



School and Campus Safety Taskforce Meeting

West Reading Room, Patrick Henry Building
July 31, 2013

AGENDA

- | | |
|-------------------|---|
| 1:00 pm – 1:15 pm | Introduction and Approval of Minutes
<i>Chairmen</i> |
| 1:15 pm – 1:45 pm | Presentation by School Design and Interoperability Sub-Committee
<i>Chief Doug Middleton, Henrico County Police Department</i> |
| 1:45 pm – 2:00 pm | Crisis Intervention Team Funding
<i>The Honorable Kenneth Cuccinelli, Attorney General of Virginia</i> |
| 2:00 pm – 2:45 pm | Presentation on Public Safety Study
<i>William Pelfrey, Ph.D., Associate Professor, Virginia Commonwealth University</i> |
| 2:45 pm – 3:00 pm | Break |
| 3:00 pm – 3:30 pm | Presentation on Civil Liability for Schools
<i>Bradford A. King, Sands Anderson PC</i> |
| 3:30 pm – 4:15 pm | Outstanding Workgroup Recommendations
• Public Safety Workgroup Recommendations
<i>Marla Graff Decker, Secretary of Public Safety</i> |
| 4:15 pm – 4:30 pm | Public Comment |
| 4:30 pm – 5:00 pm | Next Steps |

**Governor's Task Force
on
School & Campus Safety**



Public Safety Work Group

**School Design Sub-Group
Final Report and Recommendations**

June 28, 2013

Governor's Task Force on School & Campus Safety
Public Safety Work Group

School Design Sub-Group
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Governor's Task Force on School & Campus Safety
Public Safety Work Group

School Design Sub-Group
Executive Summary



The Governor's Task Force on School and Campus Safety, Public Safety Workgroup established several sub-groups to evaluate and consider various recommendations that had been made regarding the objectives established for the Task Force. One such sub-group was assigned to consider relevant information associated with School Design.

The sub-group members met three times on the following dates and at the identified locations:

<i>May 14, 2013</i>	-	<i>Henrico County Police Headquarters</i>
<i>May 30, 2013</i>	-	<i>Moseley Architects, Richmond, Va.</i>
<i>June 17, 2013</i>	-	<i>Moseley Architects, Richmond, Va.</i>

During their discussions, the sub-group members reviewed a significant amount of material that has been previously published regarding safety at educational facilities and institutions. Using this information, as well as their collective knowledge, the sub-group divided itself into three teams.

Team 1:	Infrastructure
Team 2:	Communications
Team 3:	Building Codes

Each team met or communicated individually to review their specific topics, consider recommendations, and propose those that were agreed upon as relevant to the work of the Task Force.

This document provides a brief summary and recommendations from each of the teams, and it represents the collective work of the entire sub-group. The members of the sub-group wish to thank Mr. Phil Miskovic for his assistance in representing the Governor and the Secretary of Public Safety during the time this sub-group met to create its recommendations.

Governor's Task Force on School & Campus Safety
Public Safety Work Group

School Design Sub-Group
Sub-Group Members



Mr. Ed Altizer, State Fire Marshal

Mr. Rick Arrington, Department of Criminal Justice Services

Chief Clifford Bowen, Poquoson Police Department

Chief Craig Branch, Germanna Community College Police

Mr. Al Ciarochi, Henrico County Public Schools

Mr. David S. Ellena, Virginia Association of Secondary School Principals

Mr. Fred Ellis, Fairfax County Public Schools

Sergeant Norman Gray, Virginia State Police

Mr. Steve Matsko, Virginia Department of General Services

Mr. Chris McIntosh, Virginia Office of Veterans Affairs & Homeland Security

Chief Douglas A. Middleton, Henrico County Police Division, *Co-Chair*

Mr. Stewart Roberson, Moseley Architects, *Co-Chair*

Mr. Doug Westmoreland, Moseley Architects

NARRATIVE: Infrastructure Team

There are many existing guidelines for safe school design for K12 buildings and institutions of higher learning campuses. These guidelines should be referenced and used proactively in the early design phase of any school building or campus project (to include new or renovated facilities). CPTED (Crime Prevention Through Environmental Design) guidelines are prevalent in the design industry. Persons familiar, trained and experienced with the CPTED should be engaged in proposed design reviews.

K12 school divisions in Virginia are diverse by size, location and demographics. Response to safe school design should be tailored to the specific requirements of each individual school division. K12 school divisions also have varied expertise on staff for the adequate review of best practices for safe school designs. These recommendations are not intended to regulate or stipulate specific solutions for those school divisions currently implementing best practices during the school design process.

K12 school buildings are operated in a closed environment. All persons entering a K12 school facility should be identified and monitored. Institutions of higher learning campuses are operated in an open environment, which create different solutions to safety than K12 school buildings. Access control to exterior doors is critical with all school buildings and campuses.

Governor's Task Force on School & Campus Safety
Public Safety Work Group

School Design Sub-Group

Infrastructure Team Recommendations

Recommendation 1:

All school and campus projects (new and renovations) should require a review of conceptual phase plans by a professional who is trained and experienced in CPTED review and implementation.

Recommendation 2:

All new K12 schools should include a single monitored public entry, including vestibules and electronic access control systems for exterior door(s). Institution of Higher Learning campus buildings should include an electronic access control system for exterior doors. If mechanical keys are utilized a strict control of the key system should be implemented.

Recommendation 3:

Localities and institutions of higher learning should establish consensus driven stakeholder processes for school design and security planning, involving public safety personnel, architects, engineers, school officials and others who may have experience and expertise with local school safety audits.

