

**TARGETING SCHOOL SHOOTINGS: USING THREE
WARNING SIGNS—ANIMAL ABUSE, DOMESTIC
VIOLENCE, AND CONDUCT DISORDER—TO HELP
PREVENT MASSACRES**

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Table of Contents

I. Introduction	66
II. Terms, Definitions, Policies, and Procedures	73
III. Assessing Dangerousness,	84
Using Behavior Not Characteristics.....	84
IV. Warning Signs	98
i. Problem:.....	99
Identifying Animal Abuse that Might Be a Warning.....	99
ii. Recommendation:.....	114
Create Felony and Modify Procedures and Forms.....	114
B. Warning Sign: Domestic Violence	120
i. Problem:.....	120
More Than 70 Percent of Domestic Abusers Are Cruel to Family Pets.....	120
ii. Recommendation:.....	121
Redefine Domestic Violence to Include Dogs and Cats.....	121
C. Warning Sign: Conduct Disorder Diagnosis as a Child	126
i. Problem:.....	126
Public Misunderstanding of School Shooters and Mental Illness.....	126
ii. Recommendation:.....	130
Early Intervention and Education.....	130
V. School Shooting Safety and Preparedness Act	133

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I. INTRODUCTION

Whether packing a superhero lunchbox for their five-year-old's first day in a public kindergarten just down the block or preparing their twenty-two-year-old for his freshman year at an Ivy League law school 2,000 miles away, parents across the country are terrified by images of panicked children running from schools while an active shooter tries to slaughter as many students, faculty, and staff as he can. But, despite these widespread fears, and numerous governmental and other investigative studies, the only real consensus seems to be that these are horrific, destructive attacks that should stop. The difficulty lies in finding agreement about how to prevent them.¹ This is not surprising, as people cannot even agree as to whether these massacres are a "common occurrence" that exposes a "troubling epidemic,"² or merely a "statistical rarity" that reveals "[s]chools are just about the safest place in the world for kids to be."³

This debate, although important in attempting to address the magnitude of the problem, misses the mark, especially when statisticians use deaths as the only test. Thus, a 2020 Stanford study notes that in the two decades since Columbine, public attention focused on the 147 victims who were killed at primary and

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¹ David French, *We Don't Know How to Stop Mass Shootings*, NAT'L REV. (Nov. 8, 2018, 4:58 PM), <http://www.nationalreview.com/corner/we-dont-know-how-to-stop-mass-shootings>.

² Ashley Cannon, *Aiming at Students: The College Gun Violence Epidemic*, CITIZENS CRIME COMM'N OF N.Y.C. (Oct. 2016), <http://www.nycrimecommission.org/pdfs/CCC-Aiming-At-Students-College-Shootings-Oct2016.pdf>.

³ Martin Kaste, *Despite Heightened Fear of School Shootings, It's Not a Growing Epidemic*, NPR (Mar. 15, 2018, 7:39 AM), <https://www.npr.org/2018/03/15/593831564/the-disconnect-between-perceived-danger-in-u-s-schools-and-reality>.

secondary schools⁴ but failed to consider the 240,000 survivors on school grounds during the shootings.⁵ And the effects of school shootings do not stop there. Almost all these traumatized kids have family and friends.⁶ Moreover, evidence continues to mount that the impact of these incidents extends far beyond these obvious

⁴ Maya Rossin-Slater et al., *Local Exposure to School Shootings and Youth Antidepressant Use*, 117 (38) PNAS (Sept. 8, 2020), <https://www.pnas.org/doi/full/10.1073/pnas.2000804117> [hereinafter *Local Exposure to School Shootings and Youth Antidepressant Use*]. As is true about much of the data surrounding school shootings, the figures often are not consistent, raising serious concerns about accuracy. See, e.g., Phillip Levine & Robin McKnight, *Lasting Effects of Exposure to School Shootings*, ECONOFACt (Feb. 10, 2021), <https://econofact.org/lasting-effects-of-exposure-to-school-shootings?type=redirect> [hereinafter *Lasting Effects of Exposure to School Shootings*] (stating between 1995 and 2019 (a slightly different time period), 302 people were shot and killed in K-12 American public schools). **Author's note:** Because many of the fundamental issues are the same, this Article discusses all levels of educational institutions (K-12, colleges, and universities). However, as there are some differences and interests, other publications, studies, and research focus on only one or two.

⁵ *Local Exposure to School Shootings and Youth Antidepressant Use*, *supra* note 4. *The Washington Post*, which says it “has spent years tracking how many children have been exposed to gun violence during school hours since the Columbine High massacre in 1999,” estimated in 2018 that the number of survivors was more than 311,000 students, each of whom could have been “profoundly traumatized” by the experience. John Woodrow Cox et al., *More Than 311,000 Students Have Experienced Gun Violence at School Since Columbine*, WASH. POST (Apr. 20, 2018) <https://www.washingtonpost.com/graphics/2018/local/school-shootings-database>.

⁶ *Lasting Effects of Exposure to School Shootings*, *supra* note 4 (“school shootings carry vast social costs”). This piece warns that costs include lower educational performance and adverse health outcomes for students at the affected institution as well as surrounding schools, in addition to higher financial costs for districts in which these events occur. *Id.* More money is also spent to try to help alleviate the harmful after-effects on exposed students. *Id.* A 2020 study that revealed antidepressant use among children close to schools where shootings occurred increased by more than 20% reached another startling conclusion: “each student exposed to a shooting could expect to earn US\$115,550 less over the course of their lifetime.” Maya Rossin-Slater et al., *The Lasting Consequences of School Shootings on the Students Who Survive Them*, THE CONVERSATION (May 31, 2022, 8:14 AM), <https://theconversation.com/the-lasting-consequences-of-school-shootings-on-the-students-who-survive-them-183906> [hereinafter *The Lasting Consequences of School Shootings on the Students Who Survive Them*].

victims. Rather, “effects of such violence reach millions,” including witnesses, first responders, people in the area, “and even those who hear[] about the shooting in the media . . . society suffers, too.”⁷

Commentators who suggest that there is no way to prevent these shootings are wrong. Conversely, those who predicted a spike in violence after an anomalous drop in the number of children attending schools due to remote learning in response to the worldwide pandemic in 2020, seem to have been prescient.⁸ According to a recent government report, the total of ninety-three school shootings with casualties at both public and private elementary and secondary schools that occurred between 2020 and 2021 was the highest number of school shootings with casualties since 2000.⁹

Other sources also report “record” totals in 2021, punctuated by the deadliest high school shooting in years in Oxford, Michigan

⁷ Arash Javanbakht, *Mass Shootings Leave Emotional and Mental Scars on Survivors, First Responders & Millions of Others*, SALON (Apr. 7, 2021, 9:01 AM), https://www.salon.com/2021/04/07/mass-shootings-leave-emotional-and-mental-scars-on-survivors-first-responders-and-millions-of-others_partner.

⁸ Sophie Lewis, *March 2020 Was the First March Without a School Shooting in the U.S. Since 2002*, CBS NEWS (Apr. 14, 2020, 2:45 PM) <http://www.cbsnews.com/news/coronavirus-first-march-without-school-shooting-since-2002-united-states/#textOne20store20manager20told20CBS20News20that20theincrease20in20shootings20when20they20return20to20school>. Responding to the pandemic, most schools across the country closed in early 2020 hoping to protect students, not from humans with guns, but from a contagious, deadly virus. Online education substituted for in-person instruction. One result was that some people claimed it was the first March since 2002 (ironically, the year most of the high school seniors were born) that there were no school shootings in the United States. *Id. But see* Jessica Lee, *Was March 2020 the First March Since 2002 Without a U.S. School Shooting*, SNOPES (Apr. 16, 2020), <https://www.snopes.com/fact-check/march-2020-school-shooting/> (“given the absence of a universal definition of ‘school shooting’ in the U.S. and given that a government database and news media reports show at least eight shootings did occur on school properties in March 2020, we rate this claim as ‘Mostly False’ ”).

⁹ Véronique Irwin et al., *Report on Indicators of School Crime and Safety: 2021*, NAT'L CTR. FOR EDUC. STATISTICS AT IES 2 (June 2021), <https://nces.ed.gov/pubs2022/2022092.pdf>.

(population: 3,586).¹⁰ Prior to November 30, 2021, most Americans had never even heard of Oxford; that changed on November 30, 2021, when a tortured, fifteen-year-old boy shot and killed four students and injured seven others, including a teacher, at his high school.¹¹ And then, just a few months later, an eighteen-year-old executed nineteen elementary school students and two teachers in Uvalde, Texas, another small town (population 16,122).¹²

Acknowledging that it is probably impossible to stop all such atrocities, this Article provides background and analysis that supports establishing the proposed interdisciplinary, multifaceted response, including five detailed recommendations. If adopted and implemented, these statutory and policy changes would most likely thwart many destructive attacks, thereby avoiding the emotional devastation suffered by the direct victims who could die or be physically or mentally injured, those who are now afraid they might be casualties in the future, and communities that are often scarred forever.¹³

¹⁰ James Densley & Jillian Peterson, *School Shootings Are at a Record High This Year—But They Can Be Prevented*, THE CONVERSATION (Dec. 2, 2021, 8:42 AM) <https://theconversation.com/school-shootings-are-at-a-record-high-this-year-but-they-can-be-prevented-173027>.

¹¹ Beatriz Adelle Quesada, et al., *Behavioral Threat Assessment: Ethan Crumbley*, THE COUNTERTERRORISM GROUP (Jan. 6, 2022), <https://www.counterterrorismgroup.com/post/behavioral-threat-assessment-ethan-crumbley>.

¹² *The Lasting Consequences of School Shootings on the Students Who Survive Them*, *supra* note 6.

¹³ Ariella Iancu et al., *After School Shootings, Children and Communities Struggle to Heal*, THE RAND BLOG (July 19, 2019), <http://www.rand.org/blog/2019/07/after-school-shootings-children-and-communities-struggle.html>. This piece notes that anniversaries of mass casualties such as school shootings may produce post-traumatic stress disorder (PTSD) symptoms. *Id.* Referring to two suicides following the Marjory Stoneman Douglas shooting, in addition to other suicides after the Virginia Tech, Columbine, and Sandy Hook killings, the authors warn “[s]chool casualty incidents scar communities for generations, with the deadliest school attack in US history, in Bath, Michigan, in 1927, still affecting survivors and their grandchildren more than 90 years later.” *Id.* Based on these facts, after concluding more needs to be done to respond to the mental health needs of survivors and the schools and communities in which such incidents happen, the authors provide commonsense

One obstacle precluding consideration of these options is that attempts to discuss issues concerning school shootings inevitably turn into contentious battles about gun control. The question of whether firearms are the problem or the solution is so politically charged that it drowns out the ultimate concern of how to prevent future violence. Therefore, it would be far more productive to leave that battle to others and to instead concentrate on specific factors that might help discover individuals who actually plan to obtain a gun and use it to harm students, teachers, staff, and others in schools, colleges, or universities.¹⁴ This will not be easy. Experts consistently reject the possibility of creating a valid “profile” that would identify potential perpetrators and eventually prevent them from using a firearm to kill or injure innocent victims at educational institutions.¹⁵

While agreeing that no “typical” offender exists, because almost all school shooters are boys or young men, this Article follows the lead of recognized authorities and focuses on males under twenty-five.¹⁶ Research supports treating these embryonic adults the same as minors for several reasons, primarily due to the current belief that the human brain does not fully develop until age twenty-five.¹⁷ Increased scrutiny is also justified as minors are much more likely than their adult counterparts to be successfully

suggestions. *Id.* A recent study confirms the fears. *See supra* note 4 and accompanying text (observing that antidepressant use among people under 20 rose by 21% in local communities where fatal school shootings occurred).

¹⁴ See George S. Everly, Jr. and O. Joseph Bienvenu, “Profiling” School Shooters: *Can We Tell Who Will Be the Next to Kill?*, PSYCH. TODAY (Mar. 29, 2018), <http://www.psychologytoday.com/us/blog/when-disaster-strikes-inside-disaster-psychology/201803/profiling-school-shooters>.

¹⁵ *Id.*

¹⁶ Brad J. Bushman et al., *Youth Violence: What We Know and What We Need to Know*, 71 No. 1 AM. PSYCH. 17, 18 (2016), <https://www.apa.org/pubs/journals/releases/amp-a0039687.pdf>. In addition, two well-known experts, Arnold Arluke and Eric Madfis, reached a similar conclusion but “solely focused upon school massacre perpetrators below the age of 21.” Arnold Arluke & Eric Madfis, *Animal Abuse as a Warning Sign of School Massacres: A Critique and Refinement*, 18 HOMICIDE STUD. 7, 17 (2014) [hereinafter *Animal Abuse as a Warning Sign of School Massacres*].

¹⁷ Bushman et al, *supra* note 16, at 18; *Animal Abuse as a Warning Sign of School Massacres*, *supra* note 16, at 17. *See also infra* note 197 and accompanying text.

treated, and possibly stopped, before they commit violent acts against humans.¹⁸

Multiple studies show mass murders are not “sudden or impulsive acts.”¹⁹ Offenders generally plan their attacks and a substantial percentage—especially younger people—discuss their developing plot with one or more friends or relatives.²⁰ Even those who do not talk with anyone frequently exhibit conduct that should, and often does, raise alarms.²¹ Thus, rather than looking to traits or characteristics when trying to evaluate the probability of violence, this Article joins others that stress the spotlight must be on “students’ behaviors, situational factors, and circumstances.”²²

To begin the conversation, Section II reveals two major problems that not only present barriers to effectively preventing such incidents, but also undermine confidence in the reliability and trustworthiness of the existing data: (1) use of conflicting terms and definitions and (2) inaccurate and inconsistent methods of information collection. This section urges passage of legislation that adopts standardized terms with clear, concise, and comprehensive definitions, as well as uniform policies and procedures for acquiring data. Once codified, government agencies should only utilize

¹⁸ NAT’L INST. FOR HEALTH AND CARE EXCELLENCE, ANTISOCIAL PERSONALITY DISORDER: PREVENTION AND MGMT. 12 (Mar. 27, 2013), <https://www.nice.org.uk/guidance/cg77/resources/antisocial-personality-disorder-prevention-and-management-pdf-975633461701> [hereinafter NAT’L INST. FOR HEALTH AND CARE EXCELLENCE, ANTISOCIAL PERSONALITY DISORDER: PREVENTION AND MGMT.].

¹⁹ U.S. SECRET SERV. NAT’L THREAT ASSESSMENT CTR., PROTECTING AMERICA’S SCHOOLS: A U.S. SECRET SERVICE ANALYSIS OF TARGETED SCHOOL VIOLENCE 1 (2019), http://www.secretservice.gov/sites/default/files/202004/Protecting_Americas_Schools.pdf [hereinafter TARGETED SCHOOL VIOLENCE] (referring to the text box titled, “Key Findings from the Safe School Initiative” (2002)). Recognizing mass shootings arise in many contexts, this Article focuses on shootings where multiple victims are injured or killed in a school setting.

²⁰ Peter Langman, *School Shooters: The Warning Signs*, FORENSIC DIG., (Feb. 12, 2016), https://schoolshooters.info/sites/default/files/school_shooters_warning_signs_1.1.pdf [hereinafter *School Shooters: The Warning Signs*].

²¹ *Id.* at 2.

²² TARGETED SCHOOL VIOLENCE, *supra* note 19, at 4.

information obtained from entities and researchers whose data and procedures comply with the statutory requirements.

Section III demonstrates the importance of concentrating on the shooter's behavior rather than his characteristics and summarizes psychiatric and psychological literature about individuals who kill or injure people in K-12 schools, two- and four-year colleges, and universities. Numerous empirical studies dating back almost fifty years reveal it is difficult, if not impossible, to accurately forecast which individuals present a real danger in a school (or any other) setting.²³ After analyzing related history, policy, literature, guidelines, and forms, it is obvious that these warning signs are not being effectively used to assist in exposing possible offenders in time to intervene, provide help, and prevent impending catastrophes.

Thus, Section IV looks at animal cruelty, domestic violence, and conduct disorder in juveniles through an unusual lens.²⁴ The primary emphasis is on animal abuse because it is the factor most often ignored.²⁵ However, the substantial intersection among the three factors shows that the trio warrants attention to resolve the problem.²⁶

Section V analyzes and supports reevaluating, modifying, and enacting the School Shooting Safety and Preparedness Act

²³ See *Boynton v. Burglass*, 590 So. 2d 446, 450 (Fla. Dist. Ct. App. 1991) (“[U]nlike a physician’s diagnosis, which can be verified by x-ray, surgery, etc., the psychiatrist cannot verify his diagnosis, treatment or predicted prognosis except by long-term follow-up and reporting.”); see also Troy Parks, *Patient-Psychiatrist Confidentiality Hampered in Liability Ruling*, AMA (Jan. 4, 2017), <http://bit.ly/3kWJekA>. See discussion *infra* Section III.

²⁴ See discussion *infra* Section IV. Notably, in 2001, one of the recognized experts in this field did publish an article linking all three. Frank R. Ascione, *Animal Abuse and Youth Violence*, OFF. OF JUV. JUST. AND DELINQ. PREVENTION 1, 4, 8 (2001), <http://www.ncjrs.gov/pdffiles1/ojjdp/188677.pdf> [hereinafter *Animal Abuse and Youth Violence*].

²⁵ *Animal Abuse and Youth Violence*, *supra* note 24 (noting that “animal abuse has received insufficient attention—in fact, is sometimes explicitly excluded . . . as one of a number of ‘red flags,’ warning signs, or sentinel behaviors that could help identify youth at risk for perpetrating interpersonal violence . . . and youth who have themselves been victimized.”).

²⁶ U.S. GOV’T ACCOUNTABILITY OFF., GAO-20-455, K-12 EDUC.: CHARACTERISTICS OF SCHOOL SHOOTINGS 6 (2020) [hereinafter CHARACTERISTICS OF SCHOOL SHOOTINGS] (“[T]he more risk factors youth are exposed to, the greater likelihood they will develop violent behaviors.”).

(SSSPA).²⁷ This proposed federal statute includes a uniform definition of “school shooting” and a requirement for annual reports that will assist with future research and monitoring if the data collection procedure and forms are redrafted to address safety and prevention concerns rather than gun violence.²⁸

Section VI goes even further and recommends that, while continued investigation should be encouraged and possibly even sponsored, existing studies by respected authorities provide sufficient information to take certain actions immediately. Therefore, it offers suggestions for specific amendments to current federal and state animal cruelty and domestic violence laws and urges early response to children with conduct disorder whose behavior is symptomatic and warrants intervention.²⁹ The goal is for such changes to help identify, prosecute if appropriate, and rehabilitate juveniles before they kill or harm human victims.

II. TERMS, DEFINITIONS, POLICIES, AND PROCEDURES

Trying to either confirm a hypothesis about factors that increase the likelihood an individual could become a school shooter or to prove other solutions would be more effective is difficult. This is because too many public and nonprofit groups—applying different terms, definitions, policies, and procedures—provide data used to create, manage, and, when necessary, modify guidelines to identify potential killers. So, while numbers do not lie, what appear to be

²⁷ School Shooting Safety and Preparedness Act, H.R. 4301, 116th Cong. (2019), <https://www.congress.gov/bill/116th-congress/house-bill/4301/text>. During the second session, an amended version was reported. The bill was modified and refiled in the 117th Congress. School Shooting Safety and Preparedness Act, H.R. 5428, 117th Cong. (2021-22). There were also two versions of this bill. Unless otherwise noted, the discussion refers to the Second Session version of the 2021-22 bill. *See discussion infra* Section V.

²⁸ *See discussion infra* note 307 and accompanying text.

²⁹ Eleonora Gullone, *Conceptualising [sic] Animal Abuse with an Antisocial Behaviour [sic] Framework*, 1 ANIMALS 144, 150 (2011) (“Given the extensive knowledge base that exists with regard to antisocial and aggressive behaviours [sic], our need for action is currently greater than our need for more research.”). *See also* discussion *infra* Section VI.

reliable studies may reach contradictory conclusions because the evaluations are based on inconsistent definitions and data.³⁰

Entities that apply idiosyncratic generic terms erect barriers to accurate assessment and make comparing the information and reaching accurate conclusions impossible. Phrases that encompass schools, colleges, and universities in addition to many different venues that have their own specific diverse set of issues are confusing. The dilemma is further complicated when similar words or even identical terms may have a variety of definitions that often result in disparate totals.³¹ This is particularly troubling when the meanings sometimes seem designed to advance the data collectors' agendas.³² The simple solution starts with universal adoption of the same terms and identical definitions.

Using "school shooting" as the authorized term is consistent with most current laws and clear and understandable to the average person as well as to data gatherers. However, it does also allow entities like the Government Accounting Office (GAO) to continue

³⁰ See discussion *infra* Section II.

³¹ Kyley Schultz, *Feds No Longer Collect School Shooting Data, Advocates Left to Scramble*, CRONKITE NEWS (Apr. 23, 2018), <http://cronkitenews.azpbs.org/2018/04/23/feds-no-longer-collect-school-shooting-data-advocates-left-to-scramble>.

