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Lauren Rygg

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# School Shooting Simulations: At What Point Does Preparation Become More Harmful than Helpful?

By Lauren Rygg\*

## I. INTRODUCTION

In response to a number of school shooting incidents, especially the Sandy Hook Elementary shooting, there has been a national push for legislation to address preparedness for active shooters in schools.<sup>1</sup> The focus of the legislation is a mandate requiring that school districts participate in annual “school shooting drills.”<sup>2</sup> The objective behind these drills is to enhance awareness and preparedness of students and staff should a school shooting emergency arise.<sup>3</sup> However, the extent to which the simulation is carried out borders, if not flagrantly crosses, the line of appropriateness.<sup>4</sup> This raises the question of whether state legislatures are taking the correct steps in securing the safety of the nation’s schoolchildren.<sup>5</sup>

The current legislation in the states with drill mandates is generally vague,<sup>6</sup> allowing the school districts vast discretion in determining how to carry out the drills. This discretion has led to a number of problems with heightened simulations that are often terrifying to the students, especially when those simulation drills are carried out without any advance notice from the school district.<sup>7</sup> Furthermore, the drills often include participants from the community or from school staff, which has the potential for fostering distrust amongst students.<sup>8</sup>

Six states currently require mandatory active shooter drills.<sup>9</sup> Typically, an active shooter drill requires the participation of local law enforcement.<sup>10</sup> Thirty-two other states require school drills for instances other than fire, earthquake, or tornado.<sup>11</sup> With these base outlines, school districts have exhibited a significant and sometimes alarming degree of discretion, sometimes implementing procedures that include the use of real guns and blank ammunitions.<sup>12</sup>

This Article will first discuss the background of school shootings in Part II, from the 1990s, to the most recent tragedies including Newtown, Arapahoe, and others. Part III will examine the legislative proposals and enacted legislation for the active shooter drills in various states, as well as any citizen complaints that have arisen as a result. Next, Part III will also explore how teachers are required to respond in these drills. Part IV will then discuss the efficacy

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\* B.A. 2008, University of Pittsburgh; J.D. Candidate 2016, Loyola University Chicago School of Law.

<sup>1</sup> Rachel Bronstein, *School Shooting Drills Can Be More Terrifying Than Helpful*, DAILY BEAST (Apr. 03, 2014, 5:45 AM), <http://www.thedailybeast.com/articles/2014/04/03/school-shooting-drills-can-be-more-terrifying-than-helpful.html>.

<sup>2</sup> *Id.*

<sup>3</sup> See Britt Peterson, *‘Lockdown’ vs. ‘Silent Safety Drill’: The School Security Language Debate*, BOS. GLOBE (Nov. 30, 2014), <http://www.bostonglobe.com/ideas/2014/11/30/lockdown-silent-safety-drill-the-school-security-language-debate/v30JvvEZR8T2R8dARoGG2H/story.html> (explaining how new protocols, concerning drills and the language used in those drills, have been initiated in schools to further student safety in light of recent school shooting incidents).

<sup>4</sup> Bronstein, *supra* note 1 (describing the active shooter drill involving student and local community member volunteers as being traumatizing to many of the other students and teachers involved).

<sup>5</sup> *Id.*

<sup>6</sup> See School Safety Drill Act, 105 ILL. COMP. STAT. ANN. 128/15–40 (West 2015).

<sup>7</sup> Bronstein, *supra* note 1 (explaining how an active shooter drill was carried out at a school in Illinois with no forewarning to the students or their parents).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See *id.*

<sup>11</sup> *Id.*

<sup>12</sup> See *id.* (describing how the volunteer active shooter carried a gun filled with blank ammunitions simulating a hostage situation with a student volunteer).

of active shooter drills, whether this is the best approach to school safety, and the possibility of alternatives. Part V will look at the impact the legislation has for current and future students as well as potential results and overreached boundaries of the school districts, and any potential legal consequences.

## II. A HISTORY OF SCHOOL SHOOTINGS

### *A. School Shooting History: A Look at the Most Deadly and Publicized School Shootings in the Past Two Decades*

On April 20, 1999, two students carried out what was then the worst mass school shooting in American history.<sup>13</sup> That morning, Eric Harris and Dylan Klebold entered Columbine High School armed with semi-automatic weapons. Within twenty minutes, the two had killed thirteen people, twelve students and one teacher, and wounded over twenty others.<sup>14</sup> Later, it was revealed that they had originally planned the incident to include a bombing, but the planted bombs never detonated.<sup>15</sup> The nation watched footage of the attack with horror, launching a new age of gun control discussion and legislation, as well as new issues surrounding how to handle violence in schools.<sup>16</sup> After *United States v. Lopez*, it seemed as though government standards for gun control were becoming more relaxed,<sup>17</sup> but the attack on Columbine changed that. In the twelve months after the Columbine shooting, lawmakers proposed more than eight hundred bills having to do with guns in one form or another.<sup>18</sup> The bills were on both ends of the spectrum, with some protecting gun control and others promoting gun ownership rights.<sup>19</sup> However, only ten percent of those bills actually passed,<sup>20</sup> and experts were sharply divided as to the effectiveness of those bills that did.