Recommendation 4:

A link on the DCJS website should be provided to reference the appropriate documents for safe school design.

Recommendation 5:

Local and state policy makers and law enforcement professionals should be urged to exchange trend data regarding other potential threats which would require vigilance and preparation.

NARRATIVE: Communications Team

Local school divisions should discuss with public safety agencies (Police, Fire, Rescue) the need to communicate over a common voice communications system. They should establish policies that foster closer collaboration between public safety and educational institutions, and develop a strategic plan that defines the capabilities that they want to achieve. Once those policies are established, public safety agencies should coordinate the inclusion of local school divisions into the public safety voice communications system.

The most common barrier to achieving interoperable communications is a lack of coordination. Public safety communications programs are in a constant state of evaluation, implementation, or modernization. The inclusion of the school divisions in the process will help to ensure that their requirements are captured and included, and that standard operating procedures are updated to include school-specific applications. Once complete, training and exercise programs to test those procedures should be established.

Various opportunities exist to determine the best way to achieve interoperability for schools and public safety. These can often be achieved through coordinated efforts with public safety agencies, through recommendations achieved by a qualified communications consulting service, from vendors, or through consultation with the Statewide Interoperability Coordinator in accordance with the Commonwealth's Statewide Communications Interoperability Plan (SCIP).

The areas for Public Safety Agencies and Schools to collaborate exceed those of voice communications and can include data, video, school bus AVL systems, etc. when it is determined that shared access benefits the safety of the schools and the ability of public safety to respond.

It is understood that the costs for communications systems are significant, and those investment decisions are not taken lightly. The panel's recommendations take into consideration existing and proposed investments in communications technology and attempt to leverage those programs to the greatest extent possible.

Governor's Task Force on School & Campus Safety
Public Safety Work Group

School Design Sub-Group
Communications Team Recommendations

Recommendation 1:

Local School Divisions should discuss with public safety agencies (Police, Fire, Rescue) the need to communicate over a common voice communications system.

- This will improve response to a school incident
- Public safety agencies will have real time information regarding the specific location its resources are needed
- This includes school facilities & staff, as well as school buses

Recommendation 2:

Public safety agencies should coordinate the inclusion of local school divisions into the public safety voice communications system.

- This may best be accomplished during the acquisition of a new radio system
- Retrofitting may be required of older systems
- Full inter-operability through a common radio system is preferred.
- Integrated systems may utilize other technologies to tie different systems together when it can reasonably be accomplished without compromising either system. (i.e.: Comlinc)

Recommendation 3:

To the extent possible, public safety and school divisions should consider the application of Project 25 compliant systems to ensure the greatest level of interoperability exists.

- Common public safety standard
- Best suited for public safety needs
- Will serve schools and public safety effectively

Recommendation 4:

Public safety agencies and schools should consider data sharing to the greatest extent possible. This may include actual data, video, school bus AVL systems, etc. when it is determined that shared access benefits the safety of the schools and the ability of public safety to respond.

STATEMENT:

Costs for radios subscriber units and systems are significant. That is understood and these recommendations are intended to suggest ideas, not mandate solutions.

Narrative: Building Codes Team

The existences of building codes within the Commonwealth is well known to any involved in design and construction of schools or educational facilities. With that knowledge, the Building Codes Team believes that the State and localities should educate the public on the development process of building codes and what those codes are intended to provide with regard to security. Localities are permitted to add , requirements, but they must meet the minimum standards set forth by the State. Further, there is an administrative process through which codes are reviewed that permits input and comments whenever changes are made.

The Building Codes Team considers other facilities, such as child care centers, to be as important as schools with regard to security issues and the application of building codes to ensure they are constructed with emphasis on safety. The Team also acknowledges that some of the recommendations can be cost neutral or less cost restrictive. However, costs are always a consideration when seeking efficiencies that do not compromise the quality of the enhancements being made.

The dialogue that has occurred in the process of creating these recommendations has benefited all of the participants. Because it has been beneficial, advisory teams that include code, building and maintenance officials may prove advantageous in the future.

Governor's Task Force on School & Campus Safety
Public Safety Work Group

School Design Sub-Group

Building Codes Team

Recommendation 1:

Continue the current code development process without a need for changes to the Code of Virginia. The current process has worked well for 40 years and provides a consensus process that dozens of experts, stakeholders, and citizens participate in and has produced a widely recognized set of building and fire codes.

Recommendation 2:

Design professionals, school officials, police chiefs/sheriffs, fire officials and the building officials should form a team at the local level to avoid conflicts in law and regulations when the E (educational) occupancy is having any type of security infrastructure improvements made for new or existing E occupancies.

Recommendation 3:

Stakeholders should review the current USBC and SFPC standards for potential enhancements and to gain consensus if regulatory code changes are to be submitted for the next regulatory process by the BHCD. Stakeholders should actively participate in the current process.

Recommendation 4:

The group should develop an educational training program relating to all aspects of the recommendations from the group not only in the area of building and fire codes but for all other recommendations.