³² Charles C.W. Cooke, *How Media Misinformation About Mass Murders Is Harming Us*, NRA: 1ST FREEDOM (Jan. 26, 2020), <http://www.americas1stfreedom.org/articles/2020/1/26/how-media-misinformation-about-mass-murderers-is-harming-us>. ("This . . . lie—that mass shootings are ubiquitous rather than unusual—has gained particular currency since the launch, in 2013, of a shameless propaganda outlet named the 'Gun Violence Archive' (GVA)." Cooke further provides that "[t]he purpose of this so-called archive is to massively overstate the number of mass shootings and to launder that overstatement through media outlets that favor more gun-control laws."); *see, e.g.*, Mark Follman, *No, There Has Not Been a Mass Shooting Every Day This Year*, MOTHER JONES (Dec. 18, 2015), <http://www.motherjones.com/politics/2015/12/no-there-were-not-355-mass-shootings-this-year> [*hereinafter No, There Has Not Been a Mass Shooting Every Day This Year*] (warning that the "wildly inflated" statistics are not only misleading the public, they spark "undue fear and may be encouraging bad policies."). However, to be fair, researchers should know what they are getting because, in addition to its definition, GVA does list all the incidents and a brief summary of each on its website. *See Standard Reports*, GUN VIOLENCE ARCHIVE, <http://www.gunviolencearchive.org/reports> (last visited July 3, 2022).

to use extremely broad definitions such as “*any time* a gun is fired on school grounds, on a bus, during a school event, during school hours, or right before or after school.”³³ While it is true that “*any time* a gun is fired on school grounds” is a “school shooting,” when most Americans hear that term they think about tragedies like Columbine, Sandy Hook, and Parkland, rather than when an ex-spouse tracks down his former partner at her job as a teacher and shoots her in her classroom. Therefore, legislation should recognize two broad categories of school shootings. One is a person firing a gun when he just happens to be on campus of a K-12 school, two- or four-year college, or university. The other is where, for whatever reason, or sometimes for no reason that anyone else can understand, the perpetrator targets an educational institution to injure or kill as many individuals as he can. While both technically are “school shootings,” the first should be “school shooting” and the second should be “*mass school shooting*” with the possibility of enhanced punishments.³⁴ This change should increase the ease of comparing earlier data, which generally includes the numbers killed and/or injured, thereby facilitating developing trends and identifying potential offenders who are most likely to pose a serious threat to schools.

But even unanimous agreement on the specific term is not sufficient because groups that use “school shooting,” or even the proposed “*mass school shooting*,” still have considerable flexibility in the requirements to qualify for the label, including:

³³ CHARACTERISTICS OF SCHOOL SHOOTINGS, *supra* note 26 (emphasis added).

³⁴ Federal and state statutes include provisions about using aggravating and mitigating circumstances in determining whether and under what circumstances to impose the death penalty. *See* 18 U.S.C. § 3592(b). Therefore, jurisdictions that allow the death penalty might consider multiple deaths and injuries “aggravating circumstance[s].” *Id.* The federal statute mandates that the fact finder “consider each . . . aggravating factor for which notice has been given and determine which, if any, exist[.]” *Id.* Florida requires a separate proceeding during which, if the defendant does not give up his right to a jury decision, the jury must unanimously decide the State proved beyond a reasonable doubt there is at least one aggravating circumstance, and unanimously recommend the death penalty. FLA. STAT. § 921.141. If the defendant waives his right to a jury, the judge decides using the same standard. *Id.*

- Minimum number of people killed and/or injured to qualify.³⁵ Ordinarily, this would be one or more for a ‘school shooting,’ but should be three or four for the proposed meaning of “mass school shooting.”
- Whether minimum number includes only those who were killed, or also people who were injured.³⁶
- Whether perpetrators “count” toward required number of fatalities or injuries if they die or are shot during the incident.³⁷ This might include those who die by suicide, as many do, or are killed or injured by police or third persons.³⁸
- Location and circumstances of the incident.³⁹ (Whether the site was selected because it was a school or the fact that the venue was an educational institution was incidental and not a motivating factor; whether the incident must have occurred on school grounds; whether the incident must have occurred during school day; etc.).

Below are reported 2019 numbers for a few recognized entities.

³⁵ *About the Mass Shooting Tracker*, MASS SHOOTING TRACKER, <https://massshootingtracker.site/about/> (last visited Oct. 30, 2022).

³⁶ *Id.* (at least one volunteer organization “count(s) the number of people shot rather than the number (sic) people killed because ‘shooting’ means ‘people shot.’”) Although the group concedes most members “support gun control,” they insist their data are objective.).

³⁷ See *infra* note 62 and accompanying text.

³⁸ *Main Page*, GUN VIOLENCE ARCHIVE: MASS SHOOTINGS, <http://www.shootingtracker.com> (last visited July 3, 2022) (GVA explains that it excludes the perpetrator because: “[I]t insures (sic) a clear separation between victims of a shooting and those who perpetrate the crime.”).

³⁹ *Id.*

Entity	Term Used	Definition	Incidents 2019 ⁴⁰
Education Week ⁴¹	School Shootings	Incidents that “involve the discharge of a firearm, occur on K-12 school property or on a school bus or vehicle, and take place while school is in session or during a school-sponsored event.” ⁴²	24, 8, 32 ⁴³
Everytown ⁴⁴	Gunfire on School Grounds Mass Shootings	Any time a gun discharges a live round inside (or into) a school building, or on (or onto) a school campus or grounds, where “school” refers to primary, secondary, and post-secondary institutions. ⁴⁵	130, 33, 78 ⁴⁶

⁴⁰ **Bold** indicates the total number of incidents reported in 2019. ***Bold italics*** indicates the total number of individuals killed in 2019 incidents. *Italics* indicates the total number of individuals injured in 2019 incidents.

⁴¹ *School Shootings in 2019: How Many and Where*, EDUC. WK., <http://www.edweek.org/leadership/school-shootings-in-2019-how-many-and-where/2019/02#about> (last updated June 15, 2021).

⁴² *The School Shootings of 2019: What’s Behind the Numbers*, EDUC. WK., <https://www.edweek.org/ew/section/multimedia/school-shootings-this-year-how-many-and-where.html> (last updated Sept. 01, 2022).

⁴³ *The School Shootings of 2018: What’s Behind the Numbers*, EDUC. WK. (Dec. 19, 2018), <https://www.edweek.org/leadership/the-school-shootings-of-2018-whats-behind-the-numbers/2018/12>.

⁴⁴ *Main Page*, *Everytown for Gun Safety*, BLOOMBERG PHILANTHROPIES, <http://www.bloomberg.org/founders-projects/everytown-for-gun-safety> (last visited June 20, 2021). Michael R. Bloomberg, former mayor of New York, cofounded Everytown which claims it is “the country’s most powerful grassroots force for gun safety.” *Id.*

⁴⁵ *Gunfire on School Grounds in the United States*, EVERYTOWN FOR GUN SAFETY: RSCH & POL’Y (Oct. 13, 2020), <http://maps.everytownresearch.org/gunfire-in-school/#ns> [hereinafter *Gunfire on School Grounds in the United States*]. Interestingly, Everytown does not deny creating a definition that was purposely broad. *Id.*

⁴⁶ *Id*; *How to Stop Shootings and Gun Violence in Schools*, EVERYTOWN FOR GUN SAFETY, KEEPING OUR SCHOOLS SAFE (Aug. 19, 2022), <http://everytownresearch.org/report/a-plan-for-preventing-mass-shootings-and-ending-all-gun-violence-in-american-schools>.

FBI ⁴⁷	Active Shooter Incident Mass Shooting ⁴⁸	“[O]ne or more individuals actively engaged in killing or attempting to kill people in a populated area.” ⁴⁹	3, 5, 15 ⁵⁰
GAO		“[A]ny time a gun is fired on school grounds, on a bus, during a school event, during school hours, or right before or after school.” ⁵¹ In a footnote, the report clarifies: “This definition includes instances in which the gun was fired onto school grounds or at a school bus, even if the shooter was outside of school grounds or outside of the school bus when they fired. In addition, this definition includes all times where school staff and teachers, including support and custodial staff, were on school grounds in their official capacity with the school (e.g. on duty, at school meeting).” ⁵²	

⁴⁷ ACTIVE SHOOTER INCIDENTS 20-YEAR REV.: 2000–2019, FBI’S OFF. OF PARTNER ENGAGEMENT (May 2021), <http://www.fbi.gov/file-repository/active-shooter-incidents-20-year-review-2000-2019-060121.pdf/view> [hereinafter ACTIVE SHOOTER INCIDENTS 20-YEAR REV.].

⁴⁸ CNN Wire, *A New Proposed Federal Law Would Make Mass Shootings a Capital Crime*, ABC 7 EYEWITNESS NEWS (Sept. 4, 2019), <http://abc7chicago.com/mass-shootings-capital-crime-shooters-death-penalty-shooter-federal-law/5515776/> [hereinafter *Make Mass Shootings a Capital Crime*]. The FBI not only does not use the term “school shooter,” preferring “active shooter incident,” it further complicates the situation by occasionally using the even broader general classification of “mass shooting.” See ACTIVE SHOOTER INCIDENTS 20-YEAR REV., *supra* note 47, at 4.

⁴⁹ FED. BUREAU OF INVESTIGATION & U.S. DEP’T OF JUST., ACTIVE SHOOTER INCIDENTS IN THE UNITED STATES IN 2019 3 (2020), <http://www.fbi.gov/file-repository/active-shooter-incidents-in-the-us-2019-042820.pdf/view> [hereinafter ACTIVE SHOOTER INCIDENTS IN THE UNITED STATES IN 2019]; *but see Make Mass Shootings a Capital Crime*, *supra* note 48 (“In previous legislation, Congress has defined [the same term] as having a [death] toll of three or more.”).

⁵⁰ ACTIVE SHOOTER INCIDENTS IN THE UNITED STATES IN 2019, *supra* note 49.

⁵¹ CHARACTERISTICS OF SCHOOL SHOOTINGS, *supra* note 26.

⁵² *Id.*

Gun Violence Advocate	School Shootings	<p>“Incident that occurs on property of the elementary, secondary or college campus where there is a death or injury from gunfire. That includes school proper, playgrounds, ‘skirt’ of the facility which includes sidewalks, stadiums, parking lots. The defining characteristic is time. . . Incidents occur when students, staff, faculty are present at the facility for school or extracurricular activities.”⁵³</p>	5, 6, 24⁵⁴
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These disparities illustrate the importance of having an official definition that establishes and clarifies the standard.⁵⁵ Because

⁵³ *Gen. Methodology*, GUN VIOLENCE ARCHIVE, <https://www.gunviolencearchive.org/methodology> (Jan. 3, 2022). Also on the site is a slightly different definition:

An incident with death or injury that occurs on school property when students, faculty and/or staff are on the premises. Intent during those times are (sic) not restricted to specific types of shootings. Incidents that take place on or near school property when no students or faculty/staff are present are not considered “school shootings.” *Id.*

⁵⁴ Asking and answering its own question, GVA ponders why its numbers are different from those of the FBI and CDC:

GVA numbers are found through 7,500 LEO [Law Enforcement Officers], government and media sources daily . . . our numbers are based on provable reported individual incidents. While CDC utilizes death certificates for gun deaths, they (sic), and the FBI rely on a sampling of sources and extrapolate those numbers to provide aggregate totals that reflect the calculations within their methodologies. *Id.*

⁵⁵ Kristen Harper et al., *Data Sources Make It Difficult to Know How Many School Shootings Happen Each Year*, CHILD TRENDS (Aug. 28, 2018),

present methods of: (1) labeling and defining terms, as well as (2) collecting, maintaining, and reporting statistics complicate attempts to obtain accurate, trustworthy, and comparable data, Congress should amend the federal statutes to include what would become the authorized terms as well as detailed, explicit definitions.⁵⁶ For clarity, simplicity, uniformity, and transparency, legislators should adopt the terms “school shooting” and “mass school shooting,” phrases the public already knows. While there is no benefit to using alternative terms and meanings, several good reasons exist to avoid them.⁵⁷

For example, Everytown does not report school shootings, but rather subsumes them within the general category of “mass killing.” This is problematic for at least three reasons. First, it is true that many school shootings, especially those that make the news, fit within the plain meaning of this term. However, numerous factors unique to the educational environment undermine the value of comparisons within a diverse group that combines situations as incongruent as employment, large outdoor concerts, and churches.⁵⁸

<http://www.childtrends.org/blog/data-sources-make-it-difficult-to-know-whether-school-shootings-are-happening-more-often>.

⁵⁶ Kyley Schultz, *supra* note 31.

⁵⁷ Lee Williams, *New FBI Data Shows Number of Mass Shootings 10-Times Lower Than Media Reports*, ARMED AM. NEWS, (July 16, 2021, 2:30 PM) [hereinafter *Mass Shootings 10-Times Lower Than Media Reports*], <https://armedamericannews.org/new-fbi-data-shows-number-of-mass-shootings-10-times-lower-than-media-reports>. The article compares “active shooters” reported by the FBI and “mass killings” reported by GVA and concludes “[t]he difference lies in the definitions.” *Id.*

Year	FBI “Active Shooter”	GVA “Mass” Shooting
2016	20	382
2017	31	346
2018	30	337
2019	30	417
2020	40	611

⁵⁸ Sophie Carson et al., *Brewery Employee at Molson Coors Fatally Shoots 5 in Milwaukee Rampage, Then Kills Self*, USA TODAY, <http://www.usatoday.com/story/news/nation/2020/02/26/acritical-incident-reported-molsoncoors-milwaukee-campus/4884534002/> (Feb. 27, 2020, 10:47

Second, “killing” is not limited to guns and thus “killing” is a much broader term than “shooting.” Third, because the term is so general and inclusive, it will inflate the numbers with cases that, although not relevant, will distort the problem and cause unnecessary panic and distress to the public.⁵⁹

The FBI’s “active shooter incident” phrase suffers from many of the issues associated with using “mass killing.” In addition, classifying and publishing school shootings with other mass shooter incidents arising from diverse situations is deceptive because it may appear that those figures are all school shootings even though, according to the FBI, only three of the twenty-eight incidents in 2019 occurred in educational environments (a university, STEM school, and high school).⁶⁰ The situation may be exacerbated by the fact that, at times, the FBI itself uses the term “mass shooting.”⁶¹

While agreement on the language is essential, it is not enough. The key to collecting valuable, reliable data is that everyone adopts the same words and identical meanings that lawmakers provide.

AM) (explaining that mass shootings in a workplace are different from those in a school because the victims in a workplace are usually adults, whereas the casualties in schools are generally vulnerable children who are required to attend); Andrew Blankstein et al., *Las Vegas Shooting: 59 Killed and More Than 500 Hurt Near Mandalay Bay*, NBC NEWS: U.S. NEWS, <http://www.nbcnews.com/storyline/las-vegas-shooting/las-vegas-police-investigating-shooting-mandalay-bay-n806461> (Oct. 2, 2017, 10:33 PM) (explaining that mass shootings in a large outdoor concert are different from schools because the victims in schools are kids in what should be a safe place that has a fiduciary obligation to them); Aaron Earls, *How Common Are U.S. Church Shootings?*, LIFEWAY RSCH. (May 21, 2018), <http://lifewayresearch.com/2018/05/21/how-likely-are-u-s-church-shootings/> (explaining that, similar to school shootings, “the odds are in their favor and more than likely they’ll never have to deal with a serious security threat in their church,” but, unlike educational institutions, many churches do not make security a priority).

⁵⁹ *Mass Shootings 10-Times Lower Than Media Reports*, *supra* note 57.

⁶⁰ ACTIVE SHOOTER INCIDENTS IN THE UNITED STATES IN 2019, *supra* note 49.

⁶¹ Jason Silverstein, *There Were More Mass Shootings Than Days in 2019*, CBS NEWS, <http://www.cbsnews.com/news/mass-shootings-2019-more-than-days-365> (Jan. 2, 2020, 11:45 AM). This source demonstrates that the problem is real, the headline on the first article brought up in a Google search of “how many school shootings were there in 2019” was “There Were More Mass Shootings Than Days In 2019.” *Id.* (emphasis added).

Consequently, school shootings with multiple victims should be defined as “3 or more deaths or injuries (excluding the perpetrator)⁶² caused by a firearm in a single incident occurring on the campus (or surrounding sidewalks) specifically selected as the site by the shooter because it is an educational institution; either during or right before or after school; in a school bus or at a school bus stop; or during or on the way to or from a sponsored event of a school, college, or university.”

Precedent for establishing a standardized definition exists. Under federal law, “mass killing,” is defined in a statute authorizing the Attorney General to “assist in the investigation of violent acts and shootings occurring in a place of public use and in the investigation of mass killings and attempted mass killings.”⁶³ Further, although it failed to pass, the School Shooting Safety and Preparedness Act provides a uniform definition.⁶⁴

Universal application of the proposed definition would resolve problems with utilizing data collected by different entities. Explicitly stating the number of deaths (or deaths and injuries, or just injuries) necessary to qualify as a “school shooting” or a “mass school shooting,” and further making it clear the perpetrator is or is not included, answers questions concerning: (1) how many victims there must be; (2) whether the minimum number refers only to

⁶² Valid arguments exist on both sides and thus groups differ on counting the perpetrator. Including the shooter makes sense because his death or injury occurred as part of the incident. However, many victims and their families understandably advocate for a clear distinction between innocent victims and offender(s).

⁶³ 28 U.S.C. § 530C(b)(1)(M)(i). Notably, in 2019, Justice Department officials were considering proposals to make mass shootings a capital crime as a response to former President Donald Trump’s order to design legislative solutions to these killings. Emily Tillett, *Justice Department Has Drafted Legislation to Hasten Death Penalty for Mass Shooters*, CBS NEWS (Sept. 2, 2019, 12:56 PM), <http://www.cbsnews.com/news/justice-department-has-drafted-legislation-to-hasten-death-penalty-for-mass-shooters/>. The idea was apparently abandoned. A possible contributing factor might be that “[o]ne complication for any new law is how to define mass shootings, in a country where there are routinely dozens of people shot in drug-related and other crimes over the course of a weekend in certain cities.” *Make Mass Shootings a Capital Crime*, *supra* note 48.

⁶⁴ School Shooting Safety and Preparedness Act, H.R. 5428, 117th Cong. (2021-22); *see infra* Section V.

deaths or also to injuries; and (3) how, if the shooter is hurt or does not survive (this often happens by suicide or police or third-party action), his injury or death is reported. As the definition is for a school *shooting*, it rejects the broad meanings that some groups adopt and retains the requirement that death or injury be caused by a firearm. Additionally, like other mass murders, it provides that everything that occurred was part of one event.⁶⁵ Logically, because the goal is to protect students while in a learning environment, the statutory meaning must apply to all levels of educational institutions. It is particularly important that the location was targeted rather than incidental. In other words, the shooter must have chosen the site because it was a school rather than because he had some issue with an individual in the school and he only went there because that is where that individual was. Finally, incidents should be limited to what happens on campus grounds or surrounding sidewalks, during or right before or after school, in a school bus or bus stop, or during or on the way to or from a sponsored event.⁶⁶

Once an official definition exists, when making decisions, passing laws, or creating guidelines, government agencies should only utilize information obtained from entities and researchers whose data and procedure comply with the statutory requirements. Such a policy should motivate states, nonprofits, and other researchers to adopt the “school shooting” and “mass school shooting” terms, the proposed definitions, and data collection processes.

⁶⁵ School shooters who kill multiple people meet the definition of mass murderers as they “kill many people, typically at the same time in a single location.” Serial killers murder multiple people in separate events over time with a “cooling down” period between the homicides. *See generally* Arnold Arluke et al., *Harming Animals and Massacring Humans: Characteristics of Public Mass and Active Shooters Who Abused Animals*, 36 BEHAV. SCI. & L. 739 (2018).

⁶⁶ No matter how detailed the definition, some situations require interpretation. For example, on October 15, 2021, five people were shot and injured, “near the exit ramp” toward the end of a high school football game. Neither school was associated with the facility. Associated Press, *Teen Arrested in Shooting That Wounded 5 at Alabama High School Football Game*, NBC NEWS (Oct. 18, 2021, 7:15 AM), <https://www.nbcnews.com/news/us-news/teen-arrested-shooting-wounded-5-alabama-high-school-football-game-n1281735>.

III. ASSESSING DANGEROUSNESS, USING BEHAVIOR NOT CHARACTERISTICS

Authorities caution against believing that profiles or checklists of warning signs will expose the next juvenile who will shoot up a school because “[t]hose things do not exist.”⁶⁷ But, what clearly does exist is that, while the possibility of an incident occurring in a specific school in a year is extremely small, the chance of an attack at some school during an academic year is extremely high.⁶⁸ Therefore, once a threat is made, having a “fair, rational, and standardized method of evaluating and responding . . . is critically important.”⁶⁹

⁶⁷ MARY ELLEN O’TOOLE, THE SCHOOL SHOOTER: A THREAT ASSESSMENT PERSPECTIVE 1 (2019), <http://tinyurl.com/3n7jrp5x>; *see also* Everly, Jr. & Bienvenu, *supra* note 14 (opining that “we must proceed cautiously as no predictive paradigm in behavioral science is perfect, especially ‘profiling’”).

⁶⁸ Maximilian Wachtel, *School Shootings: What Are the Odds, Part III*, PSYCHLAW J., <http://www.psychlawjournal.com/2013/01/school-shootings-what-are-odds-part-iii.html> (last visited June 29, 2021) [hereinafter *What Are the Odds, Part III*]. Obviously, when attempting to figure out the probability of these specific situations occurring, the number varies depending on how the odds are calculated, as well as the factors that are used. Nevertheless, although a school shooting is probably going to happen somewhere in the country during a particular year, the likelihood that a specific school or student will be involved is minuscule. *Id.*; Maximilian Wachtel, *What Are the Odds, Part II*, PSYCHLAW J., <http://www.psychlawjournal.com/2012/12/school-shootings-what-are-odds-part-ii.html> (last visited June 29, 2021); Maximilian Wachtel, *School Shootings: What Are the Odds, Part I*, PSYCHLAW J., <http://www.psychlawjournal.com/2012/12/school-shootings-what-are-odds.html> (last visited June 29, 2021). In this three-part series, psychologist Maximillian Wachtel figured the odds of a school shooting at a specific school in the United States in a given year as approximately 1 in 53,925. *Id.* Wachtel calculated an 85% chance of at least one school shooting somewhere in the country. *What Are the Odds, Part II, supra*. Finally, the average risk of a specific student of any age being shot and killed at school in the United States in any particular year at 1 in 15 million. *What Are the Odds, Part III, supra*.

⁶⁹ O’TOOLE, *supra* note 67, at 1.