Almost eight years later, Seung-Hui Cho carried out the deadliest school shooting rampage the United States had ever seen at Virginia Tech University, and the problem expanded to include the nation's college campuses.<sup>21</sup> Cho was a senior at Virginia Tech, and on April 16, 2007, he carried out two separate shootings on campus, one in a residence hall and the other in a campus building where classes were being held.<sup>22</sup> Amidst the chaos, as terrified students fled or took cover in university buildings, Cho shot and killed thirty-two people on campus before eventually taking his own life.<sup>23</sup> In the aftermath of the shooting, there was yet again an urgent call for legislation to address gun control issues.<sup>24</sup> This time, then-President George W. Bush signed federal legislation improving the National Instant Criminal Background Check System, as well as a law giving states the funding to "improve their own firearms reporting systems."<sup>25</sup>

<sup>13</sup> Greg Toppo, *10 Years Later, the Real Story Behind Columbine*, USA TODAY (Apr. 14, 2009, 1:48 PM), [http://usatoday30.usatoday.com/news/nation/2009-04-13-columbine-myths\\_N.htm](http://usatoday30.usatoday.com/news/nation/2009-04-13-columbine-myths_N.htm).

<sup>14</sup> *Columbine High School Shootings*, BRITANNICA.COM, <http://www.britannica.com/EBchecked/topic/1528263/Columbine-High-School-shootings> (last visited Apr. 15, 2015).

<sup>15</sup> Toppo, *supra* note 13.

<sup>16</sup> *See id.*

<sup>17</sup> *See generally*, *United States v. Lopez*, 514 U.S. 549, 631 (1995) (holding the Gun-Free School Zones Act unconstitutional because Congress did not have sufficient power under the Commerce Clause to enact it).

<sup>18</sup> Francie Diep, *How Many Gun Bills Pass After Mass Shootings: Very Few*, POPULAR SCI. (Sept. 18, 2013), <http://www.popsoci.com/science/article/2013-09/how-many-gun-bills-actually-pass-after-mass-shootings>.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Christine Hauser & Anahad O'Connor, *Virginia Tech Shooting Leaves 33 Dead*, N.Y. TIMES (Apr. 16, 2007), <http://www.nytimes.com/2007/04/16/us/16cnd-shooting.html?pagewanted=all& r=0>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Diep, *supra* note 18 (illustrating the influx of gun control legislation).

<sup>25</sup> *Id.*

In spite of these measures, school shootings continued to occur with alarming frequency. On December 14, 2012, twenty-year-old Adam Lanza shot and murdered his mother in their home, then travelled a few miles to the nearby Sandy Hook Elementary.<sup>26</sup> After forcing his way into the building, Lanza opened fire, killing twenty students between the ages of six and seven, along with six adults.<sup>27</sup> Sandy Hook Elementary made attempts at securing the building and had recently installed a new security system, but Lanza entered the building by shooting through a locked door, and once inside, continued his rampage.<sup>28</sup> After the first terrified 911 call, police radios began to broadcast the incident, and within three minutes, first responders arrived at the school.<sup>29</sup> Despite the rapid response time, the police report indicated that no law enforcement officers discharged their weapons at any point.<sup>30</sup> Lanza had finished shooting and taken his own life before police officers reached him.<sup>31</sup>

On December 13, 2013, eighteen-year-old Karl Pierson entered an unlocked side door of his school carrying a shotgun, a machete, three Molotov cocktails and 125 rounds of ammunition.<sup>32</sup> The resulting attack took less than one minute and twenty seconds.<sup>33</sup> One student was shot, who died later in the hospital from her injuries, before Pierson took his own life.<sup>34</sup> Chillingly, the shooting took place in Arapahoe, Colorado, approximately ten miles from where the Columbine shooting occurred over a decade before.<sup>35</sup> Although much less deadly than its predecessors, this incident helped draw even more attention to the already-escalated tensions and divisive opinions of the national community following Sandy Hook.<sup>36</sup> As the stories became more frequent and the news coverage more alarming, schools began grappling to address the issue through various means, including the proposed implementation of active shooter drills.