**Office of the Attorney General grants for
Crisis Intervention Team training for localities**

As of July 31, 2013

1. **Alexandria will receive \$41,355** to enhance Crisis Intervention Team training. In addition, grant funds will be used to send Crisis Intervention Team instructors from multiple departments to an advanced training in order to develop an advanced curriculum for training. Staff from multiple departments will also attend National and State Crisis Intervention Team conferences to learn new advances and techniques in the field .
2. **Arlington will use \$241,278** to improve their current Crisis Intervention Team program while making enhancements in training for officers and service to the public. The funding will improve operations at the crisis intervention drop-off center by providing services like a counselor on Sundays and dedicated, trained Crisis Intervention Team officers. The patrol section will also receive funding to ensure that there is adequate staffing while the Crisis Intervention Center is being used.
3. The Thomas Jefferson Area Crisis Intervention Team which serves **Charlottesville, Albemarle, Louisa, Fluvanna, Green, Orange, Madison, Goochland, and Nelson counties; and the University of Virginia will receive \$111,726**. The funds will allow the team to provide advanced training for Crisis Intervention Team officers, trainers, and instructors. Crisis Intervention Team trainers will also be sent to state and national conferences to learn additional advanced field techniques. Funds will be used to purchase tasers and a laptop to aid with TDO/ECO drop offs at UVA's emergency room and create a de-escalation techniques training video.
4. The Crisis Intervention Team of **Chesapeake Police Department will receive \$121,977** to fund training for the Police and Sheriff Crisis Intervention Team. Focus areas include: the Skill Renewal Class, Advanced Skill Acquisition for Instructors, and training at the International Crisis Intervention Team Training conference in Hartford, CT. It will also provide officers with less-lethal alternatives and protective gear for dealing with unmanageable, mentally ill, or violent subjects.
5. **Chesterfield will receive \$130,743** to implement a Crisis Intervention Team Program to train 125 county law enforcement, mental health personnel and emergency communications personnel to implement Crisis Intervention Team techniques. The funds will provide officers with less-lethal alternatives and protective gear for dealing with unmanageable, mentally ill, or violent subjects.

**Office of the Attorney General grants for
Crisis Intervention Team training for localities**

6. **The Department of Criminal Justice Services will receive \$800,282 to implement a statewide, multi-phased Crisis Intervention Team training program.** The program will be developed over a 24-month period in collaboration with statewide Crisis Intervention Team programs and stakeholders. The collaboration will utilize current instructors to develop and implement a training protocol. Trainers will also teach the "train the trainers program" in teams of four throughout the Commonwealth and provide assistance to newly trained instructors as they instruct other officers in the 40 Hour Core Crisis Intervention Team Training Program. Funds will also be used to provide scholarships for 275 training slots (25 slots per program) for agencies that did not apply for Crisis Intervention Team funding.
7. **The Hampton Police Crisis Intervention Team will receive \$102,500** to develop training programs that will be used by nearly 300 Hampton Police personnel. Grant funds will also be used to purchase equipment necessary to respond to crises and train Hampton's School Resource Officers in Crisis Intervention.
8. **Henrico County Police Department will receive \$256,439** to host the annual Virginia Crisis Intervention Team Coalition Conference at the Short Pump Hilton in October 2014 or early 2015. The funds will be used to provide scholarships for up to 600 attendees. The scholarships are needed to ensure participants can attend without requiring the use of agency training budgets. Funds will also cover costs associated with the conference.
9. **The Loudoun County Sheriff's Office**, in collaboration with the Community Board, NAMI, and Friends of Loudoun Mental Health, **will receive \$34,535** to establish a Crisis Intervention team in Loudoun County. Crisis Intervention Team Core training classes lasting 40 hours each will be provided along with 4 hour dispatch training classes. Funds will also pay for 200 conference books to be used as a quick reference guides by dispatchers, field personnel, mental health employees and surrounding agencies. Twenty-five iPods will be purchased for the "Hearing Voices" audio exercise. The iPods will help instructors explain the day to day challenges of people with psychiatric disorders. The lesson plans and reference guides will also be available on the iPod as a reference tool.
10. **The Lynchburg Police Department is receiving \$35,763** to implement a specialized training component designed to meet the needs of first responders dealing with juveniles that have mental health issues. This specialized unit will operate through the Police Department's existing Crisis Intervention Team and will be the primary responders. Training will focus on School Resource Officers and additional law enforcement officers to deal with these specific situations.
11. **Martinsville Police Department will received \$166,210** to help implement the Piedmont Regional Crisis Intervention Team which serves the counties of Franklin, Henry and Patrick and the City of Martinsville. The Team will help divert individuals from the criminal justice system and increase access to mental health services.