Valid concerns exist about overpredictions of dangerousness that erroneously label innocent people vicious criminals. Combined with the rational desire and urgent need to correctly identify those who actually pose a serious threat, and also to avoid potentially problematic profiling, experts created “a systematic approach to violence prevention.”⁷⁰

Thus, after several school shootings in the 1990s,⁷¹ these professionals concluded that threat assessments provide the best strategy for preventing violence by: (1) “identifying student threats to commit a violent act;” (2) “determining the seriousness of the threat;” and (3) developing plans to intervene in ways that protect potential victims while also

“[P]eople do not switch instantly from nonviolence to violence. . . Instead, the path toward violence is an evolutionary one, with signposts along the way.”

Mary Ellen O'Toole

⁷⁰ Dewey Cornell, *Overview of the Comprehensive School Threat Assessment Guidelines (CSTAG)* 7, (May 26, 2020), file:///C:/Users/Owner/AppData/Local/Microsoft/Windows/INetCache/Content/Outlook/XSB2LV5K/ComprehensiveSchoolThreatAssessmentGuidelinesoverviewpaper5-26-20.pdf [hereinafter *Overview of the Threat Assessment Guidelines*].

⁷¹ School shootings date back hundreds of years. See *History of School Shootings in the United States*, K12 ACAD., <http://www.k12academics.com/school-shootings/history-school-shootings-united-states> (last visited Apr. 8, 2021). A number of historians consider the Pontiac’s Rebellion slaughter to be the first mass school killing. *Id.* Minor factual inconsistencies exist, but on July 26, 1764, a reported three or four Lenape American Indians entered a school and “[a]ccording to most accounts,” the schoolmaster was shot; then each of the 11 children were bludgeoned and scalped. *Id.* (internal citations omitted). One survived. *Id.* Interestingly, one commentator points out the definitional controversy in this case and his response. The Wikipedia list declared that:

[T]his incident may only incidentally be considered a school ‘shooting’ because only the teacher was shot. Even so, the vast majority on the list, which featured shootings from 1840 to 2018, was of events where only one person was shot. And, while being struck with a bludgeon doesn’t truly qualify as a gunshot murder, it does leave you as significantly dead.

Bill Hand, *The First School Shooting Was in 1764*, SUN J. (Apr. 6, 2018, 3:28 PM), <https://www.newbernsj.com/story/opinion/columns/2018/04/06/first-school-shooting-was-in-1764/12805058007/>; Cornell, *supra* note 70, at 7;

addressing, and hopefully resolving, the underlying issue(s) precipitating the threat.⁷²

Although threat assessment advocates routinely reject the comparison, similarities with profiling raise legitimate concerns about the constitutional rights of those targeted. In fact, the federal government has supported threat assessments in educational institutions from at least as far back as 1999, when an FBI report included a message from then-United States Attorney General Janet Reno:

If we use this threat assessment model judiciously -- and we must, because the risk of unfairly labeling and stigmatizing children is great -- then we will be able to fight, and win, the war on two fronts. We will be in a position to help those children who show a propensity for violence, before they scar themselves (and others) forever. And we will be in a position to protect innocent school children before they become senseless victims.⁷³

Her warning still resonates because many students experience traumatic backgrounds similar to those associated with perpetrators but only a few ever physically harm another person intentionally.⁷⁴ Because offenders “var[y] in age, gender,⁷⁵ race, grade level, academic performance, and social characteristics,” threat

see also John Monahan & Jennifer L. Skeem, *The Evolution of Violence Risk Assessment*, 19 CNS SPECTRUMS 419, 422 (2014).

⁷² Shane R. Jimerson & Dewey G. Cornell, *Threat Assessment at School: A Primer for Educators*, NAT'L ASS'N SCH. PSYCH. 1, https://safesupportivelearning.ed.gov/sites/default/files/NASP_Threat%20Assessment_Dewey_Cornell.pdf (last visited Aug. 11, 2022) [hereinafter *Threat Assessment at School: A Primer for Educators*].

⁷³ O'TOOLE, *supra* note 67, at iii.

⁷⁴ Factors include being “victims of bullying who had become angry and depressed, and were influenced by a variety of social, familial, and psychological factors.” *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1.

⁷⁵ The overwhelming majority of school shooters are male. Frank J. Robertz, *Deadly Dreams: What Motivates School Shootings?*, SCI. AM. (Aug. 1, 2007), <https://www.scientificamerican.com/article/deadly-dreams> (noting that “the vast majority of the perpetrators are male; by our count, females instigated only four of the 101 school shootings that have occurred worldwide since 1974.”).

assessments to evaluate the likelihood of violence or other undesirable outcomes should “focus on relevant information about a student’s behaviors, situational factors, and circumstances,” rather than concentrating on characteristics.⁷⁶ This means warning signs and certain actions, while not dispositive, should be treated as fundamental underpinnings of the evaluation because nonviolent people do not suddenly turn to violence.⁷⁷ The shift occurs over time and is frequently associated with behavioral changes that should, and often do, alert family and friends that something may be wrong.⁷⁸

At that point, the expectation that people will inform appropriate officials is a cornerstone of the threat assessments which have become standard in many schools.⁷⁹ Some states even mandate behavioral threat assessment and management (BTAM), “a fact-based, systematic process designed to identify, assess, and manage potentially dangerous or violent situations.”⁸⁰ One of the indispensable elements in establishing and maintaining such a process is a central reporting system that defeats the bystander effect—sensing something is wrong but not reporting.⁸¹ It is also essential to continue awareness training about the procedure (what, when, and how to report) and for reports to be taken seriously and handled responsibly (i.e., the source remains confidential and the actions taken are appropriate to the threat level).⁸² Although it seems to be a positive development that “42 percent of all public schools reported having a threat assessment team during the 2015-16 school year, the acceptance of threat assessment teams varied by

⁷⁶ TARGETED SCHOOL VIOLENCE, *supra* note 19, at 50.

⁷⁷ O’TOOLE, *supra* note 67, at 7.

⁷⁸ *Id.*

⁷⁹ Rick Amweg & Paul S. Denton, *Reporting: The Cornerstone of Threat Assessment*, CAMPUS SAFETY (Aug. 9, 2017), <http://www.campussafetymagazine.com/university/reporting-threat-assessment>.

⁸⁰ Melissa Reeves et al., *Behavioral Threat Assessment and Management (BTAM): Best Practice Considerations for K-12 Schools*, NAT’L ASS’N SCH. PSYCH., <http://tinyurl.com/u8heyf65> (last visited Apr. 27, 2021).

⁸¹ *Id.*

⁸² *Id.*

school characteristics,” including grade levels and enrollment size.⁸³ This means, even with these teams in place, schools face obstructions to obtaining and processing necessary information to determine whether an actual threat exists.⁸⁴

One recurring problem is that predictions of dangerousness, even by professionals, are “incredibly inaccurate.”⁸⁵ In fact, during the nearly half-century since Justice William O. Douglas penned this concern, the landmark decision of *Tarasoff v. Regents of University of California*⁸⁶ sparked a country-wide debate about whether mental health professionals have a duty to warn a potential victim if they reasonably believe their patient might harm an identifiable third person.⁸⁷ At the core of the debate lies the question of whether it is possible to predict if an individual who makes a threat will follow through.⁸⁸ Although courts in multiple jurisdictions split on this question of legal responsibility,⁸⁹ even those judges who impose

⁸³ Rachel Hansen & Melissa Diliberti, *What Are Threat Assessment Teams and How Prevalent Are They in Public Schools?*, NAT'L CTR. FOR EDUC. STAT.: NCES BLOG (July 10, 2018), <https://nces.ed.gov/blogs/nces/post/what-are-threat-assessment-teams-and-how-prevalent-are-they-in-public-schools>.

⁸⁴ For example, some experts believe juveniles often are not serious when they make threats or engage in some types of aggressive behavior. *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1-2. Thus, they advise being careful to avoid overreacting “to youthful misbehavior that does not pose a serious threat of violence.” *Id.* See also *infra* notes 93-94 and accompanying text.

⁸⁵ *Tarasoff v. Regents of the Univ. of Cal.*, 551 P.2d 334, 354 (Cal. 1976) (Mosk, J., concurring and dissenting) (quoting *Murel v. Balt. City Crim. Ct.*, 407 U.S. 355, 364 n.2 (1972) (Douglas, J., dissenting from dismissal of certiorari)).

⁸⁶ *Tarasoff*, 551 P.2d at 334.

⁸⁷ *Tarasoff* is only relevant here in demonstrating the difficulty of predicting dangerousness. Ben “Ziggy” Williamson, Note, *The Gunslinger to the Ivory Tower Came: Should Universities Have a Duty to Prevent Rampage Killings?* 60 FLA. L. REV. 895, 908 (2008).

⁸⁸ *Boynton v. Burglass*, 590 So. 2d 446, 450 (Fla. Dist. Ct. App. 1991).

⁸⁹ See, e.g., *Pollack v. Cruz*, 296 So. 3d 453 (Fla. Dist. Ct. App. 2020). This case was one of many filed following the Parkland school shooting. The litigation is against the confessed shooter Nikolas Cruz. The court noted that Florida has rejected the idea that mental health providers have a duty to warn third parties that a patient may be dangerous based on “the inherent unpredictability associated with mental illnesses and the ‘near-impossibility of accurately or reliably predicting dangerousness.’” *Id.* at 457-58 (quoting *Mental Health Care, Inc. v. Stuart*, 909 So. 2d 371, 374 (Fla. Dist. Ct. App. 2005) (quoting *Boynton*, 590 So. 2d at 450)).

liability recognize the ability “to foresee a harm which may or may not be foreseeable, depend[s] on the clarity of [the decision maker’s] crystal ball.”⁹⁰

⁹⁰ *Boynton*, 590 So. 2d at 450. See, e.g., Monahan & Skeem, *supra* note 71, at 421. In this interesting comparison of assessment approaches, the authors conclude the clinical method has the least empirical support. *Id.* They cite a study which agreed with Justice Douglas when it stated, “clinicians are relatively inaccurate predictors of violence.” *Id.* (internal citations omitted). Nevertheless, because they believe group data theoretically can be and often empirically is “highly informative” in individual cases, they provide a valuable suggestion: “psychology and psychiatry [should] shift more of their empirical attention from predicting violence to understanding its causes and preventing its (re)occurrence.” *Id.* at 423; but see GAVIN DE BECKER, THE GIFT OF FEAR: SURVIVAL SIGNALS THAT PROTECT US FROM VIOLENCE (1997). In his thought-provoking book, Gavin de Becker (who Oprah Winfrey referred to as “the nation’s leading expert on predicting violent behavior”) asserts everyone has the instincts to identify dangerous situations by listening to the “signals of intuition.” *Id.*; *The Oprah Winfrey Show: Gift of Fear with Gavin de Becker* (Oprah Winfrey Network broadcast Jan. 2, 2008). His message is clear and simple: “True fear is a gift” as it is “a survival signal that sounds only in the presence of danger.” DE BECKER, *supra*, at 277-78. de Becker advises people to pay attention to subtle and sometimes not-so-subtle feelings because perpetrators always send out warning signals and “taking steps to limit potential threats in every context and situation can save lives.” *Id.* at 25-41; see also Gavin de Becker, *Perspective, Prevent School Shootings Through Realistic Solutions*, GAVIN DE BECKER & ASSOCS. <https://gdba.com/prevent-school-shootings-through-realistic-solutions-gdba> (last visited Dec. 11, 2022). de Becker suggests using knowledge gained from the sophisticated fire prevention safeguards to create a system for violence prevention. *Id.* Decades ago, recognizing the need to install life-saving apparatus in public buildings until the firefighters could arrive, local governments mandated compliance. He says, although expensive, life-saving technology is currently available so there should be a violence prevention equivalent to a Fire Marshall. Currently, local Sheriffs and Police Chiefs can shut down facilities that do not meet the basic fire prevention safeguards. He urges expanding this power by creating a Violence Marshall. *Id.*

Further, as part of Active Shooter training, his firm encourages installation of an Early Notification that “assists the employees with critical decision making and allows them to begin to take life-saving action.” *Id.* Conceding that they “often receive some push back,” he bluntly states, “then we provide a basic reality: **we have not lost a child in a school fire since 1958.** Violence visits schools far more often than fires.” *Id.* (emphasis in original).

This raises an important distinction between threat assessments involving students and profiling. In the former, the catalyst for the investigation should be the delinquent's behavior, while the latter is based on the alleged criminal's combination of demographic and personal characteristics.⁹¹ Because of this difference, threat assessments commonly used in other situations are inappropriate in schools unless revised specifically for educational institutions.⁹² At the outset, a number of professionals caution that officials must take into account that children who make threats or exhibit aggressive behaviors are much less likely than adults to actually pose a serious threat.⁹³ Failure to recognize this phenomenon leads to potentially harmful overreaction.⁹⁴ An additional problem is that, as many of the shooters are students or former students, unlike other settings in which threat assessments are generally used, schools have a separate obligation to these young people to educate them, regardless of their adjustment problems and difficulties.⁹⁵ Consequently, the methods and goals for students are not the same as those for other populations. For schools at any level, threat assessment is a problem-solving approach to violence prevention that often involves evaluation and intervention with students who have threatened violence.⁹⁶ Some experts even argue “for the most part, [threat assessment is] interventional rather than prosecutorial; indeed, it is therapeutic.”⁹⁷ A former Secret Service psychologist who is

⁹¹ *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1.

⁹² *Id.*

⁹³ *Threats by Children: When Are They Serious?*, AM. ACAD. OF CHILD & ADOLESCENT PSYCHIATRY (Jan. 2019) https://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/Childrens-Threats-When-Are-They-Serious-065.aspx.

⁹⁴ *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1-2; see also Tom Junod, *Why Mass Shootings Keep Happening*, ESQUIRE (Oct 2, 2017) <https://www.esquire.com/news-politics/a30024/mass-shooters-1014/> [hereinafter *Why Mass Shootings Keep Happening*]. This piece was updated on July 6, 2022, following the Uvalde shooting, although it did not discuss the incident. Tom Junod, *Ex-Gunman Tells Us How to Stop the Next Mass Shooter*, READER'S DIG. (July 6, 2022), <https://www.rd.com/article/stop-mass-shooters>.

⁹⁵ *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1.

⁹⁶ *Id.* at 2.

⁹⁷ *Why Mass Shootings Keep Happening*, *supra* note 94.

currently CEO of a threat management firm⁹⁸ reinforces this idea, explaining she has prevented mass shootings and, in doing so, has also helped potential offenders. As an illustration, she noted that someone who had been stopped from carrying through on his plan

“This is our first task as a society, keeping our children safe.”

President Barack Obama

to commit a mass shooting thanked her later, stating, “ ‘[y]ou gave me my life back.’ ”⁹⁹ Schools have certain responsibilities to all their students, which includes the widespread belief that such institutions should be a safe place

for children. These tragedies raise serious questions about whether there is, or should be, legal liability for failure to protect students. Although not a new issue, the Parkland shooting at Marjory Stoneman Douglas, which spawned more than one hundred lawsuits against multiple defendants,¹⁰⁰ provides recent guidance. In *L.S. v. Peterson*,¹⁰¹ fifteen students who were at school during the massacre sued Broward County and five public officials, claiming that defendants violated the section 1983¹⁰² “constitutional duty to protect them from school shooters like [Nikolas] Cruz [confessed shooter].”¹⁰³ The Eleventh Circuit rejected plaintiffs’ argument because the Due Process Clause serves “as a limitation on the State’s power to act, not as a guarantee of certain minimal levels of safety

⁹⁸ MARISA RANDAZZO, https://www.securityinformed.com/people/marisa-randazzo.html?utm_source=SSc%20International%20Edition&utm_medium=R&edirect&utm_campaign=International%20Redirect%20Popup (last visited Nov. 2, 2022).

⁹⁹ *Why Mass Shootings Keep Happening*, *supra* note 94.

¹⁰⁰ Within the first year after the shooting, there were “at least 103 notices of pending legal claims.” Benjamin Herold, *Over 100 Pending Lawsuits Blame the Parkland Shooting on the School District. Do They Stand a Chance?*, EDUC. WK. (Dec. 12, 2018), <https://www.edweek.org/policy-politics/over-100-pending-lawsuits-blame-the-parkland-shooting-on-the-school-district-do-they-stand-a-chance/2018/12>. Although there is still much to be learned about the debacle in Uvalde, because of apparent serious problems with the police response, that situation might eventually generate even more litigation than Parkland. *Id.*

¹⁰¹ *L.S. v. Peterson*, No. 18-cv-61577, 2018 WL 6573124, at *2, *8 (S.D. Fla. Dec. 13, 2018) *aff’d*, 982 F.3d 1323 (11th Cir. 2020).

¹⁰² 42 U.S.C. § 1983 (2022).

¹⁰³ *L.S.*, 2018 WL 6573124, at *3.

and security.”¹⁰⁴ While this statutory provision—intending to shield people from civil rights violations by state actors—is well established, it does not apply when the injury is the result of a third party’s actions.¹⁰⁵ Therefore, the appellate court upheld the federal judge’s decision that students do not fall within the exception that requires a “special relationship,” as well as the conclusion that the victim be in the custody of the State when the rights are infringed.¹⁰⁶ Simply being in school, even where attendance is mandatory, “is not similar in kind to incarceration or institutional confinement.”¹⁰⁷

But not all judges agree. In fact, shortly after the Parkland shooting, the California Supreme Court reversed several earlier state cases and held that “colleges have a duty to use reasonable care to protect their students from foreseeable violence during curricular activities.”¹⁰⁸ Explaining that reasonable care will depend on the circumstances, the majority quickly emphasized that a duty of care did not impose what would be “an impossible requirement” for colleges to end campus violence.¹⁰⁹ Nevertheless, in direct conflict with the Florida case, California’s high court determined that a school does have a special relationship with students “arising from the mandatory character of school attendance and the comprehensive control over students exercised by school personnel, ‘analogous in many ways to the relationship between parents and their children.’ ”¹¹⁰ This “special relationship gives secondary school personnel ‘the duty to use reasonable measures to protect students from foreseeable injury at the hands of third parties acting negligently or intentionally.’ ”¹¹¹

¹⁰⁴ *Id.* at *4 (quoting *DeShaney v. Winnebago Cty. Dept. of Soc. Servs.*, 489 U.S. 189, 195 (1989)).

¹⁰⁵ *DeShaney*, 489 U.S. at 195.

¹⁰⁶ *L.S.*, 2018 WL 6573124, at *5.

¹⁰⁷ *L.S. ex rel. Hernandez v. Peterson*, 982 F.3d 1323, 1329 (11th Cir. 2020); *see also Susan S. Bendlin, Shootings on Campus: Successful §1983 Suits Against the School?*, 62 DRAKE L. REV. 41, 59 (2013).

¹⁰⁸ *Regents of Univ. of Cal. v. Super. Ct.*, 413 P.3d 656, 660, 674 (Cal. 2018).

¹⁰⁹ *Id.* at 674.

¹¹⁰ *C.A. v. William S. Hart Union High Sch. Dist.*, 270 P.3d 699, 704 (2012) (quoting *Hoff v. Vacaville Unified Sch. Dist.*, 968 P.2d 522, 528 (1998)).

¹¹¹ *Regents of Univ. of Cal.*, 413 P.3d at 667 (quoting *C.A.*, 270 P.3d at 705).

Despite reaching contradictory conclusions, both opinions demonstrate that when refining threat assessments for schools, certain factors should be emphasized, developed, and amended to maximize the possibility of correctly identifying potential shooters and preventing violence. As a significant percentage of school shooters are students or former students,¹¹² the threat assessment procedures and standardized forms are especially important. This means that although zero-tolerance policies are part of numerous comprehensive school safety plans,¹¹³ the evaluation of disciplinary action as a component of a threat assessment procedure is a much better option, particularly because a substantial majority of shooters had recently been punished for bad behavior prior to the shooting.¹¹⁴ The fact that revenge is the number one motive for such attacks strongly supports this conclusion.

Seeking ways to detect people for whom further evaluation is warranted, the FBI and Secret Service seized on the fact that juvenile school shooters, much more than their adult counterparts, “typically leave a long trail of signals about what they intend to do.”¹¹⁵ Based on multiple studies showing that school shootings have been averted due to information obtained from people who learned of the plot and

¹¹² *School Shooters: The Warning Signs*, *supra* note 20, at 2.

¹¹³ *Threat Assessment at School: A Primer for Educators*, *supra* note 72, at 1.

¹¹⁴ TARGETED SCHOOL VIOLENCE, *supra* note 19, at 10. Nearly three-quarters of attackers were subjected to school disciplinary action within five years of the shooting and 41% of the incidents occurred within the first week back. *Id.* Consequently, gathering information about disciplinary history, along with other behaviors and circumstances, should “assist school officials in identifying appropriate interventions to support the student and decrease the risk of harmful outcomes.” *Id.* at 10, 38-39.

¹¹⁵ *School Shooters: The Warning Signs*, *supra* note 20. Nikolas Cruz was just one of many who posted his plans online. *Id.* Langman’s examples include the caution that, although people think individuals who are planning mass murder would not publicize that fact, it turns out, they do. Further support for this tendency is the fact that, when people who knew the alleged offender are interviewed following an incident, they often express shock, but then many also admit a general uneasy feeling or even specific information that the alleged offender was contemplating killing people in a school. *Id.* When those who did not tell anyone were questioned about why they did not warn law enforcement, they typically explain they did not think the alleged offender would actually do it. *Id.*

subsequently informed the appropriate authorities, these entities and others have stressed the importance of educating the public on reporting, in addition to collecting, the appropriate evidence through assessments.¹¹⁶ In fact, one expert¹¹⁷ states “no shooter has ever come back to commit a school shooting[]” after his plan was exposed by someone who alerted the school or law enforcement.¹¹⁸

Noted psychologist, researcher, and author Peter Langman¹¹⁹ agrees it is essential that members of school communities (or anyone else with credible information about a possible shooting) tell appropriate official(s) immediately.¹²⁰ However, the warning signs that should precipitate a report “do not relate to students’ clothing, the video games they play, their musical preferences, or other aspects of their lifestyles.”¹²¹ Instead, red flags are “any behavior related to the preparation for an attack[.]”¹²² Langman returns to the point that “[a] key aspect of attack-related behavior is leakage—the leaking of plans to other people.”¹²³

¹¹⁶ *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1; see also *Why Mass Shootings Keep Happening*, *supra* note 94.

