challenges. Nevada has been deeply affected by many forms of violence in schools, from student suicides related to bullying or other stressors facing our children, to gun violence. Nevada annually honors its teacher of the year, with an award named for Michael Landsberry, a teacher who gave his life protecting students from gun violence in Sparks in 2013.

The Nevada legislature has taken significant efforts to allow students to come forward to report dangerous activities passing Senate Bills 504 and 338 of the 2015 legislative session requiring students be provided a 24-hour tipline to report bullying and establishing an anonymous reporting outlet for dangerous activities.

The Nevada Department of Education's Office for a Safe and Respectful Learning Environment has worked diligently with the Department of Public Safety and other stakeholders to establish Nevada's SafeVoice program to provide students a single telephone number, mobile phone application, and online portal to report safety concerns.

Section 1323 of Chapter 388 of the Nevada Revised Statute (NRS) requires the Director of the Office for a Safe and Respectful Learning Environment to ensure the office maintains a 24-hour toll-free hotline and website where reports of bullying can be received. Section 1351 further requires the principal of a school to take immediate action to ensure the safety and well-being of the student or students. Section 1455 of Chapter 388 of NRS requires the Director of the Office for a Safe and Respectful Learning Environment to establish a program allowing anonymous reporting of dangerous, violent and unlawful activity. The identity of individuals reporting information must not be disclosed because as the legislature declared in NRS 388.1454, "It is in the best interest of this State to ensure the anonymity of a person who reports such an activity, or the threat of such an activity, and who wishes to remain anonymous."

Current law allows for the use of a single center to receive information pursuant to both avenues of reporting. However, the anonymity provisions of the two programs are different and the application of the strong anonymity provisions of NRS 388.1455 to an individual reporting bullying of themselves would prevent the principal of the school from knowing the self-reporter's identity and taking their statutorily required actions to ensure safety and well-being.

The proposed emergency regulation clarifies that any self-reported tip received by the Office for a Safe and Respectful Learning Environment's SafeVoice program is a report provided to the NRS 388.1323 tipline and that the self-reporting individual has opted not to remain anonymous from school officials who are required to assist them. All information received pursuant to a self-report would continue to be a confidential education record protected from other disclosures as a confidential product of a law enforcement investigation.

Due to the urgency of the safety concerns facing Nevada students and the need to allow principals and school safety team members to provide assistance to self-reporting individuals as quickly as possible, an emergency exists to promulgate emergency regulations to allow for this clarification. This will then allow the Director of the Office for a Safe and Respectful Learning Environment to begin immediately sharing critical information with school officials who can provide assistance to students in crisis. The

Superintendent of Public Instruction will also commence the process of enacting permanent regulations to continue this information sharing after the expiration of this emergency regulation.

Therefore, for the above reasons, I respectfully request the Governor of the State of Nevada endorse this Statement of Emergency allowing Nevada's SafeVoice program to clearly identify individuals who have opted not to remain anonymous and more effectively investigate those reports.

Requested:

Endorsed:

Steve Canavero
Superintendent of Public Instruction

Brian Sandoval
Governor

REQUESTED AMENDMENT TO NAC 388

(LCB File No. _____)

Section 1. Chapter 388 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Section 2. Definitions. As used in this regulation, the "Program" means the hotline, Internet website, mobile telephone application and text messaging application pursuant to NRS 388.1455 and Senate Bill 212 (2017).

Section 3. Under the following circumstances, reports received by the Program will be considered as reports where the individual has chosen not to remain anonymous:

- a. the individual has self-reported information which could affect their own safety or well-being and included their own name and/or contact information with the report after being notified that such information is not required;
- b. the individual has reported information which could affect the safety or well-being of another person or persons, included their own name and/or contact information with the report after being notified that such information is not required, and the reporting party's name and/or contact information is necessary for school officials to fulfill their obligations under NRS 388.1351 (2); or
- c. the individual has deliberately reported false information that has harmful intent or consequences.

Section 4. Pursuant to NRS 388.1454(2), information reported to the Program about dangerous, violent or unlawful activities, or the threat of such activities, by persons who do not wish to remain anonymous must:

- a. be protected by methods and procedures to ensure the confidentiality of the information that is reported;
- b. be forwarded to the member(s) of the team appointed pursuant to Section 4 of Senate Bill 212 (2017) such that the team shall take appropriate action in accordance with the training he or she has received pursuant to NRS 388.1455 and LCB File R111-15 to respond to the activity or threat; and
- c. if deemed appropriate by the Program support center, be forwarded to a law enforcement agency pursuant to Section 5, subsection 9 of Senate Bill 212.