**Office of the Attorney General grants for
Crisis Intervention Team training for localities**

12. **The South-Central Crisis Intervention Team will be granted \$289,860** to increase their training services by 100%. The training will serve **Colonial Heights, Dinwiddie, Emporia, Greensville, Hopewell, Petersburg, Prince George, Surry and Sussex**. The South-Central Crisis Intervention Team will partner with the Crater Criminal Justice Training Academy to conduct continuous 40-hour basic Crisis Intervention Team classes for law enforcement, 8-hour Crisis Intervention Team dispatcher classes, 8-hour Pre-Crisis Intervention Team basic classes for jailors, and trainer classes. The funding will also add an additional 400 trained Crisis Intervention Team first responders and will include equipment, security costs for a Crisis Assessment Center at John Randolph Medical Center, travel expenses, and supplies.
13. **The Pittsylvania County Sheriff's Department will receive \$173,809** to establish and maintain a Crisis Intervention Team composed of law enforcement officers and mental health professionals. The establishment of the Crisis Intervention Team will enable responders to effectively and safely respond to the behaviors of people with mental illness. All 322 officers serving this area will receive funding for equipment, training, training consultants, and travel expenses.
14. **The Richmond Police Department**, in collaboration with the Richmond Behavior Health Authority, will receive **\$191,370**. The funding will provide basic mental health training for 400 officers over a two year period. Existing members of the force will receive additional specialized instruction for situations involving juveniles. The Richmond Police Department will train an additional 20 trainers. The funding will also pay for equipment, training consultants, and travel expenses.
15. **The Rockingham Sheriff's Office will receive \$90,726**. The funding will allow the Harrisonburg, Rockingham County, and the local Community Justice Board to participate in the Thomas Jefferson Area Crisis Intervention Team trainings and the "Train the Trainer Program," along with attending state and national Crisis Intervention Team conferences. Funds will be used to purchase equipment needed to conduct local Crisis Intervention Team training, purchase tasers to provide an additional response option, purchase safety smocks and blankets for the regional jail, and assist in the development of a contract with the local hospital for security to take custody of TDO/ECO patients.
16. **The Stafford County Sheriff's Office will receive \$41,879** to host training sessions in conjunction with the Rappahannock Area Community Services Board. The training sessions will certify additional school resource officers from our juvenile services unit. The funds will equip Crisis Intervention Officers with vests and a Cellular Response Console. A Cellular Response Console allows deputies certified in Crisis Intervention to monitor cellular conversations in real time and offer coaching points to whoever is on the line. The equipment allows multiple officers to monitor the same call which can lead to a safer resolution of the situation. Lead Crisis Intervention Team deputies will be sent to the 2013 International Conference in Connecticut.

**Office of the Attorney General grants for
Crisis Intervention Team training for localities**

17. **The Suffolk PD will receive \$92,371** to implement a regional Crisis Intervention Team training program for the Western Tidewater Region. The funds will be used to cover expenses related to sending officers to the "Train the Trainer" program, host the 40 Hour Core Training Program, provide additional training slots, and for hosting the "Behind the Badge" training session. Funds will also be used to host local training sessions, prepare community awareness brochures, purchase cards that provide information in crisis situations, and cover overtime expenses to ensure adequate coverage of police and dispatch personnel during training.

18. **The Virginia Beach Police Department will receive \$176,635** to provide training to an additional 2,580 law enforcement and support personnel. Virginia Beach operates a coalition of agencies, including: the Virginia Beach Sheriff's Office, the Office of Emergency Communications & Crisis Intervention Teamized Services, and the Virginia Beach Department of Human Services. The funds will be used to provide the 40 Hour Core Crisis Intervention Team training class, 24 Hour Crisis Intervention Team for Youth classes, 8 Hour Crisis Intervention Team Youth Workshops, and "Behind the Badge" training program. The funds will also cover the travel expenses, speaker fees, and provide stipends for families and consumers speaking at trainings. In addition, funds will be used to purchase training supplies and pay conference fees. The travel expenses for three state and national Crisis Intervention Team conferences and expansion of the Emergency Communications 2 Day Crisis Intervention Team training will also be covered.

19. **The Waynesboro Police Department will receive \$236,150** for the Blue Ridge Crisis Intervention Team. The funding will provide a 20 hour Advanced Crisis Intervention Team class focusing on high risk encounters and situations involving complicated facets of mental health law. It will also cover costs that will allow team members to attend the Crisis Intervention Team International Conference, develop and implement a 24/7 Mobile Crisis Intervention Team Clinician Law Enforcement Support Service, provide law enforcement negotiation team training to "Certified" Mobile Crisis Intervention Team Clinicians, and purchase the supplies necessary to implement the training. The Blue Ridge Coalition is made up of the Augusta County Sheriff's Office, Staunton Police Department, Waynesboro Police Department, Highland County Sheriff's Office, and the Staunton/Augusta Regional Office of the Virginia State Police.

20. **The Colonial Crisis Intervention Team Stakeholder Task Force will be awarded \$28,500.** This task force is made up of representatives from the **James Crisis Intervention Team, York County, Williamsburg, Poquoson, College of William and Mary Law Enforcement, Emergency Services Staff at Colonial Behavior Health, Virginia Peninsula Regional Jail, Colonial Community Corrections, Colonial Williamsburg Foundation Security, and the Williamsburg James Crisis Intervention Team County Sheriff's Office.** The funds will provide extensive crisis intervention training to at least 120 law enforcement and first responders. Training will also be provided for community awareness of mental health issues.

Guns in Schools

A Presentation to the Governor's School
and Campus Safety Task Force

JULY 31, 2013
RICHMOND, VA

JUL 31 2013 ARMS IN SCHOOLS PRESENTATION TO GOVERNOR'S TASK FORCE 1

Guns in Schools

In Consultation with the Virginia Department of
Criminal Justice Services

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JUL 31 2013 ARMS IN SCHOOLS PRESENTATION TO GOVERNOR'S TASK FORCE 2

Guns in Schools

Overview

- The tragic shooting at Sandy Hook Elementary focused attention on safety in schools.
- The Governor's Taskforce on School and Campus Safety was formed to prevent such events in Virginia.
- Several pieces of legislation were proposed with the intent of enhancing school safety.
 - HB1557: Armed Persons in Schools
 - HB1730: Requiring School Resource Officers in all Schools
 - HB2277: Defining School Security Officer Position

JUL 31 2013 ARMS IN SCHOOLS PRESENTATION TO GOVERNOR'S TASK FORCE 3

Guns in Schools

Review Process

Dr. Pelfrey was asked to objectively review each piece of legislation on several dimensions:

- Potential outcomes and efficacy of legislation
- Findings in scholarly research that inform these topics
- Legal and liability implications of ratification
- Fiscal consequences
- Organizational capabilities to effectively implement
- Potential psychological impacts on school administrators, teachers, students and law enforcement personnel.