¹¹⁷ Eric Holdeman, *School Security: Planning Tips for an Active Shooter Scenario*, GOV’T TECH. (June 24, 2013), <https://www.govtech.com/em/disaster/school-security-planning-and-response-active-shooter.html>. Sgt. Jesus M. Villahermosa Jr. has worked with the Pierce County, Washington Sheriff’s Department since 1981, served 15 months as the director of campus safety at a local university, been on the Sheriff’s SWAT Team since 1983, and has a consulting business, primarily focusing on school and workplace violence. *Id.*

¹¹⁸ *Id.*

¹¹⁹ *About Dr. Langman*, SCH. SHOOTERS.INFO, <https://schoolshooters.info/about-dr-langman> (last visited Oct. 28, 2022). Peter Langman has spoken at the FBI National Academy in Quantico and works with Homeland Security to train its professionals. *Id.* He is a prolific author who, in addition to publishing multiple journal articles on this subject, has written two books: *School Shooters: Understanding High School, College, and Adult Perpetrators* (2015) and *Why Kids Kill: Inside the Minds of School Shooters* (2009). Langman also has a website that provides an enormous amount of important information and valuable documents. *Resources on School Shootings, Perpetrators, and Prevention*, SCH. SHOOTERS.INFO, <https://schoolshooters.info/> (last visited Oct. 28, 2022).

¹²⁰ *School Shooters: The Warning Signs*, *supra* note 20, at 5.

¹²¹ *Id.* at 1.

¹²² *Id.*

¹²³ *Id.*

Regrettably, even when people inform the appropriate authorities, reporting is not always effective.¹²⁴ For example, with Nikolas Cruz,¹²⁵ law enforcement agencies ignored ample signs, and even specific reports, including: concerns about his aggressive behavior from the time he was nine; several calls to police of domestic abuse when he attacked his adoptive mother; appalling examples of animal abuse—including disemboweling a frog and posting a picture online of the mutilated carcass “surrounded by blood[]”; and a tip from a video blogger who told the FBI that a comment had been left on his site under the user name “nikolas cruz” writing “‘Im [sic] going to be a professional school shooter.’”¹²⁶ Other complaints were also mishandled. But, after seventeen people were killed and seventeen more were injured, responding to strong negative feedback the agency finally apologized for its failure to comply with protocol.¹²⁷

However, even if reporting sometimes fails, the concept is correct, especially with modifications that, ironically, can restrict implementation in one situation but in another, can facilitate it. On the limitations side, it is important to remember Janet Reno’s warning about the potential for abuse and the need to protect the rights of those who become the subject of an inquiry.¹²⁸ Thus, there should be a requirement of a criminal conviction, a confession, or proof of the type of violent behavior against dogs or cats that should trigger assessment. Otherwise, encouraging friends, relatives, and even random witnesses to turn each other in can ultimately destroy someone’s life just because he does something with which another

¹²⁴ Dakin Andone, *The Warning Signs Almost Everyone Missed*, CNN (Feb. 26, 2018, 9:56 AM), <http://www.cnn.com/2018/02/25/us/nikolas-cruz-warning-signs/index.html>.

¹²⁵ See generally *id.*

¹²⁶ *Id.*

¹²⁷ David Bowdich, *Summary and Timeline Related to Parkland Shooting Investigation*, FED. BUREAU OF INVESTIGATION (Mar. 20, 2018), <https://www.fbi.gov/news/testimony/summary-and-timeline-related-to-parkland-shooting-investigation> [hereinafter *Summary and Timeline Related to Parkland Shooting Investigation*] (apologizing for FBI mistakes and trying to explain why two tips complaining about Cruz were ignored).

¹²⁸ O’TOOLE, *supra* note 67, at 5.

person does not agree.¹²⁹ At the same time, compelling or at least encouraging reporting should be explicitly extended to include veterinarians who may have relevant proof that a companion, service, or emotional support animal is being abused. Enlisting veterinarians could be a valuable means to identify juveniles for whom early intervention is likely to be beneficial. In other words, whenever possible, officials need to concentrate on safety by obtaining help for the potential shooter rather than, or in addition to, criminal prosecution or disciplinary action.

Based on the overlap between domestic violence and animal cruelty, cross-reporting among agencies could also help.¹³⁰ Statutes should mandate veterinarians alert designated officials to suspected child abuse, and child protection professionals should be required to report suspected animal cruelty.¹³¹ Understandable discomfort among veterinarians, physicians, and other professionals exists due to confidentiality and privacy issues, ethical questions, and even fear

¹²⁹ See Josh Manning, *Report: These Videos of a Teen Target Shooting with His Mom Got Him Banned from School*, THE W. J. (Aug. 29, 2019, 7:15 PM) <https://www.westernjournal.com/report-videos-teen-target-shooting-mom-got-banned-school>. Some people abuse the system, including using it to advance their own agendas. *Id.* (noting a Colorado “clean-cut 16-year-old” was banned from school, later reversed, until a threat assessment hearing could be held to determine whether it would be safe for him to return based on a video he posted of target shooting with his mom).

¹³⁰ Rebecca L. Bucchieri, Comment, *Bridging the Gap: The Connection Between Violence Against Animals and Violence Against Humans*, 11 J. ANIMAL & NAT. RESOURCE L. 115, 126-35 (2015) (providing a brief but informative review of reasons for reporting and cross-reporting animal abuse and raising the issue of animal cruelty registries). In another interesting student piece, the author proposed “Congress should use its spending power to incentivize states to report animal cruelty convictions to NIBRS by conditioning a percentage of federal funds on state compliance. . . .” Kelci S. Binau, Comment, *Voiceless Dog to the Silenced Human: Congress Incentivizing States to Report Data on the Nation’s Unprioritized Crime*, 49 UNIV. PAC. L. REV. 286, 300-05 (2018).

¹³¹ Tarun Bishop, *Brief Summary of Cross-Reporting Laws*, MICH. ST. UNIV. COLL. OF L.: ANIMAL LEGAL & HIST. CTR. (2021), <http://www.animallaw.info/article/brief-summary-cross-reporting-laws>. Valid arguments can be made on both sides. Child and animal abuse are underreported and thus it is critical to identify mistreatment. *Id.* Further, if the protection agencies are overburdened—which they often are—both would benefit if they could work together. *Id.* However, opponents raise legitimate concerns about false reports and resulting unfair discriminatory prosecutions. *Id.*

of negative financial consequences. Nevertheless, according to the American Veterinary Medical Association (AVMA), it is “the responsibility of the veterinarian to report such cases to appropriate authorities, [regardless of] whether or not reporting is mandated by law.”¹³² Prompt discovery of abuse can protect animals and people. Acting on those beliefs, in 2019, the AVMA amended its Model Veterinary Practice Act to include immunity from civil and criminal liability for a licensed veterinarian who reports suspected animal cruelty.¹³³ In fact, a number of states have enacted legislation either requiring or permitting reporting, while other jurisdictions have tried to encourage reporting with laws similar to the AVMA position statement.¹³⁴

Before leaving this topic, it is important to debunk a common, but erroneous, myth that school shooters cannot be stopped.¹³⁵ People on “the pathway to violence” (planning or preparing for an attack), have been thwarted due to reports to authorities by students or others that investigators determined were “serious” threats.¹³⁶ For example, Andre Simons, the former head of an elite FBI unit, is said to have prevented at least 148 mass shootings and violent

¹³² Phil Arkow et al., *Practical Guidance for the Effective Response by Veterinarians to Suspected Animal Cruelty*, ABUSE AND NEGLECT 20 (2013) (quoting AMERICAN VETERINARY MEDICAL ASSOCIATION’S ANIMAL WELFARE POSITION STATEMENT ON ANIMAL ABUSE AND ANIMAL NEGLECT (2012)).

¹³³ 2019 Model Veterinary Practice Act, AM. VETERINARY MED. ASS’N, <http://tinyurl.com/ytjw3prn> (last visited June 28, 2021) (referring to Section 21, which deals with Cruelty/Neglect of Animals). The Commentary explicitly states AVMA added the section to encourage veterinarians to report animal abuse to the appropriate authorities. *Id.*

¹³⁴ See Rebecca F. Wisch, *Table of Veterinary Reporting Requirement and Immunity Laws*, MICH. ST. UNIV. COLL. OF L.: ANIMAL LEGAL & HIST. CTR. (2022), <http://www.animallaw.info/topic/table-veterinary-reporting-requirement-and-immunity-laws>, for a graphic summary of the veterinarian reporting laws in 2022; see also Frank R. Ascione et al., Special Issue Article, *The Relations Among Animal Abuse, Psychological Disorders, and Crime: Implications for Forensic Assessment*, 36 BEHAV. SCI. & L. 717, 723 (2018) (explaining that, while states were adding reporting requirements over the past two decades, forensic veterinary medicine expanded and forensic animal maltreatment evaluations (FAMEs) emerged).

¹³⁵ *Why Mass Shootings Keep Happening*, *supra* note 94.

¹³⁶ *Id.*

attacks.¹³⁷ However, Simons warned: “ ‘Our success will always be hard to quantify, since success is defined as the lack of an event.’ ”¹³⁸ Nevertheless, consistent with other reports,¹³⁹ “none of the cases we have supported have gone on to do a mass shooting or a mass event” and Simons said he did not know of any such shooters who “were under the care of a threat-assessment team when they attacked.”¹⁴⁰

These situations provide support for the proposal from both the FBI and Secret Service that schools adopt a threat assessment approach to prevent “ ‘targeted [acts of] violence.’ ”¹⁴¹ This is because “[t]hreat assessment is not just the *best* we’ve got; it’s *all* we’ve got.”¹⁴² Interestingly, after discussing threat assessment professionals’ confidence and how effective they have been, as well as “the degree to which the arena has been turned over to them[,]” one author asks a compelling question: “if threat assessment is so effective, [why do] so many still end up dead[?]”¹⁴³

IV. WARNING SIGNS

Threat assessments should include consideration of three types of experiences found frequently enough in the backgrounds of school shooters to justify additional attention—history of: (1) up-close-and-personal animal abuse, especially against cats and dogs; (2) domestic violence where the potential perpetrator may be a victim, offender, or observer; and (3) conduct disorder diagnosis during childhood. This Section highlights these “signposts” because legal journals and assessment tools often ignore, minimize, or do not effectively use them when studying and evaluating individuals who

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ See Holdeman, *supra* note 117.

¹⁴⁰ *Why Mass Shootings Keep Happening*, *supra* note 94.

¹⁴¹ *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1. The Secret Service created the term “targeted violence” for “any incident of violence where an attacker selects a particular target prior to an attack.” TARGETED SCHOOL VIOLENCE, *supra* note 19, at 1.

¹⁴² *Why Mass Shootings Keep Happening*, *supra* note 94 (emphasis in original).

¹⁴³ *Id.*

kill or injure people in schools, colleges, or universities. This Article focuses on animal abuse because it is the most overlooked and the literature has not kept pace with the research. However, these three, superficially unrelated factors often overlap. Therefore, they should be analyzed together to assist in detecting possible future offenders with the twin goals of preventing devastating school shootings and helping provide professional assistance to troubled juveniles to resolve their issues without violence.

A. Warning Sign: Up-Close-and-Personal Animal Abuse

i. Problem:

Identifying Animal Abuse that Might Be a Warning

Adults who abused animals as children are more likely to be violent toward humans than those who never participated in this type of deviant behavior.¹⁴⁴ This is especially true for the small percentage of youthful offenders who choose to torture the specific animals (primarily dogs or cats) humans anthropomorphize and then brutalize them in an up-close-and-personal manner.¹⁴⁵ Even though surveys of college students suggest “*hundreds of thousands of*

¹⁴⁴ Scott A. Johnson, *Understanding the Violent Personality: Antisocial Personality Disorder, Psychopathy, & Sociopathy Explored*, 7 FORENSIC RSCH. CRIM. INT'L J. 76, 77 (2019) [hereinafter *Understanding the Violent Personality*]. Approximately 65% of people arrested for animal cruelty had also assaulted a human. *Id.* Individuals who abused animals were three times more likely to commit other crimes, including violent illegal acts such as murder, rape, and assault. *Id.*; See also Scott A. Johnson, *Animal Cruelty, Pet Abuse & Violence: The Missed Dangerous Connection*, 6 FORENSIC RSCH. & CRIM. INT'L J. 403, 403 (2018) (warning that “[i]f someone can be abusive or cruel to animals, then it makes sense that they could and often do become aggressive and violent towards people.”).

¹⁴⁵ *Animal Abuse as a Warning Sign of School Massacres*, *supra* note 16, at 12.

*children harm animals at some point in their youth[,]”*¹⁴⁶ thankfully, only very few become school shooters.¹⁴⁷

Looking at this from a slightly different perspective, “while not everyone who abuses animals becomes a killer, virtually every serial killer first abused animals.”¹⁴⁸ Therefore, it is necessary to

¹⁴⁶ Arnold Arluke, *How Reliably Does Animal Torture Predict a Future School Shooter?*, THE WASH. POST (Feb. 21, 2018, 12:40 PM), (emphasis added), <http://www.washingtonpost.com/news/posteverything/wp/2018/02/21/how-reliably-does-animal-torture-predict-a-future-mass-shooter> [hereinafter *How Reliably Does Animal Torture Predict a Future School Shooter*]; *see also* *Harming Animals and Massacring Humans*, *supra* note 65, at 1 n1 (noting that, although problems with different definitions and methods of data collection make estimates difficult, reported rates of animal abuse among children and adolescents in the United States vary from 10% to 28% and include acts of varying levels of severity).

¹⁴⁷ HAL HERZOG, *SOME WE LOVE, SOME WE HATE, SOME WE EAT* 29-35 (2010). In this excellent, thought-provoking book, the psychologist/professor/author, “recognized as one of the world’s leading experts on human-animal relations,” challenges long-held assumptions about the numbers as well as the implications of animal abuse committed by juveniles. *Id.* After conceding that “[s]ome anthrozoologists are convinced that animal abuse in children is often the first step on a path that leads to adult criminality,” Herzog says, “[o]thers are not so sure.” *Id.* at 30. He follows up with his own survey among his friends and expresses surprise “so many people I know admitted to abusing animals when they were little” but he quickly adds that “none of them turned to the dark side—no felons, wife-beaters, or serial killers among them.” *Id.* Interestingly, he even admitted that, as a youngster, he himself used land crabs and toads for BB target practice and actually shot a songbird. *Id.* Notably, Herzog discusses Arnold Arluke, the well-recognized expert who, based on “delv[ing] into the minds” of his college students, thinks animal cruelty might actually be “a normal part of growing up.” *Id.* at 33. But, Herzog acknowledges that the type of abuse Arluke’s students admitted to was “generally not of the microwaving cats and dropping puppies off the roof variety. And, unlike the hard-core criminals . . . most of Arluke’s students felt remorse for their youthful indiscretions.” *Id.* at 34.

¹⁴⁸ Jared Squires, *The Link Between Animal Cruelty and Human Violence: Children Caught in the Middle*, 8 KY. CHILD. RTS. J. 2, 3 (2000). After discussing several high-profile school shooters, including alleged Columbine shooters Dylan Klebold and Eric Harris, Dr. Randall Lockwood, a leading authority on the subject, said “[t]he stories of these young men are tragic in many ways. If intervention had occurred early when these youths were exhibiting their internal turmoil through animal cruelty, perhaps these tragedies could have been avoided.” *Id.* at 4-5. The same could be said for, Ethan Crumbley, alleged Oxford, Michigan

determine “[w]hich instances of animal cruelty are warnings of a possible school massacre, and which are merely false positives.”¹⁴⁹ These questions are particularly important as, according to a twelve-year Secret Service study released in 2021, the second most frequent motive for such shootings is “a desire to kill” proven by distinctive behaviors and reactions including “pleasurable feelings derived from animal abuse.”¹⁵⁰ Based on this knowledge, it is puzzling that animal abuse seems to be the red flag that is most often ignored in this context.¹⁵¹ It is also unfortunate because, of all the possible pre-

shooter, who should have been identified as a potential threat before he is reported to have killed or injured 11 and terrorized many more in his high school. *See* Amber Ainsworth, *Ethan Crumbley’s Parents Ignored Signs of Violence for Months Before Oxford Shooting, Prosecutor Says*, FOX 2 DETROIT (Jan. 7, 2022), <https://www.fox2detroit.com/news/ethan-crumbleys-parents-ignored-signs-of-violence-for-months-before-oxford-shooting-prosecutor-says> [hereinafter *Crumbley’s Parents Ignored Signs of Violence for Months*]. The charging documents indicate that not only did he apparently torment animals, but his behavior was also likely at least partially a reaction to the fact that he seems to be a victim of child abuse or at least extreme neglect. Because his mother and father knew their son was depressed and feeling alienated after his best friend moved away and his dog died, and, based on multiple cries for help in text messages, prosecutors believe they can prove that they were too busy caring for their horses and having affairs to try to help. Instead, they bought him an early Christmas present—the gun he allegedly used to commit what turned out to be the deadliest high-school shooting in the United States in almost four years. *Id.*

¹⁴⁹ Arnold Arluke, *Commentary: Animal Cruelty Predictor of Future School Shooter?*, DAILY REPUBLIC, <https://www.dailypress.com/all-dr-news/opinion/state-national-columnists/commentary-animal-cruelty-predictor-of-future-school-shooter> (last visited Oct. 8, 2022) [hereinafter *Animal Cruelty Predictor*].

¹⁵⁰ Lina Alathari et al., *Averting Targeted School Violence*, U.S. DEP’T OF HOMELAND SEC.: U.S. SECRET SERV. NAT’L THREAT ASSESSMENT CTR., 12 (2021). The authors note that, consistent with an earlier study, grievances (usually against peers) leading to a desire for revenge remained the number one motive for school shootings. *Id.*

¹⁵¹ Buccchieri, *supra* note 130, at 115. Buccchieri provides:

A behavioral warning sign exists that serves as an indicator of an individual’s future propensity for violence, yet this warning sign is rarely incorporated into the legal framework used to deter these crimes. Although a robust legal and scientific discourse firmly establishes a link between individuals who abuse animals and the perpetrators’ proclivity to commit violent

attack “warning signs[,]”¹⁵² mistreating animals is “the only one that is sometimes illegal and, therefore, the only one that could theoretically be used to bring troubled youths into the mental [*sic*] and criminal justice systems before they do something horrible.”¹⁵³

With minor variations, a typical definition of animal abuse is abusing, neglecting, or abandoning an animal including any behavior that endangers the wellbeing, safety, or health of the animal by exposing it to serious injury or death.¹⁵⁴ However, because the number of kids who hurt—or even kill—animals is so high, and the number of those who become school shooters is so small, using this general definition would result in targeting far too many juveniles to evaluate and help.¹⁵⁵ Fortunately, it is not necessary because, based on the research, the *type* of brutality seems to be more significant in determining whether an individual’s actions might escalate to include violence against humans than the mere *fact* of abuse. For example, in a sample of twenty-three school shooters, while “only” 43 percent of the boys had a history of engaging in cruelty to animals, 90 percent of those who abused animals did so in an up-close-and-personal manner.¹⁵⁶ This extremely high percentage, while obviously very troubling, is not surprising. Studies conducted over decades establish this is exactly

crimes against humans in the future, little has been done to use this connection as a platform for animal law reform. *Id.*

¹⁵² *Animal Cruelty Predictor*, *supra* note 149 (noting several common warning signs include “bullying, isolation, vacant gazes, loss of parents, violent ideations, school expulsion, depression, explosive outbursts”).

¹⁵³ *Id.*

¹⁵⁴ See generally 18 PA. CONS. STAT. § 5533(a) (2022) (“A person commits an offense if the person intentionally, knowingly or recklessly illtreats, overloads, beats, abandons or abuses an animal.”).

¹⁵⁵ See CHARACTERISTICS OF SCHOOL SHOOTINGS, *supra* note 26, at 7, 13 (cautioning against trying to profile potential perpetrators in school-targeted shootings “because the vast number of students who have the same or similar characteristics and life and school experiences[] do not commit school shootings” and, therefore, doing so is possibly wrongfully “stigmatizing students who match the profile as well as ruling out students who are deeply troubled but do not match the profile.”).

¹⁵⁶ *Understanding the Violent Personality*, *supra* note 144, at 77; see also Arnold Arluke, *How Reliably Does Animal Torture Predict a Future School Shooter*, *supra* note 146.

the kind of conduct that should shift the focus to identifying and helping kids whose sadism falls into this category.¹⁵⁷

However, while the nexus between violence against nonhuman and human animals appears too strong to overlook, many people ignore the research and continue to either adamantly deny the significance of such alarming behavior (claiming “boys will be boys”) or to totally reject the connection (asserting that not all children who do things like pulling wings off flies or killing small animals in horrific ways become mass murderers).¹⁵⁸ Sadly, even though these arguments are misguided, they have proven difficult to rebut for the same reasons it has been almost impossible to establish patterns in school shootings—contradictory terms, inconsistent definitions, and different policies and procedures for collecting data.¹⁵⁹

¹⁵⁷ See Joshua C. Overton et al., *Examining the Relationship Between Childhood Animal Cruelty Motives and Recurrent Adult Violent Crimes Toward Humans*, 27 J. OF INTERPERSONAL VIOLENCE 899 (2011). According to the study that examined the predictive ability of juveniles’ motives for abuse, those who “committed recurrent animal cruelty as children or adolescents were more likely to have had committed recurrent adult violence toward humans.” *Id.* at 12. One potential problem with generalizing from this study is all research subjects were incarcerated. The authors themselves suggested it would “behoove researchers to look beyond psychiatric and criminal populations” and to use subjects who were “much more broadly representative of society” so that the numbers were sufficiently large to ascertain if childhood animal cruelty motivations were more strongly related to specific types of violent crimes committed against humans. *Id.* at 14. Nonetheless, despite the flaws, much of the information and conclusions are consistent with other research and provide valuable data.