Section 5. All information, including the identity of a person who does not wish to remain anonymous, forwarded pursuant to NRS 388.1455 must remain confidential as required by NRS 388.1455(1).

Section 6. The requirements and limitations of the confidentiality of the academic and health information of persons who report information to the Program is governed by all applicable state and federal laws regarding student information, including, without limitation NRS 388.1455(1), NRS 392.029, and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 CFR Part 99.

Appendix B

Memorandum on FERPA

Appendix B

**Family Educational Rights and Privacy Act (FERPA)
and the Disclosure of Student Information
Related to Emergencies**

Background

FERPA (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all educational agencies and institutions that receive funds under any program administered by the United States Department of Education (“Department”). It applies to local education agencies and school districts and generally prohibits the disclosure of education records and personally identifiable information in education records without the consent of the parent of the student. Exceptions in FERPA that allow the disclosure of student information without the consent of the parents are included in 34 CFR 99.31.

Health or Safety Emergency Exception¹

FERPA permits school officials to disclose, without consent, education records, or personally identifiable information from education records, to appropriate parties in connection with an emergency, if knowledge of that information is necessary to protect the health or safety of the student or other individuals. *See* 34 CFR §§ 99.31(a)(10) and 99.36. This exception to FERPA’s general consent requirement is temporally limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from the student’s education records.

The education agency possessing the records will be the entity to determine whether the Health and Safety Emergency Exception applies. This exception is permissive, meaning that the education agency is allowed but not required to disclose records under this exemption. Law enforcement agencies seeking to obtain records to protect health or safety of students or other individuals will need to effectively communicate the facts necessary for the education agency to make an appropriate determination.

If the school district or school determines that there is an articulable and significant threat to the health or safety of the student or other individuals and that a party needs personally identifiable information from education records to protect the health or safety of the student or other individuals, it may disclose that information to such appropriate party without consent. 34 CFR § 99.36. This is a flexible standard under which the Department defers to school administrators so that they may bring appropriate resources to bear on the situation, provided that there is a rational basis for the educational agency’s or institution’s decisions about the nature of the emergency and the appropriate parties to whom information should be disclosed. Within a reasonable period of time after a disclosure is made under this exception, an educational agency or institution must record in the student’s education records the articulable and significant threat that formed the basis for the disclosure and the parties to whom information was disclosed. 34 CFR § 99.32(a)(5).

¹ Guidance regarding the exception has been issued by the Family Policy Compliance Office of the United States Department of Education, June 2010 Guidance and Best Practices Regarding FERPA and the Disclosure of Student Information Related to Emergencies and Disasters

(https://studentprivacy.ed.gov/sites/default/files/resource_document/file/ferpa-disaster-guidance.pdf)

Law Enforcement Exception

General law enforcement investigations, unrelated to a Health or Safety Emergency, are able to obtain education records through a different exception for a law enforcement subpoena exception as described in 34 CFR §§ 99.31(a)(9).

No Private Right of Action

The Secretary of Education created the Family Policy Compliance Office (FPCO) to act as the Review Board and to enforce FERPA with respect to all applicable programs. 34 CFR §§ 99.60(a) and (b). The FPCO permits students and parents who suspect a violation of the Act to file individual written complaints. § 99.63. If a complaint is timely and contains required information, the FPCO will initiate an investigation, §§ 99.64(a)-(b), notify the educational institution of the charge, § 99.65(a), and request a written response, § 99.65. If a violation is found, the FPCO distributes a notice of factual findings and a "statement of the specific steps that the agency or institution must take to comply" with FERPA. §§ 99.66(b) and (c)(1)

"FERPA's nondisclosure provisions contain no rights-creating language, they have an aggregate, not individual, focus, and they serve primarily to direct the Secretary of Education's distribution of public funds to educational institutions. They therefore create no rights enforceable under § 1983."²

Conclusion

Law enforcement and education agencies should effectively communicate the information necessary for the individual education agency to make its individualized determination before an emergency occurs to ensure the law enforcement personnel have an accurate understanding of the information the educational agency will require to make any determination and is able to understandably predict when the agency will be required to obtain a subpoena for the information that it seeks.

² Gonzaga University v. Doe 536 U.S. 273 (2002).