LA 4.1.14

ARMED PERSONS IN SCHOOLS: PREVENTION OF DEADLY FORCE

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Guns in Schools

HB 1557: Armed Persons in Schools

Summary: Requires each school board to designate at least one of the following to secure a concealed carry permit and carry a concealed weapon on campus:

1. A teacher, principal, or other school employee
 2. A volunteer with a concealed handgun permit
 3. A retired law-enforcement officer
- Designations occur at the discretion of the school board.
 - Minimum training standards are specified to prepare individuals to carry a concealed weapon and obtain certification in the storage, use, and handling of that concealed weapon.
 - Requires that every school have at least one designee.

LA 4.1.14

ARMED PERSONS IN SCHOOLS: PREVENTION OF DEADLY FORCE

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Guns in Schools

Liability associated with armed school personnel

Since the school board would specify or select the armed designee, the school board would incur significant liability, particularly in any of the following scenarios:

1. Armed designee accidentally shoots a student or school personnel during a critical incident;
2. Armed designee loses control of the firearm and it is used against others;
3. Armed designee intervenes in a non-critical incident, escalating it to a deadly force situation;
4. Law enforcement mistakes armed designee for an assailant and fire upon him/her.

LA 4.1.14

ARMED PERSONS IN SCHOOLS: PREVENTION OF DEADLY FORCE

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Guns in Schools

School and Organizational Issues

- School board is responsible for identifying at least one armed designee in each school.
 - How to choose among volunteers (potential discrimination complaints)?
 - What if no one volunteers?
- Storage of weapon on school grounds—gun safe, where to locate? Access?
- Carry weapon all the time or store in a safe?
- Psychological impact of knowing there is a gun in the school. Could affect school administrators, staff, teachers, and students. May provoke students to bring guns, communicates important message.
- Research on citizen use of firearms in defensive scenarios is mixed. These volunteers will not have law enforcement firearm training.
- Potential cost of training, equipping, insuring approximately 2000 (minimum) persons

04/13/2013

ARMED TEACHERS IN SCHOOLS: PROS AND CONS (REVISED 10/13/12)

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Guns in Schools

HB 1730: School Resource Officers in all schools

Summary: Requires all schools to collaborate with local law enforcement and place a school resource officer (SRO) in every school in the division.

- Currently there are 500-550 SRO's operating in Virginia. Not all are dedicated (assigned to a single school). Most often assigned to high schools.
- There are approximately 2000 schools in Virginia. Approx 1100 elementary, 333 middle, 300 high schools, and 250 other schools.
- Nationally, SRO's are in about 25% of high schools, less frequently in other schools
- Scholarly research on SRO effectiveness suggests:
 - Presence of an SRO makes people feel safer
 - Some reduction in fighting, guns, and drug crimes at schools
 - Benefits in counselor/teacher role

04/13/2013

ARMED TEACHERS IN SCHOOLS: PROS AND CONS (REVISED 10/13/12)

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Guns in Schools

Issues with SRO requirement

- Key issue is cost. A uniformed officer costs about \$100,000 per year (salary, benefits, liability insurance, equipment, training, vehicle, etc.).
- Requiring the addition of 2000 SRO's would cost approx. \$200 million per year.
- In comparison, the largest Virginia law enforcement agency is State Police which is funded at approx. \$229 million with about 1850 sworn and 750 civilian employees.
- Additional cost of SRO training, concern over whether those officers would be pulled from other assignments. The legislation does not specify a funding source to cover these costs.
- The presence of an SRO does not guarantee school safety—an SRO was present at the 1999 Columbine shooting, exchanged gunfire with one of the two shooters, 11 more persons died.

04/13/2013

ARMED TEACHERS IN SCHOOLS: PROS AND CONS (REVISED 10/13/12)

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Guns in Schools

HB2277: Defines School Safety Officer

Summary: Changes current law which defines parameters of School Safety Officers. There would now be two employment designations: School Safety Officers and School Security Officers.

Safety Officer	Security Officer
Contract person, hired from a security company, etc.	Newly created position: retired or former law enforcement personnel
Existing language explaining their roles and responsibilities	Training and hiring criteria would need to be generated by VLES
Hired and employed by School System	Could be paid from SHO Fund and employed by local law enforcement.

- There is language which makes it amenable for retired law enforcement personnel to secure this employment with no detrimental impact on their retirement status/income.
- Schools are NOT required to have either Safety Officers or Security Officers.

10/10/2013

ARMED PERSONS IN SCHOOLS: PRESENTATION TO SENATORS TAKE TWO

10

Guns in Schools

Implications of legislation

- There are approximately 850 current school safety officers working in about 20% (approx. 400) of Virginia's schools.
- Current school safety officers are unarmed, usually patrol halls, parking lots, direct traffic, watch doors, etc.
- Proposed school security officers would be employees of local law enforcement agencies but would work exclusively in schools.
- Liability insurance costs of several thousand per SSO/year—paid by school or law enforcement?
- Hiring and supervision issues—would new SSO be supervised and evaluated by school or by law enforcement? Dictates search and arrest capability.

10/10/2013

ARMED PERSONS IN SCHOOLS: PRESENTATION TO SENATORS TAKE TWO

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Guns in Schools

Emergent Themes

- All three legislation pieces point towards a desire to enhance safety of students and school personnel.
- There is no research to indicate that armed persons at schools can prevent or deter events like Sandy Hook or Columbine
- Key issues of cost and liability must be thoroughly considered prior to making decisions.
- Psychological impacts of armed persons (either school or law enforcement employees) should also be considered.