¹⁵⁸ Squires, *supra* note 148, at 3. This article explains that warnings about the significance of animal abuse perpetrated by juveniles often are disregarded because of “societal attitude.” *Id.* In other words, if a boy mutilated a small animal, “the prevailing attitude” was he was just being a boy. “Perhaps this is because many children engage in ‘innocent cruelty’ as a way of satisfying natural human curiosity, and then grow out of such behavior, and develop into normal, healthy and productive individuals. However, not every child grows out of this ‘stage.’ ” *Id.*

¹⁵⁹ See discussion *supra* Section II.

Luckily, there have been some encouraging developments. One example is the 2015 announcement that, based on “the importance of animal cruelty crimes and their effect not only on animal welfare but also on public safety,” the FBI was adding animal cruelty incidents to the National Incident-Based Reporting System (NIBRS), its national crime database.¹⁶⁰ The agency should be commended for bravely abandoning the traditional notion that

[T]he fact remains that the dogs and cats that once inhabited our barnyards and backyards today inhabit our living rooms and bedrooms and are eligible to have their welfare protected by courts in cases of domestic violence and abuse.”

*Dolores A. Donovana
Professor Emerita*

animals are property, no different than a toaster or a lamp. Appreciating that most people think of their beloved companion, service, or emotional support animals as family rather than possessions,¹⁶¹ the FBI eschewed the category of crime against property and wisely listed animal abuse as a crime against society.¹⁶² “The move . . . puts [animal abuse] on the same level of offense as murder, drug trafficking, arson, and assault and will allow law enforcement agencies and other organizations to better understand the volume and nature of these crimes so they can better allocate

¹⁶⁰ *AWI Releases State Scorecard on Animal Cruelty Reporting*, ANIMAL WELFARE INST. (Apr. 3, 2020), <http://tinyurl.com/ynyucb3h>. For a website that provides valuable information about the NIBRS, *see National Incident-Based Reporting System (NIBRS)*, FED. BUREAU OF INVESTIGATION, <https://www.fbi.gov/services/cjis/ucr/nibrs#NIBRS-Now> (last visited July 12, 2021).

¹⁶¹ *See* discussion *infra* Section II.B.ii.2.

¹⁶² UNIFORM CRIME REPORTING PROGRAM NATIONAL INCIDENT-BASED REPORTING SYSTEM, CRIMES AGAINST PERSONS, PROPERTY, AND SOCIETY, (2018); *see also* Barbara Diamond, *BREAKING: FBI Classifies Animal Abuse As Crime Against Society, On The SAME Level As Murder!!*, LIFESTYLE LITTLE THINGS (Sep. 23, 2014), <http://www.takepart.com/article/2014/09/24/fbi-classifies-animal-abuse-crime-against-society> [hereinafter *Crime Against Society*] (noting that the FBI started “tracking all forms of animal abuse under its regularly updated *Uniform Crime Report*, which provides national statistics. . . .” It reclassifies animal abuse as a “crime against society”).

resources.”¹⁶³ Another positive step is that, due to an increasing recognition of the seriousness and magnitude of the problem, cruelty to animals finally is a felony in all fifty states and, as of 2019, is a felony under federal law as well.¹⁶⁴

However, despite these advances demonstrating that the primary United States federal law enforcement agency and state and federal legislators have finally admitted the seriousness of the offense,¹⁶⁵ years have passed, and complete, reliable national statistics still do not exist. Even official analysts concede there are reasons to question the true value of available data.¹⁶⁶ Nevertheless, the government remains optimistic about improvements in the system.¹⁶⁷ However, acknowledging the obstacles to accurate data, the following chart reveals what appears to be a disturbing explosion in the number of young people committing animal abuse.¹⁶⁸

¹⁶³ *Crime Against Society*, *supra* note 162.

¹⁶⁴ *Extreme Animal Cruelty Can Now Be Prosecuted as a Federal Crime*, HUMANE SOC’Y LEGIS. FUND (Nov. 25, 2019), <https://www.humanesociety.org/news/extreme-animal-cruelty-can-now-be-prosecuted-federal-crime>.

¹⁶⁵ *Id.*; *Crime Against Society*, *supra* note 161.

¹⁶⁶ *Estimates Will Help Fill in Crime Statistics Gap: Transition to NIBRS Crime Statistics Ongoing*, FBI NEWS (Aug. 11, 2022), <https://www.fbi.gov/news/stories/estimates-will-help-fill-in-crime-statistics-gap-081122> (noting that “not every law enforcement agency in the U.S. has successfully moved to the National Incident-Based Reporting System (NIBRS)” and, although all are now “NIBRS compliant . . . [a] few major cities . . . are still working on the transition.” Thus, “[c]rime estimates will fill in the gaps where data is not available this year.”).

¹⁶⁷ *Five Things to Know About NIBRS: Transitioning to the National Incident-Based Reporting System Will Offer More Robust Crime Statistics Data to Police, Public*, FBI NEWS (Nov. 25, 2020), <https://www.fbi.gov/news/stories/five-things-to-know-about-nibrs-112520>.

¹⁶⁸ Of course, another explanation for part of the increase is that the system for reporting these statistics was new and people were not familiar with the process or even with the fact that they should report.

Year	Number of People Under 25 Who Committed Animal Cruelty
2017	11 ¹⁶⁹
2018	82 ¹⁷⁰
2019	1758 ¹⁷¹

Thus, existing studies are sufficient to use up-close-and-personal animal cruelty as a factor in identifying someone who might be a threat to humans in educational institutions.¹⁷² This is particularly true because, even though some kids may harm animals out of curiosity but might never intentionally hurt a human, injuring any living creature for “fun” is not “normal” and should always be condemned and stopped. In addition, these juveniles would benefit from successfully resolving whatever problem is causing their inappropriate actions. Moreover, the FBI and others will continue collecting comparable data using the uniform terms, definitions, and policies, which should generate even more information that could

¹⁶⁹ FED. BUREAU OF INVESTIGATION, NAT'L INCIDENT-BASED REPORTING SYS., OFFENDERS AGE BY OFFENSE CATEGORY, 2017, <https://txucr.nibrs.com/CrimeData/DownloadPDF?PublishReportID=51&ReportName=Age%20by%20Offense%20Category> (last visited Nov. 1, 2022) [hereinafter 2017 NIBRS REPORT] (the number of people under 25 who committed animal cruelty was calculated by adding the column from “10 and Under” to the columns up to and including “21-25.”)

¹⁷⁰ FED. BUREAU OF INVESTIGATION, NAT'L INCIDENT-BASED REPORTING SYS., OFFENDERS AGE BY OFFENSE CATEGORY, 2018, <https://txucr.nibrs.com/CrimeData/DownloadPDF?PublishReportID=102&ReportName=Age%20by%20Offense%20Category> (last visited Nov. 1, 2022) (the number of people under 25 who committed animal cruelty was calculated by adding the column “10 and Under” to the columns up to and including “21-25.”)

¹⁷¹ FED. BUREAU OF INVESTIGATION, NAT'L INCIDENT-BASED REPORTING SYS., OFFENDERS AGE BY OFFENSE CATEGORY, 2019, https://ucr.fbi.gov/nibrs/2019/tables/pdfs/offenders_age_by_offense_category_2019.pdf https://ucr.fbi.gov/nibrs/2019/tables/pdfs/offenders_age_by_offense_category_2019.pdf (last visited Nov. 1, 2022) [hereinafter 2019 NIBRS REPORT] (the number of people under 25 who committed animal cruelty was calculated by adding the column “10 and Under” to the columns up to and including “21-25.”)

¹⁷² *Animal Cruelty, Pet Abuse & Violence*, *supra* note 144, at 403 (“Research from the 1980’s to the present has demonstrated that cruelty to animals is a hallmark or signature indicator for future acts of violence, including . . . school shootings, and other forms of violence.”) (emphasis added).

pinpoint potential young perpetrators and allow further refinement of the assessment tools. Therefore, even though interpreting available figures is complicated and confusing, the number of school shooters who share a history of brutalizing animals when they were children justifies requiring consideration of behavior that is a manifestation of this critical warning sign.¹⁷³

Many experts agree. For example, after the Parkland shooting, authorities said the attack, that at the time was “the deadliest shooting at a high school in United States history,”¹⁷⁴ might have been avoided. Professor Arnold Arluke, who has repeatedly explained the importance of considering the type of animal abuse in identifying potential shooters, acknowledged, “Given the complexity of predicting any human behavior, let alone extreme killing, more precise warning signs will not identify every future shooter.”¹⁷⁵ However, he went on to note that “our research offers hope for spotting warning signs of—and thus preventing—at least *some* school shootings.”¹⁷⁶ While it is impossible to prove any specific incident could have been anticipated and stopped, prosecutors possess extraordinary quantities of evidence to support that conclusion in the case of Nikolas Cruz, including:

- extensive history of up-close-and-personal animal abuse;
- multiple reports of domestic violence against his mother;
- concerns expressed repeatedly by numerous people;

¹⁷³ The same is true for both domestic violence and conduct disorder in potential shooters’ background. These two warning signs are more generally recognized than animal abuse, but suggested modifications to current laws to intensify the focus would likely help prevent many more potential attacks. See *infra* Section IV.B.

¹⁷⁴ History.com Editors, *Teen Gunman Kills 17, Injures 17 at Parkland, Florida High School*, HISTORY (May 25, 2022), <https://www.history.com>this-day-in-history/parkland-marjory-stoneman-douglas-school-shooting> [hereinafter *Teen Gunman Kills 17, Injures 17 at Parkland, Florida High School*].

¹⁷⁵ *How Reliably Does Animal Torture Predict a Future School Shooter*, *supra* note 146.

¹⁷⁶ *Id.*

- stories of distressing behavior from a very young age that could have been symptoms of conduct disorder or other mental illness; and
- reports directly to the FBI.¹⁷⁷

And, yet, despite these warning signs, and despite having been expelled from his former high school, Cruz was able to walk into the building, kill seventeen individuals, and injure another seventeen during his “six-minute rampage.”¹⁷⁸ Before he was captured, he tried to get away by pretending to be one of the students fleeing the shooter.¹⁷⁹

Ethan Crumbley is unlikely to match the number of warning signs and reports of disturbing indicators that were in Cruz’s background, but there seem to have been more than enough clues to warrant further intervention that might have prevented his shooting spree. In other words, Crumbley’s behavior included several

manifestations of these three warning signs before November 30, 2021, when he carried out “the deadliest U.S. K-12 school shooting since 2018.”¹⁸⁰ Disturbed by his alarming and menacing behavior, teachers reported him to school administrators, who set up a conference with

“The preponderance of young men engaging in these deadly, evil, and stupid acts of violence may be a result of brains that have yet to fully develop[.]”

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¹⁷⁷ See *supra* notes 124-27 and accompanying text.

¹⁷⁸ *Teen Gunman Kills 17, Injures 17 at Parkland, Florida High School*, *supra* note 174.

¹⁷⁹ Allison Schonter, *Suspected Gunman Nikolas Cruz Allegedly Tried to Hide Among Terrified Students to Escape Scene*, POP CULTURE (Feb. 15, 2018, 12:48 PM), <https://popculture.com/trending/news/florida-school-shooting-nikolas-cruz-tried-hide-among-students-escape>.

¹⁸⁰ Kristi Tanner, *Oxford High School Shooting Is Nation’s Deadliest Since 2018*, DETROIT FREE PRESS (Dec. 2, 2021, 8:59 AM), <https://www.freep.com/story/news/local/michigan/oakland/2021/12/02/oxford-high-school-shooting-deadliest-us/8819763002/>.

the teen and his parents.¹⁸¹ The meeting did nothing to diminish school officials' concerns that Crumbley was a serious, potential threat.¹⁸² Therefore, they requested his parents take him off campus but they refused.¹⁸³ While the evidence available at the time looks sufficient for the school to have searched him, his locker, and backpack, and/or informed law enforcement of a potential threat, school representatives did neither.¹⁸⁴ Had they done so, someone probably would have found his handgun that prosecutors believe was in his backpack in his locker during the meeting.¹⁸⁵ Finding the weapon would have justified removing him from the facility and seeking professional help for him. Crumbley would have been denied access to his targeted victims and the means to shoot anyone. Ironically, it appears he would have been receptive to assistance from mental health professionals based on earlier communications with his mother and others begging for such treatment.¹⁸⁶

¹⁸¹ Gustaf Kilander, *Michigan School Shooting: Administrators Had a Right to Search Ethan Crumbley's Backpack but Failed to Do So*, YAHOO NEWS (Dec. 6, 2021), <https://news.yahoo.com/michigan-school-shooting-administrators-had-175233623.html> [hereinafter *Michigan School Shooting: Administrators Had a Right to Search Ethan Crumbley's Backpack but Failed to Do So*].

¹⁸² Josh Marcus, *Everything We Know About Ethan Crumbley's Parents, Who Have Been Charged With Manslaughter*, YAHOO FINANCE (Dec. 3, 2021), <https://finance.yahoo.com/news/everything-know-ethan-crumbley-parents-215434190.html>.

¹⁸³ *Id.*

¹⁸⁴ *Michigan School Shooting: Administrators Had a Right to Search Ethan Crumbley's Backpack but Failed to Do So*, *supra* note 181.

¹⁸⁵ *Id.*

¹⁸⁶ Aileen Wingblad, *Testimony: Ethan Crumbley Texts State He Was Having 'Mental Breakdown, Needed Help*', THE OAKLAND PRESS (Feb. 24, 2022), <https://www.newsbreak.com/news/2524798401763/testimony-ethan-crumbley-texts-state-he-was-having-mental-breakdown-needed-help> (Crumbley also sent text messages to a friend in which he discussed "hallucinations, having a 'mental breakdown' and being 'f***ed up.'"); *see also* Kelly Hayes, *Ethan Crumbley Told Friend Prior to Oxford Shooting: Parents 'Make Me Feel Like I'm The Problem*', FOX2 DETROIT (Feb. 24, 2022, 12:28 PM), <https://www.fox2detroit.com/news/ethan-crumbley-told-friend-prior-to-oxford-shooting-parents-make-me-feel-like-im-the-problem> (Crumbley's text messages with his friend also said that he had asked his father to take him to a doctor. He also texted his friend "I need help. I was thinking of calling 911 so I could go to the hospital but then my parents would be really pissed.")

Prosecutors appear confident they will be able to prove Crumbley's parents were too self-absorbed to notice or care how much their son was suffering and that they did not even try to help.¹⁸⁷ They did not attempt to stop him, alert his potential victims, or even inform anyone of his shocking behavior and extreme emotional and mental health issues.¹⁸⁸ Instead, they bought him a Sig Sauer 9mm handgun as an early Christmas present.¹⁸⁹ While the State is probably correct in its assessment that Crumbley's parents' behavior was criminal, and therefore the unusual decision to charge his mother and father is appropriate, the real story is that the system failed and many people died.

Regrettably, only a few months later, in Uvalde, Texas, similar breakdowns led to yet another tragedy. Within days of when Salvador Ramos walked into an elementary school and slaughtered twenty-one individuals, it became clear that his troubling behavior prior to the massacre should have revealed "warning signs that something was amiss."¹⁹⁰ For example, one classmate said he personally observed Ramos "beating a little dog senseless," while another asserted Ramos "*loved hurting animals.*"¹⁹¹ Others claimed Ramos uploaded videos online showing that he would "put cats in plastic bags, suspend them inside, throw them at the ground[,] and throw them at people's houses."¹⁹² Moreover, just before leaving for the school, in a horrifying manifestation of domestic violence, Ramos shot and seriously injured his grandmother, with whom he had been living.¹⁹³ Finally, although there currently seems to be no

¹⁸⁷ Wingblad, *supra* note 186 and accompanying text. (Despite searching through thousands of texts between Crumbley's parents, investigators found no discussion that their son might be mentally ill although his mother's computer revealed she had searched for mental health therapy.)

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ Penny Eims, *Uvalde Mass Shooter Had a History of Abusing Animals*, ANIMALVICTORY.ORG (July 13, 2022, 1:34 PM), <https://animalvictory.org/uvalde-mass-shooter-had-a-history-of-abusing-animals/>.

¹⁹¹ *Id.* (internal quotations omitted) (emphasis added).

¹⁹² *Id.* (internal quotations omitted).

¹⁹³ Eric Levenson, et al., *Uvalde Shooting Suspect was a Loner Who Bought Two Assault Rifles for His 18th Birthday*, CNN (May 27, 2022, 4:28 PM), <https://www.cnn.com/2022/05/25/us/uvalde-texas-school-shooting-salvador-ramos/index.html>.

record of a diagnosable mental illness, people who knew Ramos concede “there were signs of mental instability that should have been reported.”¹⁹⁴

Shining light on these three relatively recent mass-school-shooters demonstrates how critical it is to take the three indicators seriously and to act quickly to inform appropriate officials when a juvenile’s behavior indicates he might pose a serious threat to others. Despite factual, biological, and environmental variations with Cruz, Crumbley, and Ramos, for purposes of spotting potential school shooters, conduct that revealed issues with each of these three indicators should have been sufficient to identify these shooters long before they pulled the trigger.

Of course, only an infinitesimal number of children who exhibit manifestations of all three warning signs become school shooters, and it is important to recognize that, despite the similarities, there are also significant differences. The first difference is the ages of the shooters at the time of the shootings. Cruz (who was nineteen) and Ramos (who had just turned eighteen) were legally adults, while Crumbley (who was fifteen) was, and still is, a minor.¹⁹⁵ Predictably, however, prosecutors almost immediately erased that generally key distinction by charging Crumbley as an adult.¹⁹⁶

Second, in addition to the possible disparity in brain maturity,¹⁹⁷ because Crumbley is so much younger, he did not face

¹⁹⁴ Eims, *supra* note 190.

¹⁹⁵ *Id.*; *Summary and Timeline Related to Parkland Shooting Investigation*, *supra* note 127; Matt Christopherson, *15-Year-Old, Ethan Crumbley, Charged as Adult in Tuesday’s Shooting at Oxford High School*, CBS DETROIT (Dec. 1, 2021, 3:35 PM), <https://detroit.cbslocal.com/2021/12/01/15-year-old-ethan-crumbley-charged-as-adult-in-tuesdays-shooting-at-oxford-high-school>.

¹⁹⁶ Christopherson, *supra* note 195.

¹⁹⁷ This may or may not be significant because there are individual differences along the bell curve for specific individuals. See Stephen Johnson, *Why Is 18 the Age of Adulthood If the Brain Can Take 30 Years to Mature?*, NEUROPSYCH (Jan. 31, 2022), <https://bigthink.com/neuropsych/adult-brain>. Notably, males typically develop two years later than females. *supra*. Nevertheless, recent research supports extending some protections granted to minors to people between 18 and 24 years old because most experts now believe the human brain is not fully developed until the mid-20s and some think it may be even later. *Id.* (explaining research proves human brains develop gradually

as many situations in which to either exhibit the problematic behavior or to be observed by others while engaging in the conduct that should have been reported.

Third, much more is known about Cruz than either Crumbley or Ramos because the Parkland shooting occurred almost five years ago.¹⁹⁸ Following years of intensive investigation, Cruz pled guilty.¹⁹⁹ Under Florida law, because the State was seeking the death penalty, there was a penalty phase trial.²⁰⁰ During the several-month proceeding, the defense introduced a considerable amount of evidence including Cruz's "dysfunctional family life and his resulting serious mental health issues" in addition to his birth-mother's abuse of drugs and alcohol during pregnancy, which led to signs of fetal alcohol spectrum disorder and antisocial personality disorder.²⁰¹

over the course of several decades, at different speeds among individuals and by gender). A detailed comprehensive review of the adolescent brain and the process by which it matures until age 25 is beyond the scope of this Article but, for further information, *see* Mariam Arain et al., *Maturation of the Adolescent Brain*, PMC PUBMED CENT. (Apr. 3, 2013), <https://www.ncbi.nlm.nih.gov/labs/pmc/articles/PMC3621648/> (clarifying that during adolescence the brain matures between 10 and 24 years old).

¹⁹⁸ Gerard Albert III, *Sentencing Trial for Parkland Shooter Nikolas Cruz Delayed Until April, Broward Judge Rules*, PALM BEACH POST (Feb. 3, 2022), <https://news.yahoo.com/sentencing-trial-parkland-shooter-nikolas-120014374.html?guccounter=1> (Despite at that point having been just shy of four years since the shooting, prosecutors were able to convince the judge to delay sentencing "to give them more time to prepare the case. . . .").

¹⁹⁹ *Id.*

²⁰⁰ Greg Norman & Adam Sabes, *Florida Parkland School Shooter Nikolas Cruz Sentenced to Life in Prison*, FOX NEWS (Nov. 2, 2022, 4:54 PM), <https://www.foxnews.com/us/florida-parkland-school-shooter-nikolas-cruz-sentenced-life-prison> (Following a three-month penalty phase trial, and "two days of emotional and fiery impact statements from the families of the victims," the twelve jurors charged with deciding Cruz's fate split nine for the death penalty and three against. Lacking the unanimous verdict Florida law requires, the judge sentenced Cruz to "17 life terms for the victims he killed, and another 17 for the people he attempted to kill.").

²⁰¹ Eric Levenson et al., *Nikolas Cruz's Defense Says His Brain Was 'Poisoned' by Birth Mother's Addictions in Death Penalty Trial*, CNN (Aug. 23, 2022, 6:51 AM), <https://www.cnn.com/2022/08/22/us/nikolas-cruz-trial-defense/index.html> [hereinafter *Nikolas Cruz's Defense Says His Brain Was 'Poisoned' by Birth Mother's Addictions*].

By contrast, prosecutors and defense attorneys in the Crumbley case have only had one year to research, discover, and examine the evidence.²⁰² The Michigan case is further complicated by the fact that the State is simultaneously prosecuting Crumbley's parents on four counts of involuntary manslaughter pursuant to allegations that they are criminally responsible because they provided easy access to a firearm and disregarded indications that their son was a threat.²⁰³

Finally, the government is handicapped in obtaining information about the Uvalde case²⁰⁴ because, unlike the other two massacres, the only way to stop the carnage was to shoot and kill the shooter.²⁰⁵ Nevertheless, a good case that Crumbley and, even without talking with him, Ramos should have been recognized as potential shooters has emerged based on the three warning signs and other deviant behavior. If Crumbley and Ramos had been detected, and Arluke's research and recommendations following the Parkland tragedy had been heeded, it is likely that Oxford and Uvalde would still be places almost no Americans had ever heard of, rather than traumatized small towns known nationally, and even internationally, as the scene of bloody, school shootings in the United States.²⁰⁶ Ethan Crumbley would not be the defendant in a mass murder trial. Salvador Ramos would not be dead. All the victims would not have been harmed. And the residents of Oxford and Uvalde would not have to live with the knowledge and fear that "it can happen here," as well as the trauma that it did.

²⁰² Christopherson, *supra* note 195.

²⁰³ *Nikolas Cruz's Defense Says His Brain Was 'Poisoned' by Birth Mother's Addictions*, *supra* note 201.

²⁰⁴ Aya Elamroussi et al., *What We Know and Don't Know in the Texas Massacre*, CNN (June 3, 2022, 7:23 PM), <https://www.cnn.com/2022/05/25/us/valde-texas-elementary-school-shooting-what-we-know/index.html>.

²⁰⁵ Gabrielle Fonrouge, *Hero Border Agent from Elite Unit Rushed Into Texas School With No Backup, Killed Salvador Ramos: Reports*, N.Y. POST (May 25, 2022, 12:44 PM), <https://nypost.com/2022/05/25/elite-border-patrol-agent-killed-texas-school-shooter-salvador-ramos-reports/>.

²⁰⁶ See generally Phillip Levine & Robin McKnight, *Lasting Effects of Exposure to School Shootings*, ECONOFACT (Feb. 10, 2021), <https://econofact.org/lasting-effects-of-exposure-to-school-shootings>.

ii. Recommendation:
Create Felony and Modify Procedures and Forms

Based on the foregoing, legislators and the appropriate school and law enforcement administrators should embrace the following two, equally important proposals: (1) creation of a felony called “enhanced animal cruelty;” and (2) amendment of threat assessment evaluation procedures and forms.²⁰⁷

1. Enact “Enhanced Animal Cruelty” Statute

Backed by research confirming certain types of animal abuse pose a heightened threat to people as well as to nonhuman victims, state legislators need to establish a new crime called “*enhanced animal cruelty*.” Enhanced animal cruelty should be a first-degree felony, defined as “intentionally killing or injuring a companion, service, or emotional support dog or cat by up-close-and-personal abuse, such as but not limited to, strangling, bludgeoning, burning, or mutilating.” Once lawmakers concede such potentially deadly brutality threatens the lives and well-being of human as well as nonhuman animals, they will be compelled to treat animal abuse in the same way the legal system deals with other equally serious crimes. This means they will need to allocate additional resources to investigate, arrest, prosecute, punish, rehabilitate/treat offenders, and educate all constituencies including members of the public.

One important cautionary note when sentencing juveniles: while nearly all situations that fit the proposed definition warrant significant jail time, a lengthy sentence is not always the best response, particularly for young offenders. To be clear, this is not an argument against penalizing adolescents for animal abuse. As Margaret Mead said, “one of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it.”²⁰⁸ But just locking a child up without more is not going to help anyone. Because animal cruelty is probably the first heinous crime

²⁰⁷ See *infra* Section IV.A.ii.2.

²⁰⁸ Abigail Perdue, *A Bone to Pick About Animal Protection Legislation*, HUFF POST: THE BLOG (Mar. 20, 2014, 9:49 PM), https://www.huffpost.com/entry/a-bone-to-pick-about-anim_b_5003987.

for which a troubled juvenile might be identified, this could present the perfect opportunity to intervene at what may be a critical time when treatment, rather than (or in addition to) incarceration, could be able to prevent future violence against humans.²⁰⁹

Moreover, because animal cruelty may be symptomatic of mental health issues that could lead to other illegal activities, several states already mandate psychological assessments for minors convicted of animal cruelty.²¹⁰ Depending on the circumstances, mandatory counseling, monitoring, and treatment (if necessary) might be a more appropriate and constructive answer that would help rehabilitate the child, protect his potential future human and nonhuman victims, and benefit society as a whole. This is because experts agree early identification and implementation of prevention and treatment strategies for certain behaviors, such as animal cruelty, can be better for children than adults and even more effective with younger kids.²¹¹ Different sentences based on the age of the offender should not be a problem²¹² because, as the Supreme Court has explained, “children are constitutionally different from adults for purposes of sentencing”²¹³ and “‘[o]ur history is replete with laws and judicial recognition’ that children cannot be viewed simply as miniature adults.”²¹⁴

Law enforcement agencies would support such legislation, as an increasing number of officials and organizations acknowledge a substantial percentage of school shooters and mass murderers have

²⁰⁹ *Id.*

²¹⁰ Ashley Kunz, Comment, *Skinning the Cat: How Mandatory Psychiatric Evaluations for Animal Cruelty Offenders Can Prevent Future Violence*, 21 SCHOLAR: ST. MARY’S L. REV. & SOC. JUST. 167, 184 n.99 (2019).

²¹¹ See *infra* Section IV.C.

²¹² But see Kunz, *supra* note 210, at 193. (Noting the Texas legislature had mandated psychiatric evaluation for juvenile animal abusers more than a decade and a half earlier, the student author proposed that, as many adult animal abusers have similar psychological disorders, judges should order psychiatric evaluations for everyone convicted of animal cruelty and bestiality. Doing so would provide more complete information about perpetrators, resulting in “better informed sentencing decisions that incorporate aspects of treatment and monitoring that can help reduce the offenders’ risk of recidivism and limit the likelihood of escalating violent acts.”).

²¹³ *Miller v. Alabama*, 567 U.S. 460, 471 (2012).

²¹⁴ *Id.* at 481.

tortured animals, especially when they were young. For example, characterizing animal abuse as a “gateway crime,” the National Sheriff’s Association (NSA) issued a 2019 report calling for training law enforcement personnel to understand that “animal crimes must be given the same attention and priorities as personal and property crimes.”²¹⁵ Encouraging a collaborative relationship among police, the judicial system, and animal welfare advocates, the organization also highlights the importance of educating the public about the need to stop animal cruelty not only to keep four-legged victims safe, but also to protect both possible human targets and society.²¹⁶

2. Modify Threat Assessment Procedure and Forms

Because many of those tasked with school safety have unequivocally embraced threat assessments, and as the suspected shooter’s behavior rather than demographics should initiate the extra scrutiny, it is crucial that the forms used to evaluate the risk capture conduct indicating this individual may be dangerous. Sufficient evidence exists that especially gruesome physical attacks on animals may help identify people whose previous brutality toward nonhumans increases the probability they may be dangerous to humans in the future.²¹⁷ As a result, numerous entities have already drafted guidelines and forms currently used in schools, colleges, and universities to attempt to identify potential shooters.²¹⁸ Unfortunately, however, there are very few references to animal abuse. Even one threat assessment protocol that does request general information about animal cruelty fails to ask key follow up

²¹⁵ U.S. DEP’T OF JUST., ANIMAL CRUELTY AS A GATEWAY CRIME (2018) https://www.sheriffs.org/publications/e071818886AnimalCruelty_v10_508.pdf.

²¹⁶ *Id.*

²¹⁷ See *Overview of the Threat Assessment Guidelines*, *supra* note 70, at 1.

²¹⁸ See, e.g., *id.* (stating threat assessment is becoming a “standard school practice”). See also *Threat Assessment and Reporting*, SCHOOLSAFETY.GOV, <https://www.schoolsafety.gov/threat-assessment-and-reporting> (last visited Nov. 11, 2021) (listing resources that are a “starting point” for understanding threat assessment and reporting and will provide necessary knowledge to implement a system for both).

questions.²¹⁹ Instead, only limited basic information is sought directly from the subject and his parent(s) or guardian during interviews as part of a mental health assessment.²²⁰

Prior to discussing the specific questions, it is important to note that information obtained from the potential shooter, or his caretaker, may be unreliable. A child planning an attack has strong incentive to lie. Additionally, most mothers, fathers, and guardians might be reluctant to report their kids or to be completely truthful for several reasons.²²¹ Often these parents or parental figures seem to be in denial, and therefore do not know what their child is doing; some suspect, or even know, there are issues but want to protect their offspring;²²² and others are concerned about being blamed or viewed

²¹⁹ COMPREHENSIVE SCHOOL THREAT ASSESSMENT GUIDELINES, FLA. DEP'T OF EDUC. (Jul. 2021) <https://wwwfldoe.org/core/fileparse.php/19958/urlt/8-3.pdf> [hereinafter COMPREHENSIVE SCHOOL THREAT ASSESSMENT GUIDELINES].

²²⁰ *Id.*

²²¹ David Hosier, *Why Parents May Ignore Their Child's Mental Illness*, CHILDHOODTRAUMARECOVERY.COM, <https://childhoodtraumarecovery.com/all-articles/why-parents-may-ignore-their-childs-mental-illness> (last visited July 2, 2021).

²²² See Alex Lasker, *Mom Turns in 17-Year-Old Son Who Plotted School Shooting in Journal: 'She's Very Courageous,'* AOL (Oct. 7, 2019, 3:25 PM), <https://www.aol.com/article/news/2019/10/07/mom-turns-in-17-year-old-son-who-plotted-school-shooting/23831103>; See also Amber Ainsworth, *Ethan Crumbley's Parents Ignored Signs of Violence for Months Before Oxford Shooting, Prosecutor Says*, FOX 2 DETROIT (Jan. 7, 2022 4:36 PM), <https://www.fox2detroit.com/news/ethan-crumbleys-parents-ignored-signs-of-violence-for-months-before-oxford-shooting-prosecutor-says> [hereinafter *Ethan Crumbley's Parents Ignored Signs of Violence for Months*]. Contrast the following situations: Columbine shooter Dylan Klebold's parents seemed to be oblivious about what was happening, so they never considered reporting their son. See Belkin, *infra* note 265. However, Nikolas Cruz's adoptive mother and foster mom both called the police because they were afraid of the confessed Parkland killer. Andone, *supra* note 124. Although several other people reported Cruz's frightening behavior, the FBI failed to follow through and seventeen people died and seventeen more were injured. *Id.* The outcome was quite different approximately a year and a half later when a 17-year-old high school student's mother reported him to police after discovering her son's journal that "allegedly detailed the specifics of his planned attack, including the use of pipe bombs and firearms to 'blast anyone in sight.' " Lasker, *supra*. The teenager was arrested,

as bad or negligent themselves.²²³ Turning to the specific queries on the form that does ask about animal cruelty, the child is asked whether he ever “intentionally hurt an animal[.]”²²⁴ While this certainly could be important, without follow up about specific details, evaluators will not be able to determine if it was the type of abuse that would justify further investigation. For parents or guardians, the relevant questions are: “Does your child have any pets?” and “Has he/she ever intentionally hurt the pet or some other animal?”²²⁵ As is true for the child, absent appropriate follow-up, even affirmative responses are unlikely to provide meaningful information.

There are two other inquiries for the adult. So that the answers are properly focused and helpful, both should be modified to add the underlined language and remove the words that are bold.

“Do people argue much at home?”²²⁶ This question is ambiguous. For example, does “people” mean any person, or just family or household residents? How much is “much”? Verbal arguments have been considered domestic violence²²⁷ but generally only under rare conditions.²²⁸ It makes no sense to insert a

and his mother was called “courageous.” *Id.* The school he attended said it “took the threat ‘very seriously’ and would ‘be working with the authorities to ensure the safety of all students and staff.’” *Id.*

²²³ Hosier, *supra* note 221; *Parents of Michigan Mass Shooter Arrested After Hiding in Warehouse . . . Arraigned for Manslaughter*, TMZ (Dec. 4, 2021, 7:09 AM), <https://www.tmz.com/2021/12/04/ethan-crumbley-parents-15-year-old-shooter-arrested-arraigned-manslaughter/> (illustrating the egregious case of Ethan Crumbley, where the prosecutor took the unusual step of charging the alleged shooter’s mother and father on four counts of involuntary manslaughter).

²²⁴ COMPREHENSIVE SCHOOL THREAT ASSESSMENT GUIDELINES, *supra* note 218.

²²⁵ *Id.*

²²⁶ *Id.*

²²⁷ Benjamin Van Severen, *Verbal Argument Can be Domestic Abuse*, VAN SEVEREN L. OFF. (Mar. 19, 2019), <https://milwaukee-criminal-lawyer.com/verbal-argument-can-be-domestic-abuse/> (“[U]nder Wisconsin [I]aw such [verbal abuse] can constitute domestic abuse under certain circumstances.”).

²²⁸ Brian Gabriel, *Is Verbal Abuse Considered Domestic Violence in Florida?*, L. OFF. OF GABRIEL & GABRIEL, LLC (July 20, 2020), <https://www.gabriellawteam.com/is-verbal-abuse-considered-domestic-violence-in-florida/> (cautioning how difficult it is to prove the elements beyond a

requirement that the arguments must take place “at home.” Domestic violence is not confined within the walls of a residence, as common sense and everyday news stories about murders and injuries occurring at the workplace or other locations suggest. Thus, to retain this concept, the question should ask: “Do household residents engage in verbal arguments with each other sufficient to make a reasonable person fear violence is imminent between or among household residents [explicitly defined in another section to include companion, service, and emotional support animals who reside in the dwelling]?”

“Has there been any physical aggression at home?”²²⁹ Threatening to harm or intentionally harming or killing family pets to scare family members (or persons living in the home as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married) into doing things they do not want to do can be domestic violence.²³⁰ Consequently, based on statistics that demonstrate the well-established link between domestic violence and animal cruelty,²³¹ it is critical to explicitly state in the legislation that “household residents” include “companion, service, and emotional support animals.” But this question, as written, is also too vague and should be replaced. Certainly, circumstances exist in which threats of violence are enough to terrorize a victim. Moreover, as was true in the first query, it makes no sense to insert a requirement that the abuse must take place “at home.” Therefore, the question should be: “Has there been any physical violence or threats of violence sufficient to make a reasonable person fear such

reasonable doubt when context and intent are so important and “[i]t’s not always clear when spoken words are threats.”).

²²⁹ COMPREHENSIVE SCHOOL THREAT ASSESSMENT GUIDELINES, *supra* note 219.

²³⁰ *Animal Cruelty Facts and Stats*, THE HUMANE SOC’Y OF THE U.S., <https://www.humanesociety.org/resources/animal-cruelty-facts-and-stats> (last visited June 17, 2021).

²³¹ *Id. See also Understanding the Link Between Animal Abuse and Family Violence*, AM. HUM. (June 21, 2022), <https://www.americanhumane.org/fact-sheet/understanding-the-link-between-animal-abuse-and-family-violence/> (“[American Humane recommends the] [i]nclusion of animal-focused violence in standard assessments and intake forms for child protective services, mental health and domestic violence workers[.]”).

violence is imminent between or among household residents [explicitly defined in another section to include companion, service, and emotional support animals who reside in the dwelling]?”

Thus, the assessment guidelines and forms should evaluate whether the juvenile has ever abused animals in a way that meets the standard for enhanced animal cruelty. If he has, even if not convicted of this or a similar crime, proof of up-close-and-personal animal abuse warrants continued participation in a threat assessment protocol. If sufficient evidence exists, school officials should be compelled to report what they learn to the appropriate authorities²³² and should also recommend counseling when necessary or potentially beneficial. Collecting the information from the amended questions would assist in identifying those who pose an increased risk to humans, while avoiding mislabeling those who do not.

B. Warning Sign: Domestic Violence

i. Problem:

More Than 70% of Domestic Abusers Are Cruel to Family Pets

Dubbed “The Link,”²³³ the connection between animal cruelty and violence against humans is well-documented and often applied to domestic situations.²³⁴ In fact, although numbers vary slightly,

²³² See, e.g., FLA. STAT. §§ 39.205(3)-(5) (2022); See also Alex Steinman, *Several States Implement Child Abuse Laws After Sandusky Case*, DAILY COLLEGIAN (Aug. 1, 2012), https://www.collegian.psu.edu/archives/several-states-implement-child-abuse-laws-after-sandusky-case/article_b9287322-5cd6-5f28-8163-ec7723c8dee2.html. Potential reporting laws can be modeled after current laws which impose \$1 million fines on colleges, universities, and schools which “knowingly and willfully fail to report . . . known or suspected child abuse, abandonment, or neglect committed on [school] property” or during a school-sponsored event or function in addition to those “who knowingly and willfully prevent another person from doing so[.]” FLA. STAT. §§ 39.205(3)-(5).

²³³ *The Link Between Cruelty to Animals and Violence Towards Humans*, ANIMAL LEGAL DEF. FUND, <https://aldf.org/article/the-link-between-cruelty-to-animals-and-violence-toward-humans-2/> (last visited June 15, 2021).

²³⁴ Radha Iyengar, *Domestic Warning Signs of Mass Shootings*, U.S. NEWS & WORLD REP. (Aug. 2, 2016, 1:30 PM), <https://www.usnews.com/opinion/articles/2016-08-02/the-connection-between-violence-against-women-and-mass-shootings> (noting that FBI data and media

one of the most often cited studies reported 71 percent of domestic violence victims stated that their abuser was also cruel to their pets.²³⁵ In another survey, researchers found that animal abuse occurred in 88 percent of families where child abuse was suspected.²³⁶ Despite these distressing statistics, and although many publications discuss the maltreatment and damage it causes, this Article is the first to suggest coordinated specific amendments to current animal cruelty and domestic violence federal and state statutes, and, further, to use this connection to identify, treat, and/or punish perpetrators who might one day pick up a gun and try to kill people at an educational institution.²³⁷

ii. Recommendation:
Redefine Domestic Violence to Include Dogs and Cats

Legislators need to redefine domestic violence to explicitly include companion, service, and emotional support dogs and cats.

1. Family

When defining domestic violence, statutes typically include individuals most people would expect to be characterized as “family.” Examples are “spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family,

reports between 2009 and 2014 showed 57% of all shootings that resulted in four or more deaths targeted family members or intimate partners).

²³⁵ Aviva Vincent et al., *The Link Between Interpersonal Violence and Animal Abuse*, 3 SOC’Y REG., 83, 86 (2019).

²³⁶ *Animal Cruelty Facts and Stats*, *supra* note 230.

²³⁷ Vivek Upadhyaya, Comment, *The Abuse of Animals as a Method of Domestic Violence: The Need for Criminalization*, 63 EMORY L.J. 1163, 1189 (2014) (explaining that “substantial” research about the connection between animal abuse and domestic violence exists but “relatively little attention has been paid to a different aspect of the problem: the intentional abuse of animals as a method of domestic violence.”).

and persons who are parents of a child in common regardless of whether they have been married.”²³⁸

While this list might appear to be comprehensive, nearly everyone who lives with a dog or cat would vehemently argue it is incomplete because their animals *are* family who often (and deservedly) are loved more and treated better than many two-legged relatives. Survey results showing that 83 percent of owners think of themselves as “mommy” and “daddy,”²³⁹ in addition to numerous articles in academic journals,²⁴⁰ expose an ever-widening chasm between reality and lawmakers who stubbornly refuse to abandon outdated concepts. In other words, although “85[%] of dog-owners and 76[%] of cat-owners think of their pets as family[,]”²⁴¹ most

²³⁸ See, e.g., FLA. STAT. § 741.28(3) (2002). While the provision for people who are parents of a child may not be as common as the others, it certainly fits the definition of “family.”

²³⁹ *One Nation Under Dog*, N.Y. Post (Apr. 12, 2009, 7:25 AM), <https://nypost.com/2009/04/12/one-nation-under-dog/>. A tangible measure of how much people care about their dogs and cats is the amount of money they spend on them. According to the American Pet Products Association, in 2020, the industry “reached a critical milestone, generating \$103.6 billion in sales.” Mackenzie Smith, *National Pet Industry Exceeds Over \$100 Billion in Sales for First Time in Industry History*, AM. PET PRODS. ASS’N, (Mar. 24, 2021), https://www.americanpetproducts.org/press_releasedetail.asp?id=1239. The pandemic showed how important dogs and cats are to their humans’ health and wellbeing as “consumers across the country turn[ed] to their pets for comfort and companionship.” *Id.*

²⁴⁰ Debra D. Burke, *A Clarion Call for Emotional Damages in Loss of Companion Pet Cases*, 15 TENN. J. L. & POL’Y 250 (Win. 2021); Tess Vickery, *A Taxonomy of Class Actions for Animals in the United States*, 26 ANIMAL L. 41 (2020); David Favre & Thomas M. Dickinson Jr., *Animal Consortium*, 84 TENN. L. REV. 893 (Sum. 2017).