THANK YOU FOR YOUR TIME. QUESTIONS?

10/10/2013

ARMED PERSONS IN SCHOOLS: PRESENTATION TO SENATORS TAKE TWO

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School Personnel Carrying Firearms: Civil Liability for Schools

School and Campus Safety Taskforce
July 31, 2013

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Existing Law: Possession of Firearms on School Grounds

- Code of Virginia § 22.1-277.07. Expulsion of students under certain circumstances; exceptions:

"In compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), a school board shall expel from school attendance for a period of not less than one year any student whom such school board has determined, in accordance with the procedures set forth in this article, to have possessed a firearm on school property or at a school-sponsored activity as prohibited by § 18.2-308.1; to have possessed a firearm or destructive device as defined in subsection E, a firearm muffler or firearm silencer, or a pneumatic gun as defined in subsection E of § 15.2-915.4 on school property or at a school-sponsored activity."

Existing Law, cont'd

- Code of Virginia § 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited:

"If any person possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he shall be guilty of a Class 1 misdemeanor."

Existing Law; § 18.2-308.1, cont'd

- Exemptions (knife exemptions omitted):
 - (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) **any law-enforcement officer**; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school;
- Concealed weapon permit holders are generally NOT exempt.

Existing Law, cont'd

- Code of Virginia § 18.2-282. Pointing, holding, or brandishing firearm, air or gas operated weapon or object similar in appearance; penalty:

"It shall be unlawful for any person to point, hold or brandish any firearm or any air or gas operated weapon or any object similar in appearance, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another or hold a firearm or any air or gas operated weapon in a public place in such a manner as to reasonably induce fear in the mind of another of being shot or injured. However, this section shall not apply to any person engaged in excusable or justifiable self-defense. Persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor or, if the violation occurs upon any public, private or religious elementary, middle or high school, including buildings and grounds or upon public property within 1,000 feet of such school property, he shall be guilty of a Class 6 felony."

Existing Law, cont'd

- Code of Virginia § 18.2-280. Willfully discharging firearms in public places:

"If any person willfully discharges or causes to be discharged any firearm upon the buildings and grounds of any public, private or religious elementary, middle or high school, he shall be guilty of a Class 4 felony, unless he is engaged in a program or curriculum sponsored by or conducted with permission of a public, private or religious school."

Laws in Other States

- At least eight states currently give school boards the option of allowing armed employees in schools (many more allow armed concealed weapon permit holders on school grounds, with permission); several others have introduced legislation in this area since the Newtown shootings.
- Texas has at least one rural school division that has already allowed armed employees.
- No state currently *requires* schools to have armed employees, other than law-enforcement officers (SROs).

CIVIL LIABILITY CONCERNS

Injury or Death of Student, Employee, or Bystander

- Potential causes of action against the school board and its employees:
 - Wrongful death, common law assault and battery, emotional distress, negligent supervision, negligent training
- An increase in the presence of firearms, particularly in the hands of non-law enforcement individuals (with less training), could increase the risk of accidental shooting.
- Allowing non-uniformed individuals to carry firearms could also increase the risk of misidentification as assailants by law enforcement officers responding in the event of an emergency.

State Law: Sovereign Immunity

- State law claims: Common law sovereign immunity will protect school board members and certain employees acting within the scope of their employment from claims based in tort.
- If the employee's action is deemed *ministerial* rather than *discretionary*, the individual may be liable. For example, failing to properly store a firearm, pursuant to written school protocol, may be deemed ministerial and subject the employee to liability.
- If the employee's action is deemed to be grossly negligent, sovereign immunity will not apply.

Statutory Sovereign Immunity

- Code of Virginia § 8.01-220.1:2. Civil immunity for teachers under certain circumstances:

"Any teacher employed by a local school board in the Commonwealth shall not be liable for any civil damages for any acts or omissions resulting from the supervision, care or discipline of students when such acts or omissions are within such teacher's scope of employment and are taken in good faith in the course of supervision, care or discipline of students, unless such acts or omissions were the result of gross negligence or willful misconduct."

Federal Law: Claims against the School Board

- 42 U.S.C. § 1983 allows a claim against a school division for depriving a citizen of a federally protected right. The deprivation would need to be caused by an official school policy or practice (like a policy allowing employees to carry firearms).

Federal Law: Claims against Employees

- Qualified immunity: School personnel are generally immune for actions that do not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Pearson v. Callahan*, 555 U. S. 223 (2009).
- To overcome immunity, claimant must show that the defendant violated a clearly established constitutional right of which a reasonable official should have known.
- An employee with supervisory authority and knowledge of a student's deprivation of rights who responds with deliberate indifference could be liable under § 1983.

Duty to Protect Students from Actions by Third Parties

- Generally, schools have no duty to protect students from harm by a third party. However, in *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189 (1989), the Supreme Court recognized two exceptions to this rule:
 - Special Relationship: The government creates a special relationship giving rise to the duty to protect when it takes citizens into physical custody. Compulsory attendance laws **do not** create such duty. *B. M. H. v. School Bd.*, 833 F. Supp. 560 (E.D. Va. 1993); and/or
 - State-Created Danger: If the government creates the dangerous environment, it becomes responsible for protecting its citizens.