²⁴¹ *Pets on Board: Meet the Multispecies American Family*, SMU (July 13, 2021), <https://www.smu.edu/News/2021/Research/Pets-on-board#:~:text=In%20fact%20the%20American%20Veterinary,%2Dspecies%20families%2C%20she%20says>. This article reviews a new book, *Just Like Family: How Companion Animals Joined the Household*, in which an SMU sociologist, Andrea Laurent-Simpson, explores the fascinating concept of “‘the multispecies family as a newly diversified, nontraditional family structure worthy of research[]’” and notes that “[d]ogs and cats within the American family have a profound impact on things like fertility considerations, the parent-child relationship, family finances, involvement of extended family members and the household structure itself.” *Id.*

legislators and judges continue to treat these cognizant, sensitive, loving beings—who share their companion humans’ homes, beds, and hearts—the same as any inanimate item.²⁴²

2. Household Member

In addition to protection from domestic violence through restraining orders for traditional “family,” a growing number of state statutes currently cover “household members” or “household residents” who “must be currently residing or have in the past resided together in the same single dwelling unit.”²⁴³ Recognizing some people are not quite ready to blur the species lines, laws can provide what may be a more modest alternative. It should be easier, for example, to convince those who are skeptical about treating nonhuman animals as “family” to instead expand the meaning of “household resident” to include dogs and cats who live in the home. Consequently, legislatures should tweak the statutory language and define “domestic violence” as “[insert state’s current definition of abuse] or threats of violence sufficient to make a reasonable person fear such violence is imminent between or among household residents] resulting in physical injury or death to one or more household resident(s) by another household resident(s).” The definition of “household resident” must explicitly include “any companion, service, or emotional support dog or cat who did or does reside in the same single dwelling unit.”

The fact that most jurisdictions continue to cling to the notion that animals are personal property represents a formidable legal obstacle to this argument, but recently there has been pushback.²⁴⁴ Recall that even the FBI rejected the antiquated property label and

²⁴² *The Legal Status of Nonhuman Animals*, ANIMAL ETHICS, <https://www.animal-ethics.org/legal-status-nonhuman-animals/> (last visited Nov. 2, 2022); See also Dolores A. Donovan, *Domestic Violence and Animal Welfare: The Science of Human-Animal Interaction*, 53 U.S.F. L. REV. 393 (2019).

²⁴³ See, e.g., FLA. STAT. § 741.28(3).

²⁴⁴ E.g., Martinez v. Robledo, 147 Cal. Rptr. 3d 921, 926-27 (Cal. Ct. App. 2012) (acknowledging that while pets are personal property, they are unlike other forms of property because “animals are [...] sentient beings . . . [that] feel pain, suffer, and die.”); Taimie L. Bryant, *Sacrificing the Sacrifice of Animals: Legal Personhood for Animals, the Status of Animals as Property, and the Presumed Primacy of Humans*, 39 RUTGERS L.J. 247, 258 (2008).

called animal cruelty a “crime against society.”²⁴⁵ And a few judges²⁴⁶ and legislators²⁴⁷ have also recognized that animals are different in kind from inanimate objects and there is something special about the human-pet bond making it wrong to equate someone’s dog or cat with his or her vacuum cleaner.²⁴⁸ However, although a few lawmakers are beginning to deviate from the property concept,²⁴⁹ (the “nonhuman-animals-are-property concept” remains intact in the minds of many²⁵⁰ and persists as a possible hurdle to treating pets as family.²⁵¹

²⁴⁵ See *supra* note 162 and accompanying text.

²⁴⁶ E.g., *La Porte v. Associated Indeps., Inc.*, 163 So. 2d 267 (Fla. 1964) (holding owner’s mental suffering was properly shared with the jury to consider in assessing damages in a case where defendant’s employee’s actions were intentional and malicious).

²⁴⁷ E.g., *TENN. CODE ANN. § 44-17-403(a)(1)* (2004).

²⁴⁸ See *Miranda Tarlton, Family or Property: Pets and Their Changing Protections Under the Law*, CAMPBELL L. OBSERVER (Feb. 8, 2018), <http://campbelllawobserver.com/family-or-property-pets-and-their-changing-protections-under-the-law>; see also *Bryant, supra* note 244, at 258. After noting that animals were initially viewed as personal property with only the working species viewed as having any intrinsic value, in this excellent article, *Miranda Tarlton* explains “[t]here seems to be a dissonance with how the law sees pets—as things—and how the vast majority of Americans see their pets, as beloved members of the family.” *Tarlton, supra*.

²⁴⁹ *Sande L. Buhai, Pets as Property: Signs of Change in the Law of Judgment Collections*, 26 ANIMAL L. 171, 172-74 (2020). While most jurisdictions continue to apply the traditional model in divorce cases and decide who gets the pet through property distribution, a few judges have considered “the best interests of the family as a whole (including those of the animal) rather than looking solely at market value and formal indicia of ownership.” *Id.* at 173. Similarly, some legislatures are passing laws that will require “treating pets as more than simply property” by mandating judges take the “‘well-being of the animal’ into account in pet custody disputes.” *Id.* at 173-74.

²⁵⁰ See, e.g., *Kelsey Kobil, Comment, When it Comes to Standing, Two Legs are Better than Four*, 120 DICK. L. REV. 621, 626 (2015) (arguing that the common law rule is correct because “[a]nimals are not human beings” and should be treated as “their owners’ property.”).

²⁵¹ *Gary L. Francione, Animals as Property*, MICH. ST. UNIV. COLL. L.: ANIMAL LEGAL & HIST. CTR. (1996) (explaining that for many years, animal advocates have warned that “[a]ny significant improvement in animal treatment will be most difficult to achieve as long as animals are regarded by the law as nothing more than property.”).

Even so, the changes make sense as they reflect the reality that dogs and cats are sentient beings who are currently considered an integral part of the family unit by a growing number of people with whom they share a home.²⁵² Most importantly, this shift would be a quick and effective way to provide significant protections and legal remedies for all domestic violence victims, offer an opportunity to potential perpetrators and their families for real help, and complement the federal Women and Pets Safety Act.²⁵³

This suggestion might sound radical. It is not. In fact, other countries are also joining the fight. For example, legislators in Victoria, Australia unanimously voted to amend their Family Violence Protection Act 2008 to recognize that companion animals are affected by domestic abuse and require protection.²⁵⁴ The definition of “family violence” in their Act now explicitly includes “causing or threatening to cause the death of, or injury to, an animal . . . so as to control, dominate or coerce the family member.”²⁵⁵ Because animal abuse is one of the initial warning

²⁵² See Paul A.M. Overgaauw et al., *A One Health Perspective on the Human-Companion Animal Relationship with Emphasis on Zoonotic Aspects*, 17 INT'L J. ENV'T RSCH. & PUB. HEALTH 3789 (May 27, 2020) (illustrating one of many articles discussing the evolution of the relationship and the benefits to both human and nonhuman animals); See also Donovan, *supra* note 242, at 406.

²⁵³ See Upadhyा, *supra* note 237, at 1193, and accompanying text. Upadhyा provides:

The conceptual propriety of criminalizing animal abuse as a form of domestic violence is complemented by the prospective applicability of a diverse range of special remedies, provisions, and safeguards available only to domestic violence cases. The true benefit of this criminal approach lies in the availability of these provisions, which offer protection to victims, ensure a diligent pursuit of complaints, and allow for the rehabilitation of the offender. *Id.*

See also Pet and Women Safety (PAWS) Act, ANIMAL WELFARE INSTITUTE, <https://awionline.org/content/pet-and-women-safety-paws-act> (establishing grants to provide shelter and housing for domestic violence survivors with pets, and also including pets, service, and emotional support animals, and horses in federal interstate stalking, protection order violations, and restitution).

²⁵⁴ *Family Violence Protection Act 2008*, Authorised (sic) Version No. 053 (2008) (Austl.), https://content.legislation.vic.gov.au/sites/default/files/2020-10/08-52aa053%20authorised_0.pdf.

²⁵⁵ *Id.* at § 5(2)(e).

signs of future violence against humans,²⁵⁶ “the possibility of early intervention in such cases [is] particularly valuable.”²⁵⁷ “If the animals are not safe, then neither are the humans, and vice versa.”²⁵⁸

C. Warning Sign: Conduct Disorder Diagnosis as a Child

i. Problem:

Public Misunderstanding of School Shooters and Mental Illness

When a 19-year-old like Nikolas Cruz goes into his former high school with a semi-automatic rifle and slaughters seventeen people and injures seventeen more, most people think he must be insane because no “normal” person would do such a thing.²⁵⁹ But experts

²⁵⁶ See *The Link Between Cruelty to Animals and Violence Towards Humans*, *supra* note 233 and accompanying text.

²⁵⁷ Upadhy, *supra* note 237, at 1189; see also Colleen Long, *Secret Service Study: School Attackers Showed Warning Signs*, AP NEWS (Nov. 7, 2019), <https://apnews.com/article/a592850f54634daea31be69defec841e> (stating what is important “is knowing what to look for, recognizing the patterns and intervening early to try to stop someone from pursuing violence.”).

²⁵⁸ Kristin Diemer & Cathy Humphreys, *In Victoria, Animal Abuse May Soon be Considered a Form of Family Violence. Here’s Why That Matters*, THE CONVERSATION (Mar. 3, 2021, 6:03 PM), <https://theconversation.com/in-victoria-animal-abuse-may-soon-be-considered-a-form-of-family-violence-heres-why-that-matters-156284>.

²⁵⁹ See generally Jonathan M. Metzl & Kenneth T. MacLeish, *Mental Illness, Mass Shootings, and the Politics of American Firearms*, 105 AM. J. PUB. HEALTH 240 (2015). While Metzl and MacLeish use Adam Lanza, the alleged Sandy Hook shooter, to make this point, Nikolas Cruz actually is a more “typical” school shooter as he had a close and recent connection to the site of the massacre and abused animals in an up-close-and-personal manner. *Id* at 240. However, this research was published three years before the Parkland shooting so the authors obviously could not have used Cruz. *Id.* Still, it is important to recognize that, despite some ambiguity, it appears Lanza did attend Sandy Hook, until the sixth grade. Andrew Solomon, *The Reckoning*, NEW YORKER (Mar. 17, 2014), <http://www.newyorker.com/magazine/2014/03/17/the-reckoning>. Although most of the time the relationship is more recent, the greater deviation is that, rather than being an animal abuser, Lanza was reported to be an “ethical vegan” based on the fact that he did not like to see animals hurt. *Animal Abuse as a Warning Sign of School Massacres*, *supra* note 16, at 14.

caution this reasoning is “flawed.”²⁶⁰ Although “[n]o one who commits a violent act is mentally well,” that does not mean they all meet the criteria for a mental illness or that treatment would have stopped them from committing the crime.²⁶¹ In other words, there is a significant distinction between diagnosable mental illness and mental wellness.²⁶²

Another problem is that some of the early supporting research was dependent on flawed research designs where the study populations include only convicted and incarcerated inmates.²⁶³ Based on these results, some experts began claiming a disproportionate percentage of offenders were mentally ill and, therefore, were dangerous.²⁶⁴ Ironically, some people actually find this notion comforting because it provides what seems to be a reason for such otherwise senseless atrocities and, at the same time, makes others feel safer because they think just “crazies” kill school kids.²⁶⁵ This is not true, as “researchers estimate that persons with mental

²⁶⁰ Jessica McDonald, *The Facts on Mental Illness and Mass Shootings*, FACTCHECK (May 31, 2022), <https://www.factcheck.org/2019/10/the-facts-on-mental-illness-and-mass-shootings/>.

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ Overton et al., *supra* note 157, at 912 (recommending future studies with a better methodology that includes a much broader, more representative sample as well as obtaining information through an interview process).

²⁶⁴ Noman Ghiasi et al., *Psychiatric Illness and Criminality*, NAT'L LIBR. MED. (May 22, 2022), <https://www.ncbi.nlm.nih.gov/books/NBK537064/>.

²⁶⁵ Lisa Belkin, *Do We Blame the Columbine Parents?*, N.Y. TIMES (Apr. 20, 2009, 11:50 AM), <https://archive.nytimes.com/parenting.blogs.nytimes.com/2009/04/20/do-we-blame-the-columbine-parents/>. In the context of the Columbine shooting and perpetrators Eric Harris and Dylan Klebold, this *New York Times* journalist and book author explains why, although it is wrong, it is “comforting” or “satisfying” to blame the shooters’ parents. “Not only would that give us *someone* to blame (*someone* still living, unlike Eric and Dylan, who turned their guns on themselves), but it would also allow the psychic distance between ‘us’ and ‘them’ that frightened humans crave. *Id.* (emphasis original). ‘That’ happened to ‘them’ because they were bad parents, we could tell ourselves. *Id.* We will just do the opposite and everyone will be safe.” *Id.* Harris, who many believe was a psychopath, might have agreed. He left a video for his parents quoting William Shakespeare’s *The Tempest*: “good wombs have borne bad sons.” *Id.*

illness are responsible for fewer than 1% of all gun-related homicides.”²⁶⁶

Still, some types of mental illness do contribute to aggressive behavior against both humans and nonhuman animals.²⁶⁷ This Article focuses on young male offenders, and, for them, if there is a mental illness, conduct disorder (CD) is the likely culprit.²⁶⁸ The median age for onset of “hurting animals” is six and a half,²⁶⁹ young compared to other symptoms, which typically manifest “before age 10, or in adolescence.”²⁷⁰ Defined as “[a] repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated,”²⁷¹ American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (DSM-5) divides these behaviors associated with conduct disorder into four categories, starting with “aggression toward people and animals.”²⁷² Many school shooters have a history of particularly egregious cruelty to animals which is also one of the

²⁶⁶ Emilee Green, *Mental Illness and Violence: Is There a Link?*, ILL. CRIM. JUST. INFO. AUTH., (May 4, 2020), <https://icjia.illinois.gov/researchhub/articles/mental-illness-and-violence-is-there-a-link>. See also Robert T. M. Phillips, *Predicting the Risk of Future Dangerousness*, 14 AM. MED. ASS’N J. ETHICS 472, 473 (2012) <https://journalofethics.ama-assn.org/article/predicting-risk-future-dangerousness/2012-06>; PETER LANGMAN, *SCHOOL SHOOTERS: UNDERSTANDING HIGH SCHOOL, COLLEGE, AND ADULT PERPETRATORS* (2015); Benedict Carey, *Are Mass Murderers Insane? Usually Not, Researchers Say*, N.Y. TIMES (Nov. 8, 2017), <https://www.nytimes.com/2017/11/08/health/mass-murderers-mental-illness.html>.

²⁶⁷ AM. PSYCHIATRIC ASS’N, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* (5th ed. 2013) [hereinafter DSM-5].

²⁶⁸ *Conduct Disorder*, MENTAL HEALTH AM. <https://www.mhanational.org/conditions/conduct-disorder> (last visited Sept. 28, 2021) [hereinafter *Conduct Disorder*] (“[T]he rate among boys in the general population ranges from 6% to 16% while the rate among girls ranges from 2% to 9%.”).

²⁶⁹ *Animal Abuse and Youth Violence*, *supra* note 24, at 5.

²⁷⁰ *Conduct Disorder*, *supra* note 268.

²⁷¹ DSM-5, *supra* note 267, §§ 312.81 (F91.1), 312.82 (F91.2), 312.89 (F91.9); see also Taylor Bennett, *Understanding Conduct Disorder: Symptoms, Causes, and Treatment*, THRIVWORKS (June 19, 2017), <https://thriveworks.com/blog/conduct-disorder> (providing a brief description of the disorder).

²⁷² DSM-5, *supra* note 267.

earliest indicators of conduct disorder.²⁷³ Close to half of “adolescent crime” is attributed to kids with this condition.²⁷⁴ Estimates are as high as three quarters of these juveniles progress to antisocial personality (ASPD) disorder as adults.²⁷⁵ These numbers are troubling because almost half the people with ASPD have significant arrest records, including harming humans.²⁷⁶ Statistical distinctions between otherwise similar “abusers and non[-]abusers were highly significant ($p \leq 0.0001$). . . .”²⁷⁷ As up-close-and-personal animal abuse in children may indicate a mental illness that could contribute to these youths becoming dangerous, threat assessments should include questions about such behavior. Because animal abuse is probably the first serious offense for which a minor would be prosecuted, early detection presents an ideal opportunity to intervene at a critical time. Doing so would likely prevent subsequent crimes against humans by resolving a minor’s underlying problems before they provoke actions that hurt or even kill.²⁷⁸ Early involvement is also crucial because data regarding the value of preventative measures on juveniles (and their families) is positive and encouraging.²⁷⁹ In stark contrast, the evidence

²⁷³ *Id.* §§ 312.81, 312.82, 312.89.

²⁷⁴ Gullone, *supra* note 29, at 150.

²⁷⁵ *Id.*; DSM-5, *supra* note 267 (DSM-5 requires “evidence of conduct disorder with onset before age 15 years” to support ASPD). *But see* Denise Schipani, *Conduct Disorder in Children*, EVERYDAY HEALTH (Oct. 18, 2022), <https://www.everydayhealth.com/antisocial-personality-disorder/conduct-disorder-children> (“While some children with conduct disorder go on to develop ASPD in adulthood—maybe in the range of 30 to 40 percent, says Dr. Michalska—most don’t.”). Clearly, even using the lower rates, a substantial number of children with conduct disorder may eventually develop ASPD.

²⁷⁶ See Gullone, *supra* note 29, at 154; NAT’L COLLABORATING CTR. FOR MENTAL HEALTH, ANTISOCIAL PERSONALITY DISORDER: TREATMENT, MGMT., AND PREVENTION 17 (2010).

²⁷⁷ *Animal Abuse and Youth Violence*, *supra* note 24, at 5.

²⁷⁸ ABIGAIL PERDUE & RANDALL LOCKWOOD, ANIMAL CRUELTY AND FREEDOM OF SPEECH: WHEN WORLDS COLLIDE 180 (2014).

²⁷⁹ Kunz, *supra* note 210, at 184-86 (noting that intervention with children who commit animal abuse may prevent them from perpetrating crimes against humans when they are older and explaining this means it is essential to include mandatory psychological evaluations when sentencing juveniles in such situations).

concerning treatment and outcome for adults who develop ASPD is bleak and concerning.²⁸⁰

Nevertheless, while it can be significant that some children who mistreat animals have diagnosable mental illnesses, it is equally important to recognize “less than 3% to 5% of US crimes involve people with mental illness, and the percentages of crimes that involve guns are lower than the national average for persons not diagnosed with mental illness.”²⁸¹ Ironically, rather than perpetrators of violence, the majority of people diagnosed with a mental illness are more likely to be victims.²⁸² Thus, based on current knowledge about animal abusers, mental illness, and school shootings, the goal is to identify which juveniles who intentionally harm animals pose a real threat while avoiding falsely labeling others as vicious criminals solely because they have a disorder.

ii. Recommendations: Early Intervention and Education

To achieve their laudable objective, governmental agencies and nonprofit organizations have drafted guidelines and forms designed to detect potential school shooters. Because predicting dangerousness based on characteristics does not work, the focus should shift to behavior. Children who have been convicted of animal abuse that fits the definition of “enhanced animal cruelty,”²⁸³ even if they have not been diagnosed with a mental illness, need help. Moreover, because studies reveal that early intervention is

²⁸⁰ NAT’L. INST. FOR HEALTH AND CARE EXCELLENCE, ANTI SOCIAL PERSONALITY DISORDER: PREVENTION AND MGMT., *supra* note 18, at 13.

²⁸¹ Metzl & MacLeish, *supra* note 259 (referring to a 2013 New York City police report concluding an individual in the city was “more likely to die in a plane crash, drown in a bathtub or perish in an earthquake” than be murdered by a crazed stranger. As a result, academics who research violence prevention assert mass shootings denote “rare acts of violence” that have little predictive or preventive validity in relation to the bigger picture of the 32,000 fatalities and 74,000 injuries caused on average by gun violence and gun suicide each year in the United States. *Id.*

²⁸² Ghiasi et al., *supra* note 264.

²⁸³ See *supra* Section IV.A.ii.1. See *infra* Section IV.A.ii.2.

successful with many young people,²⁸⁴ to assure they get the assistance they need, judges should order psychological evaluation and treatment (if recommended) as part of any sentence for a person under twenty-five who commits animal abuse. Several states agree and currently include either mandatory or discretionary counseling when sentencing juveniles.²⁸⁵

Unfortunately, there are at least two significant obstacles to providing therapy to all who need it. The first is insufficient human and financial resources.²⁸⁶ The mental health system has been overwhelmed for years and the already slim chances of fixing it may have been severely reduced since 2020 because of the pandemic.²⁸⁷ Children are at little risk physically from COVID-19, but the emotional toll has been enormous and an already overloaded system will not be able to properly care for the many additional patients stringent, early-intervention requirements would identify.²⁸⁸ This is

²⁸⁴ *Prevention and Early Intervention*, YOUTH.GOV, Prevention and Early Intervention | Youth.gov (last visited Dec. 13, 2022) (“Early intervention prevents the onset of delinquent behavior and supports the development of a youth’s assets and resilience. It also decreases rates of recidivism by a significant 16 percent when youth do go on to engage with the justice system.”).

²⁸⁵ ALDF, LAWS IN FAVOR OF CT.-ORDERED PSYCH. EVALUATIONS: 2020 U.S. ANIMAL PROT. L. STATE RANKINGS (2020), <https://aldf.org/project/court-ordered-psych-evaluation>. Almost all 20 states that compel rather than only explicitly permit psychological evaluation/treatment in addition to the U.S. Virgin Islands limit this statutory requirement to specific categories of abusers, typically including those who torture animals or were juveniles at the time of the crime. *Id.*

²⁸⁶ For example, at a 2018 meeting of a federal commission on school safety, one of the “key recommendations” of professionals who testified was “expanding school-based mental health services.” Emily Richmond, *Parents Fear for Kids’ Safety in Schools*, U.S. News (July 17, 2018, 12:01 AM), <https://www.usnews.com/news/education-news/articles/2018-07-17/parents-fear-for-kids-safety-in-schools-reaches-two-decade-high>. However, getting the money for additional staff is “the biggest roadblock” to improving school safety. *Id.* (internal citations omitted).

²⁸⁷ See generally MENTAL HEALTH AMERICA, THE STATE OF MENTAL HEALTH IN AMERICA 2020 (2019), <https://mhanational.org/issues/state-mental-health-america> [hereinafter THE STATE OF MENTAL HEALTH IN AMERICA 2020].

²⁸⁸ See, e.g., *How Reliably Does Animal Torture Predict a Future School Shooter?*, *supra* note 146 (“If we flag every incident of animal abuse, our mental health and justice systems would be overwhelmed with tens of thousands of cases to review.”).

obviously an important issue that must be addressed.²⁸⁹ One innovative response utilizes the reality that individuals who lack empathy are more likely to harm people than those who have compassion for others.²⁹⁰ Ironically, working with animals has been shown to develop empathy which, once learned, becomes part of the person's relationships with everyone.²⁹¹ Thus, establishing programs for children who, with supervision, could safely work with animals, has benefitted both.²⁹²

The second hurdle is a valid concern that children labeled mentally ill will be stigmatized.²⁹³ One reason is people tend to believe inaccurate and harmful stereotypes that people with mental health issues are likely to be dangerous.²⁹⁴ This misperception is often driven by the news media's focus on mental illness in reports of atrocities like school shootings.²⁹⁵ Routinely distorted, these

²⁸⁹ See, e.g., THE STATE OF MENTAL HEALTH IN AMERICA 2020, *supra* note 287, at 8, 31-33.

²⁹⁰ ALDF, LAWS IN FAVOR OF CT.-ORDERED PSYCH. EVALUATIONS: 2020 U.S. ANIMAL PROT. L. STATE RANKINGS (2021), <https://aldf.org/project/court-ordered-psych-evaluation>. Notably, the Northern Mariana Islands seems to be doing something similar in concept. Their recently-enacted animal protection laws allow courts to order convicted offenders to participate in animal cruelty prevention programs or psychological counseling.

²⁹¹ *The Need for Humane Education*, WORLDANIMAL.NET, <https://worldanimal.net/our-programs/humane-education/the-need-for-humane-education> (last visited Nov. 22, 2022).

²⁹² *Id.*

²⁹³ Stefanie Hoffman, *Stigma: The Biggest Barrier to Mental Health*, MEDIUM.COM (Apr. 3, 2018), <https://medium.com/anything-but-that-parenting-the-mentally-ill-child/stigma-the-biggest-barrier-to-mental-health-b2eb82d26e7d> [hereinafter *Stigma*] (identifying stigma as “one of the biggest barriers” to diagnosing or treating mental illness).

²⁹⁴ See *id.* This unsupported prejudice is puzzling as close to one in five American adults have a diagnosable mental health illness in any given year. *Quick Facts and Statistics About Mental Health*, MHA, <https://www.mhanational.org/mentalhealthfacts> (last visited Dec. 13, 2022). Even more surprising, perhaps, 46% of Americans fit criteria for a diagnosable mental illness at some point in their life. *Id.* Approximately half experience the first onset by age fourteen. *Id.*

²⁹⁵ Kirstin Fawcett, *How Mental Illness Is Misrepresented in the Media*, U.S. NEWS (Apr. 16, 2015, 10:51 AM), <https://health.usnews.com/health-news/health-wellness/articles/2015/04/16/how-mental-illness-is-misrepresented-in-the-media>

narratives also cause some parents to worry they will be blamed for what their children do.²⁹⁶ It is particularly important that these fears not prevent kids with conduct disorder from obtaining crucial treatment that requires relative participation because often one of the major contributing factors is a dysfunctional family.²⁹⁷ Thus, not only does the juvenile require treatment, his parent(s), siblings, and possibly others must be involved. Mothers and fathers will have to be educated so they understand therapy is likely to help the family and that they can assist their kids in learning to overcome, or at least cope with, the issues that cause them to engage in unacceptable behavior—including up-close-and-personal animal abuse. Finally, to persuade moms and dads to cooperate, they must be convinced the system is designed not only to provide help, but also to avoid mislabeling their children while maintaining confidentiality throughout the process.

V. SCHOOL SHOOTING SAFETY AND PREPAREDNESS ACT

As educational institutions reopened for the 2021-22 year, students and others with real or imagined grievances were returning to a very stressful situation created by government threats to lock down the country, including schools, again; being forced (by extreme pressure and restrictive conditions for failure) to take one of the new, rushed-to-market, only provisionally-approved vaccines and later multiple boosters; and compelling everyone, regardless of vaccine status, to wear masks. One result was a growing fear about the possibility of an increase in school shootings.²⁹⁸ In October

(explaining characters with a mental illness in prime-time fiction shows “were 10 times more likely than other TV characters to commit a violent crime – and between 10 to 20 times more likely to commit a violent crime than someone with a mental illness would be in real life.”).

²⁹⁶ *Stigma*, *supra* note 293.

²⁹⁷ See generally Charles R. McAdams III et al., *Dysfunctional Family Structures and Aggression in Children: A Case for School-Based, Systemic Approaches with Violent Students*, <https://files.eric.ed.gov/fulltext/EJ886120.pdf>.

²⁹⁸ Amy Rock, *Top 10 Stories from September: School Shootings, Mandates and Hospital Violence*, CAMPUS SAFETY (Sept. 29, 2021), https://www.campussafetymagazine.com/news/top-10-stories-sept-2021/?utm_source=newsletter&utm_medium=email&utm_campaign=content&utm_source=email&utm_medium=mc&utm_campaign=168913.

2021, Representative Debbie Wasserman Schultz proposed a legislative solution by refiling the School Shooting Safety and Preparedness Act.²⁹⁹ The bill uses and defines the term “school shooting.”

(4) SCHOOL SHOOTING.—The term “school shooting” means an event or occurrence—

(A) during which one or more individuals were injured or killed by a firearm; and

(B) that occurred—

(i) in, or on the grounds of, a school, even if before or after school hours;

(ii) while the victim was traveling to or from a regular session at school; or

²⁹⁹ School Shooting Safety and Preparedness Act, H.R. Res. 5428, 117th Cong. 2d Sess. (2021-22). Recognizing the importance of this issue, former Representative Tulsi Gabbard had filed the original SSSPA on September 12, 2019. *McBath, Gabbard, Hayes Introduce Bill to Help Prevent School Shootings*, MCBATH.HOUSE.GOV (Sept. 13, 2019), McBath, Gabbard, Hayes Introduce Bill to Help Prevent School Shootings | Press Releases | Congresswoman Lucy McBath (house.gov). In addition to its primary purpose of establishing a standard definition for “school shooting,” the proposed Act requires federal government entities work together to publish an annual report that not only includes specific, detailed data on school shootings but also collects the safety and prevention protocols at a school where a shooting occurred. *Id.* Although at the time the bill was supported by many of Gabbard’s colleagues, several national organizations, and approved by the House Education and Labor Committee six days later, it never made it to a vote. *H.R. 4301 (116th): School Shooting Safety and Preparedness Act*, GOVTRACK.US, School Shooting Safety and Preparedness Act (2019; 116th Congress H.R. 4301) - GovTrack.us (last visited Dec. 13, 2022).

(iii) while the victim was attending or traveling to or from an official school sponsored event.³⁰⁰

Selecting “school shooting” is a good first step because it is the most descriptive and commonly used of any of the alternative options. The bill defines the phrase as requiring “one or more individuals . . . injured or killed.”³⁰¹ Typically, however, there are multiple victims in the shootings that are widely reported in the media. The same is true for the situations that have been studied to find ways to end these tragedies. Arguably muddying the waters, the proposed legislation also defines “mass shooting” and uses a traditional definition, requiring injury or death of “three or more individuals, not including the shooter. . . .”³⁰² This introduces an ambiguity that could be avoided by omitting this definition, accepting the proposed meaning of “school shooting,” and creating a new category called “mass school shooting,” defined as requiring “three or more individuals, not including the shooter, injured or killed.”³⁰³ The primary benefits of the new category are that it would codify the significant distinction between the two types of school shootings and, as this is basically the current law and/or practice in numerous jurisdictions, it will allow for valid

³⁰⁰ H.R. 5428 § 2(4) 2d Sess. The bill as originally introduced in the first session of the 117th Congress on September 29, 2021, included a sentence explicitly stating the definition “does not include an accidental shooting.” § 2(4)(B) 1st Sess. (2021-22). However, the bill that was reported in the second session on May 6, 2022 (and is quoted here) modified that version to remove the exclusion. However, the amended bill does require the annual report include the number of school shootings that were accidents. H.R. 5428 § 3(b)(4) 2d Sess.

³⁰¹ *Id.* § 2(4)(A).

³⁰² *Id.* § 2(2).

³⁰³ Current statutes typically use three or four and thus either figure would be acceptable. Similarly, good arguments exist on both sides of the issue as to whether to include the shooter in the count. However, in both instances, there should be general agreement on which option to choose regarding these two definitional factors and all state legislatures should be encouraged to conform to the new definition. Whether the research uses three or four in its definition and includes the shooter in that calculation will be obvious from the data and therefore neither should interfere with the ability to compare and contrast information with earlier statistics so long as everyone uses the same number and includes or does not include the shooter.

comparisons with both previous studies and other data the FBI has been collecting since 2016.

After establishing terms and definitions, this legislation embraces another primary, and important purpose—compiling and publishing an annual report containing specific required statistics in addition to “safety and prevention” measures at schools where a shooting occurred in the previous year.³⁰⁴ So, for example, apparently recognizing the importance of highlighting and distinguishing what would be the new mass school shooting category, the bill mandates inclusion of both the number of school shootings nationwide and the total of those that are mass shootings.³⁰⁵ Thus, one important benefit of the proposed “mass school shooting” category is it would codify this significant distinction while retaining the ability to easily compare and contrast earlier research. Beyond requiring information that everyone would expect such as number of people killed and/or injured, the bill also focuses on demographics of each school and its students, as well as personal characteristics of victims and shooter(s).³⁰⁶

But some lawmakers raise serious concerns that questions about firearms and ammunition are politically motivated. Noting they believe “students should be safe at school and that any child dealing with trauma should receive the services necessary to heal,” every Republican committee member signed a minority report claiming these reporting requirements seem to be more about obtaining information to support gun control than keeping children and others in schools safe. Although they proposed a substitute amendment what they are really seeking is bipartisan hearings addressing the difficult issues and focusing on “real solutions to address school safety,” where all members could participate in “a productive, data-driven discussion with real school safety experts.”³⁰⁷ They are correct. Federal legislation should be part of a comprehensive plan which means support from both parties is crucial. Gun control is not

³⁰⁴ H.R. 5428 § 3.

³⁰⁵ *Id.* at §§ 3(b)(1), (2). If adopted, it would also eliminate the need for § 3(b)(2) as redundant.

³⁰⁶ *Id.* at §§ 3(b)(5), (6), (8), (9), (10).

³⁰⁷ School Shooting Safety and Preparedness Act, 116th Congress Report 116–701, House of Representatives, 2d Sess. (Dec. 28, 2020).

the issue, and the solution should not be political. Therefore, all the specific provisions must be reevaluated by a bipartisan committee and, if necessary, revised or eliminated before this bill is refiled or another one presented.

The committee will also have to face another issue that is especially significant for colleges and universities.³⁰⁸ While some statistics explicitly exclude suicides from “school shootings,” others do not.³⁰⁹ This is important because approximately “24,000 college students attempt suicide each year,” many on school grounds.³¹⁰ Of those, 1,100 succeed.³¹¹ Among those who fail, some are injured.³¹² But even if only the deaths are added, they could dramatically skew the results. Consider the numbers: Everytown for Gun Safety—an organization that applies one of the broadest definitions and thus claims among the highest totals of school shootings—reported only

³⁰⁸ This is not to minimize the problem with younger children. Tragically, close to 2,400 children between ages five and eighteen died by suicide in the United States in 2018. Matthew Miller & Deborah Azrael, *Access to Firearms Increases Child and Adolescent Suicide*, SOC’Y FOR RSCH. IN CHILD DEV. (June 5, 2020), <https://www.srcd.org/research/access-firearms-increases-child-and-adolescent-suicide>. Suicide rates in this age group have increased by more than 80% over the past decade. *Id.* But the focus in this Article is on college-age individuals because the numbers indicate suicide in this cohort is reaching epidemic levels *See generally* Robert J. Cramer et al., *Suicide on College Campuses: A Public Health Framework and Case Illustration*, NAT’L LIBR. MED. (Mar. 24, 2020), Suicide on college campuses: a public health framework and case illustration - PubMed (nih.gov). Because many of these students live in campus housing and spend most of their time on school grounds, there is an increased likelihood the suicide would fit the location requirement but not the intent of the legislation. *Id.*

³⁰⁹ Chris Nichols, *How Are School Shootings Defined?*, POLITIFACT (Feb. 28, 2018), Politifact | How are school shootings defined?. The SSSPA currently requires reporting the number of suicides. H.R. 5428 § 3(b)(3).

³¹⁰ *Mental Health: An Epidemic for Universities – II*, CRITICALARC, <https://criticalarc.com/mental-health-an-epidemic-for-universities-ii/> (last visited Dec. 13, 2022).

³¹¹ *Id.* As previously mentioned, *supra* note 308, “[u]nfortunately, the high rates of suicide are not limited to higher education.” For example, “Colorado pediatric emergency departments and inpatient units are being overrun with kids attempting suicide and suffering from other forms of major mental health illness.” *Id.* (internal citations omitted).

³¹² *Id.*

forty-nine deaths in 2021.³¹³ Therefore, treating suicides on campus as school shootings would substantially increase the total. More than 50 percent of suicides are by firearms.³¹⁴ This is particularly important because “85% of suicide attempts with a gun are fatal.”³¹⁵ Artificially inflating these numbers could be easily avoided by explicitly excluding both suicides and the shooter from the statistics.

VI. PROPOSAL

School shootings are not a new phenomenon. But, based on differences in definitions and inconsistencies in policies and procedures for acquiring data, it is almost impossible to definitively answer the simple question of whether the number of attacks is going up or down. Arguably, the totals should not matter because even one is too many. However, organizations that classify the incidents so broadly that they claim more than one for every day of the year unnecessarily frighten not only the children and parents that government and education officials say they are trying to protect, but also teachers, administrators, and staff who work at the schools. Just last year, the GAO rejected such high estimates.³¹⁶ It supported its conclusion that school shootings are “‘rare events’” with the statistics: during a ten-year period there were 318 school shootings in approximately 98,000 public K-12 facilities.³¹⁷ A University of Virginia professor who studies school safety suggested “[a]ny given school can expect to experience a student homicide about once every 6,000 years.”³¹⁸ Another authority concluded the chances a child

³¹³ *Gunfire on School Grounds in the United States*, *supra* note 45 (“In 2021 there were at least 202 incidents of gunfire on school grounds, resulting in 49 deaths and 126 injuries nationally. . . . [In 2022 (as of December 13, 2022)], there were at least 152 incidents of gunfire on school grounds, resulting in 50 deaths and 122 injuries nationally.”).

³¹⁴ See *Prevent Firearm Suicide*, EDUC. FUND TO STOP GUN VIOLENCE (Mar. 2021), Prevent Firearm Suicide (efsgv.org).

³¹⁵ Gabriella Cantor, *Guns on Campus: Keeping College Students Safe from Gun Violence*, GIFFORDS.ORG (Aug. 27, 2021) <https://giffords.org/blog/2021/08/guns-on-campus/>.

³¹⁶ *Characteristics of School Shootings*, *supra* note 26.

³¹⁷ *Id.* (Showing the reported totals at the time the study ended).

³¹⁸ *No, There Has Not Been a Mass Shooting Every Day This Year*, *supra* note 32.

will die violently on school grounds is “1 in 2.5 million.”³¹⁹ Further, government threat-assessment professionals explain “[s]hootings are so statistically infrequent that no predictive algorithm can claim to see them coming.”³²⁰

Nonetheless, potential shooters must be identified and stopped before they hurt anyone. Adoption of the following interrelated recommendations would help achieve these goals. Waiting for proof that the individual will carry through with his plan absent intervention would be foolish as it is an impossible standard. One reason is that “[w]hen a prediction of violence is made, efforts to prevent violence will be employed that, if successful, make the prediction wrong.”³²¹ Moreover, even if the totals go down, so many other variables exist that there may be no way to confirm which changes, if any, caused, or even contributed to, the drop.³²²

³¹⁹ *Id.*

³²⁰ *Why Mass Shootings Keep Happening*, *supra* note 94.

³²¹ Dewey G. Cornell, *Threat Assessment as a School Violence Prevention Strategy*, CRIMINOLOGY & PUB. POL’Y (Jan. 10, 2020), <https://onlinelibrary.wiley.com/doi/full/10.1111/1745-9133.12471>.

³²² In 2019, 17 states and the District of Columbia had a red flag law, in contrast to only five states prior to the Parkland shooting. Erin Donaghue, *Florida’s “Red Flag” Law, Passed After Parkland Shooting, Is Thwarting “Bad Acts,” Sheriff Says*, CBS NEWS (Aug. 9, 2019, 12:55 PM), <https://www.cbsnews.com/news/florida-red-flag-law-passed-after-parkland-has-saved-lives-advocates-say>. These statutes permit police and others to apply for a court order temporarily limiting access to firearms for individuals who appear to be a danger to themselves or others. *Redington v. State*, 121 N.E.3d 1053, 1054 (Ind. Ct. App. 2019). Similar to those who argue for the efficacy of threat assessments, red flag law supporters face difficulties establishing their legislation works because of the difficulty proving how many shootings were actually prevented. Timothy Williams, *What Are ‘Red Flag’ Gun Laws, and How Do They Work?*, N.Y. TIMES (Aug. 6, 2019), <https://www.nytimes.com/2019/08/06/us/red-flag-laws.html>. They also face serious constitutional challenges. See, e.g., Coleman Gay, Note, “*Red Flag*” Laws: How Law Enforcement’s Controversial New Tool to Reduce Mass Shootings Fits Within Current Second Amendment Jurisprudence, 61 BCLR 1491, 1496 (2020) (conceding that “[t]o be sure, the red flag law landscape seems fertile for lawsuits and constitutional challenges”). To allow those who identify the “red flags” to intervene before it is too late, these statutes “must straddle the tension between protecting a person’s Second Amendment right to bear arms with recognizing and working to stem the

Research, experience, and common sense support the following proposals. Implementation by federal and state legislators, along with administrators charged with school safety, can help achieve the objective of reducing school shootings by resolving issues that have caused young people to become violent and, in doing so, could save and improve human and nonhuman lives.³²³

- Congress should reevaluate and amend the School Shooting Safety and Preparedness Act. This requires creating a category labeled “mass school shooting” And including a comprehensive, succinct, and unambiguous definition of both “school shooting” and “mass school shooting.” The definition of “mass shooting” is irrelevant and confusing and should be deleted. Most importantly, for the bill to get committee support from both parties, the reporting sections have to be addressed in bipartisan hearings. Those provisions perceived as an attempt at gun control rather than a serious effort to protect children and others in

overwhelming tragedy that can be wrought by gun violence.” *Redington*, 121 N.E.3d at 1054.

It is important to recognize that, even ignoring the obvious constitutional problems with red flag laws, they are not a good answer for juveniles who are potential school shooters because the goals of the two types of evaluations are different. Recommendations based on threat assessments in schools are to assist in resolving problem(s) that might cause the person to want to kill rather than to eliminate the means to do so by confiscating firearms. *Why Mass Shootings Keep Happening*, *supra* note 94. This is a critical distinction because most guns used in school shootings, especially those used by youthful offenders, are not the property of the shooter. Crime & Justice News, *Most Mass School Shooters Get Guns at Home*, THE CRIME REPORT (Apr. 6, 2018), <https://thecrimereport.org/2018/04/06/most-mass-school-shooters-get-guns-at-home>. Of an estimated 32 school shootings (defined as at least three victims dead or injured) between 1990 and 2018, most perpetrators were white males and, in 25 of those incidents, they were teens or younger. *Id.* Of the 20 cases where the information was available, 17 firearms came from their homes and others were obtained from relatives. *Id.*

³²³ See generally Ghiasi et al., *supra* note 264.

educational institutions must be revised or eliminated.

- State legislators should create the crime of “*enhanced animal cruelty*,” defined as “intentionally killing or injuring a companion, service, or emotional support dog or cat by up-close-and-personal abuse, such as, but not limited to, strangling, bludgeoning, burning, or mutilating.” If convicted, or as part of a plea agreement, no matter what, if any, punishment is imposed, the law needs to also mandate psychological evaluations as well as subsequent treatment if warranted for offenders up to the age of twenty-five.³²⁴
- State legislators should expand the statutory definition of domestic violence to cover “all household residents” and explicitly include “any companion, service, or emotional support dog or cat who resides in the dwelling” to the list of eligible “residents.”
- State legislators should require or at least encourage veterinarians to report to the appropriate agency extreme animal mistreatment that satisfies the definition of “enhanced animal cruelty.” Laws should also mandate or at least urge other professionals to cross report abuse.
- State administrators who create or modify threat assessment procedures and forms for schools, colleges, and universities should attempt to identify up-close-and-personal animal abuse directed against dogs or cats to (1) increase the value of the information collected, (2) avoid

³²⁴ See, e.g., ANIMAL CRUELTY STATE L. SUMMARY CHART: CT.-ORDERED PROGRAMS FOR ANIMAL CRUELTY OFFENSES, <https://barceducation.org/assets/uploads/site/State-Law-Chart.pdf> (summarizing relevant portions of state animal cruelty laws including court-ordered evaluation, counseling, treatment, prevention, and/or educational programs); *see also* Kunz, *supra* note 210, at 184-86.

crushing the mental health system, and (3) minimize false positives.³²⁵

³²⁵ *Animal Abuse as a Warning Sign of School Massacres*, *supra* note 16, at 17. The authors provide:

By focusing upon incidents of animal cruelty that rarely occur among the broad population and which resemble the modus operandi of many school killers—that is, targeting dogs and cats and using a hands-on method—vastly reduces the false positive problem. Using a considerably narrower standard will undoubtedly cause some cases of future violence to slip between the cracks, but it will also reduce the tendency to identify and unduly stigmatize those children for whom animal abuse is part of a temporary phase as potential Newtown shooters and Columbine killers. *Id.*