State-Created Danger: Case Law

- *Pinder v. Johnson*, 54 F.3d 1169 (4th Cir. 1995):
 - Plaintiff's abusive ex-boyfriend is released from prison; he threatens to kill her and her children. Police officer repeatedly assures her he will arrest the boyfriend and hold him overnight. Plaintiff returns to work; ex-boyfriend is immediately released, sets Plaintiff's house on fire and kills her three children.
 - Court: No state-created danger, because there is no special relationship between the government and the Plaintiff. The Fourth Circuit combined the two exceptions articulated in *DeShaney*.
- *McQueen v. Beecher Community Schools*, 433 F.3d 460 (6th Cir. 2006):
 - A student is fatally shot by another student while the teacher is out of the room, escorting the rest of the class down the hall.
 - Court: No state-created danger. The danger was created by the student having a gun, not by the teacher leaving the room. There was no evidence that the teacher's presence would have alleviated the harm.

State-Created Danger: Case Law

- *Armijo v. Wagon Mound Public Schools*, 159 F.3d 1253 (10th Cir. 1998):
 - A special education student makes suicidal statements to a school counselor. The counselor is aware that the student has access to firearms. Subsequently, the student is suspended for threatening a teacher. Against policy, the principal tells the counselor to drive the student home. The student commits suicide at home, before the parents are made aware of the suspension.
 - Court: Defendant's summary judgment motion denied; there are sufficient facts that could satisfy the 10th Circuit's state-created danger test.
- *Currier v. Doran*, 242 F.3d 905 (10th Cir. 2001):
 - Social worker transfers custody of child from mother to father. Father kills child.
 - Court: Social worker is liable because if not for the state action transferring custody, the child would be alive.

Columbine Lawsuit

- After the 1999 Columbine High School shooting, one of the injured students brought a § 1983 claim against several Jefferson County School District officials (among others).
- The plaintiff alleged both a special relationship and a state-created danger.
- The U.S. District Court for the District of Colorado found no special relationship simply from attending public school.
- The court applied the 10th Circuit state-created danger test articulated in *Uhrig v. Harder*, 64 F.3d 567 (10th Cir. 1995): (i) plaintiff is a member of a limited class; (ii) substantial risk of serious, immediate, and proximate harm; (iii) obvious and known risk; (iv) conscious disregard of the risk; and (v) “conscious shocking” conduct.
- The court found defendants’ failure to act did not “shock the conscience” and the risk was not immediate or proximate (as events hinting at danger occurred months before the shooting).

Virginia Tech Lawsuit

- Parents of two slain students filed wrongful death suit in state court, naming the Commonwealth, President Steger, and several other Virginia Tech officials as defendants (among others).
- All defendants other than the Commonwealth were eventually dismissed.
- The Montgomery County Circuit Court found that there was a special relationship between school officials and the plaintiffs which created a duty of care.
- The case went to trial, and a jury awarded the two families \$4 million each. The award was reduced, pursuant to the Virginia Tort Claims Act, to \$100,000 each.
- The Supreme Court has agreed to hear the state’s appeal of the verdict.

Injury or Death to Armed Employee: Other Issues

- Potential additional workers' compensation claims for injured employees.
- Will armed school personnel be added as beneficiaries under the Line of Duty Act (Chapter 4 of Title 9.1 of the Code of Virginia)?
- Will volunteers be added to qualified immunity statute? To insurance coverage?

PERSONNEL/MANAGEMENT CONCERNS

Determining Which Employees Should Be Authorized to Carry

- Can school division require certain employees to carry (i.e., all assistant principals), or terminate employment for refusal to carry?
- Will school reassignments be made in order to ensure an armed employee at each school?
- Will willingness to carry be considered in hiring decisions? If so, will this translate into potential discrimination claims (gender, age, disability status, religious belief)?

Use of Background Checks, Mental and Physical Examinations

- April 2012 guidance from the EEOC cautions that the use of criminal history checks may lead to disparate treatment based on race in hiring, in violation of Title VII of the Civil Rights Act of 1964.
- The Americans with Disabilities Act generally prohibits employers from asking about job applicants' mental/physical health.

Training of Employees

- The amount of training could likely affect liability.
- Training requirements may also affect insurance coverage/rates.
- What type of training would be required?
 - For instance, under the new South Dakota law, armed personnel would be required to complete 80 hours of training through the state academy in firearms proficiency, use of force, legal issues, weapon retention and storage and first aid, with an annual eight hours required to maintain qualification in subsequent years. The estimated cost to the school division is \$700 per person.
- Who would certify the training?
 - In comparison, police departments are certified as complying with relevant training standards (e.g., The Commission on Accreditation for Law Enforcement Agencies, Inc. and the Virginia Law Enforcement Professional Standards Commission).

Compensation of Employees

- Will armed employees be eligible for increased compensation? Stipend, or hourly, and how would the additional job duties be described? What is the expectation for these employees: are they carrying weapons as a deterrent, or are they expected to defend students/staff in an emergency?
- Will the school pay for the firearm, permit, ammunition, storage container, or training requirements?

Insurance Coverage

- EMC Insurance Companies, which provides liability insurance for about 90% of Kansas school districts, recently announced that it would decline coverage to schools that allow employees to carry concealed weapons.
- The Oregon School Boards Association recently announced a \$2500 annual premium for every staff member who carries a firearm.
- Some states have introduced legislation to require gun-owners to carry liability insurance.

Workplace Concerns

- How will the school division handle concerns of other staff members who may not want to work alongside staff members who carry weapons?
- Will staff members carrying weapons strain supervisor/supervisee relations, depending on who is allowed to carry?

Parental Rights

- Will parents be allowed to request class reassignments based on comfort level? Based on sincerely-held religious conviction?
- Will parents be told if their child will be in a classroom with an armed employee? This information would arguably be exempt from the Virginia Freedom of Information Act under Virginia Code § 2.2-3705.2 (7).

Summary
Public Safety Workgroup Recommendations
Passed Workgroup on June 11, 2013
Presented for Review July 25, 2013

Recommendation Number	Proposal
PS-20	<i>Recommends the Virginia Department of Emergency Management and the Virginia Department of Fire Programs collaborate in the development of a template for use by localities in developing their own local plans for the integration of first responders.</i>
PS-21	<i>Recommends the Amendment of § 18.2-308.2. Currently, the convicted felon statute has three categories – (i) any person convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense who is convicted of capital murder, first- or second-degree murder, kidnapping, robbery or rape; (iii) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act that would be a felony if committed by an adult. This provision changes category ii, by adding forcible sodomy and object penetration to the list of crimes. Rape, forcible sodomy, and object penetration are all five-to-life crimes. Plea agreements will not be affected. The General Assembly previously aligned all three statutes to keep penalties consistent. An additional change would be to take out the “14 years of age or older at the time of the offense” piece. Gun rights would be lost, no matter when they were adjudicated. Like an adult, they would still have ability to petition the Circuit Court to get their gun rights back.</i>
PS-22	<i>Recommends that all Virginia colleges and universities consider participation in the Certified Crime Prevention Campus. This program is modeled after DCJS’ Certified Crime Prevention Community Program, which publicly recognizes and certifies localities that have implemented community safety strategies. The Campus Program recognizes and certifies those public and private accredited colleges or universities in Virginia that have met the program requirements which specifically relate to campus crime prevention. The program is a one-of-a-kind in the nation.</i>
PS-23	<i>Recommends the “Virginia Center for School Safety” of the Department of Criminal Justice Services be changed in legislative code to the “Virginia Center for School and Campus Safety” in order to highlight and include the legislative mandates relating to institutions of higher education.</i>
PS-24	<i>Recommends the formation of a standing committee at the state level consisting of design and architect professionals, school officials, police/sheriffs, fire officials, emergency managers and building officials dedicated to addressing conflicts in law and regulations regarding infrastructure improvements on new and/or exiting institutions and establishing best practices for such to localities.</i>
PS-25	<i>Recommends the addition of “campus police officer” to the definition of “law enforcement officer in paragraph F of section § 18.2-57 (assault and battery), which</i>

*has increased penalties for assault and battery against certain individuals.
(paragraph C)*

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a law-enforcement officer as defined hereinafter, a correctional officer as defined in § 53.1-1, a person employed by the Department of Corrections directly involved in the care, treatment or supervision of inmates in the custody of the Department, a firefighter as defined in § 65.2-102, or a volunteer firefighter or lifesaving or rescue squad member who is a member of a bona fide volunteer fire department or volunteer rescue or emergency medical squad regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or members as employees, engaged in the performance of his public duties, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

F. As used in this section:

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth;; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115;; any special agent of the Department of Alcoholic Beverage Control;; conservation police officers appointed pursuant to § 29.1-200;; and full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;; and such officer also includes jail officers in local and regional correctional facilities;; all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities;; auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733;; auxiliary deputy sheriffs appointed pursuant to § 15.2-1603;; police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and; fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1; and *campus police officers appointed under Chapter 17 (§ 23-232 et seq.) of Title 23.*

PS-26

Recommends that all campus police departments have the following minimum training standards::

□ All campus police departments should be required to meet a set of minimal operational standards set by the Department of Criminal Justice Services, in order to be certified as Virginia police departments. These minimal standards will guarantee uniformity of operations in campus police departments that will reduce risk liability and increase professional performance.

□ Likewise, all campus security or public safety departments without law enforcement authority should be required to meet a set of minimal operational standards, set by the Department of Criminal Justice Services, in order to be certified as Virginia campus security or public safety agencies. These minimal standards will guarantee uniformity of operations in security and campus safety that will reduce risk liability and increase professional performance.

PS-27	<p><i>Recommends the following best practices and policy considerations for all (including private) institutions of higher education:</i></p> <ul style="list-style-type: none"> <i>□ As a proven best practice, every institution of higher education should have in place a formal Threat Assessment Team.</i> <i>□ Any institution of higher education that does not have campus-based mental health services should establish written memorandum of understanding with its local community services board or behavioral health authority.</i> <i>□ Every institution of higher education should participate in the multi-disciplinary response to sexual assault, as required by state law, by participating in their local Sexual Assault</i> <i>□ Response Team (SART) to include transportation needs and providing appropriate resources to all students.</i> <i>□ All institutions of higher education should have in place memorandums of understanding for mutual aid responses for a public safety crisis that may occur on a campus. The Department of Criminal Justice Services and its Virginia Center for School Safety should provide support through model training policies and standards relevant to the police departments and security agencies.</i> <i>□ All institutions of higher education should develop and make available to its community its specific policy on firearms and weapons on their campuses.</i>
PS-28	<p><i>Recommends funding should be provided to the Virginia Center for School Safety within the Department of Criminal Justice Services to provide policy and training support for and coordinate with the campus police departments and security agencies.</i></p>
PS-29	<p><i>Recommends that the Virginia Community College System (VCCS), with assistance from other appropriate government agencies, should determine what actions can be taken to properly fund the initial and continuing costs (capital and non-capital/operating costs) of providing adequate campus law enforcement and/or safety & security services, including necessary memorandums of understanding with local law enforcement agencies.</i></p>