#### *B. The Evolution of School Emergency Drills*

School emergency drills have traditionally been conducted to prepare students and faculty members for fires and extreme weather within those areas where they are geographically appropriate.<sup>37</sup> During the Cold War era, air-raid drills were prevalent, despite the now-debated efficacy of such a practice.<sup>38</sup>

<sup>26</sup> Associated Press, *Newtown School Shooting: Facts From Sandy Hook Elementary School Massacre*, HUFFINGTON POST (Feb. 15, 2013, 5:12 AM), [http://www.huffingtonpost.com/2012/12/16/newtown-school-shooting-facts\\_n\\_2313116.html](http://www.huffingtonpost.com/2012/12/16/newtown-school-shooting-facts_n_2313116.html); Sandy Hook Elementary School Shooting Reports, CONN. DEP'T EMERGENCY SERVS. & PUB. PROT., <http://csp sandyhookreport.ct.gov/> (last visited Apr. 29, 2015) (providing various materials from the investigation done after the Sandy Hook Shooting).

<sup>27</sup> *Sandy Hook Shooting: What Happened?*, CNN, <http://www.cnn.com/interactive/2012/12/us/sandy-hook-timeline/> (last visited Apr. 18, 2015).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Catherine E. Shoichet, *Sheriff: Colorado School Gunman Got in Through Unlocked Door*, CNN (Dec. 30, 2013, 2:45 PM), <http://www.cnn.com/2013/12/30/justice/colorado-school-shooting/>.

<sup>33</sup> *Id.*

<sup>34</sup> Tom Watkins & Ana Cabrera, *Colorado's School Shooting—Over in 80 Seconds*, CNN (Dec. 15, 2013, 2:33 PM), <http://www.cnn.com/2013/12/14/us/colorado-school-shooting/>.

<sup>35</sup> Tom Watkins & Ralph Ellis, *Colorado High School Shooting Victim Dies at Hospital*, CNN (Dec. 22, 2013, 11:10 AM), <http://www.cnn.com/2013/12/21/us/colorado-arapahoe-shooting-death/>.

<sup>36</sup> See *Republican Lawmaker Whose Son Survived Arapahoe High School Shooting Wants Armed Teachers*, HUFFINGTON POST (Jan. 6, 2014, 5:36 PM), [http://www.huffingtonpost.com/2014/01/06/ted-harvey-arapahoe-high-school-shooting\\_n\\_4550616.html](http://www.huffingtonpost.com/2014/01/06/ted-harvey-arapahoe-high-school-shooting_n_4550616.html) (describing how one concerned parent who is also a lawmaker called for arming teachers after the Arapahoe incident as a proposed measure to protect and secure the safety of students); see also Eric Gorski, *Arapahoe High School Shooting Aftermath Puts Parenting Under Scrutiny*, DENVER POST (Oct. 13, 2014, 10:58 AM), [http://www.denverpost.com/news/ci\\_26711403/arapahoe-high-school-shooting-aftermath-puts-parenting-under](http://www.denverpost.com/news/ci_26711403/arapahoe-high-school-shooting-aftermath-puts-parenting-under) (describing the highly contentious issue of recognizing the warning signs and finding help for mentally ill children and the blame parents may face when they do not prevent their children's violent acts).

<sup>37</sup> See *Earthquake Safety at School*, FED. EMERGENCY MGMT. AGENCY, <https://www.fema.gov/earthquake/earthquake-safety-school> (last updated July 24, 2014); see *Fire Drills at School*, NAT'L FIRE PROT. ASS'N, <http://www.nfpa.org/safety-information/for-public-educators/education-programs/learn-not-to-burn/learn-not-to-burn-grade-1/fire-drills-at-school> (last visited Apr. 15, 2015); see Roger

In addition to fire drills, schools have begun conducting lockdown drills since the Columbine massacre.<sup>39</sup> However, there is no consensus at this point on what the proper procedure should be for teachers and students to respond to the presence of an active shooter.<sup>40</sup> The procedure in some school districts is to engage in “lockdown,” which generally means that the teachers close up their classrooms and turn off the lights, while students are supposed to remain silent and out of sight, taking cover to the extent that they are able.<sup>41</sup> School districts in some states, such as New Jersey and New York, have been practicing these drills and receiving occasional complaints from parents since 2008.<sup>42</sup> New York required then that the emergency drills be performed at least once a year in addition to the requisite twelve fire drills, while New Jersey only recommended the use of the emergency drill.<sup>43</sup>

In addition to preparedness for an active shooter, these emergency drills were also aimed at preparing students for other emergency situations that do not fall under the typical fire, tornado, and earthquake drills that were once the standard for schools.<sup>44</sup> Schools in New Jersey also began taking the proactive approach of training not only teachers and students, but support staff as well, under the belief that any one member of the school community could be critical in an emergency situation.<sup>45</sup>

As school shootings became more prevalent and more extreme, so too did the drills that schools tried to implement to prepare for such a possibility, despite legislative requirements for the level at which those drills should be performed.<sup>46</sup> Like fire or weather drills, most of what schools are required to perform in an active shooter drill is at the logistical level, with mandates focusing on how often drills should be performed and who they should include, such as local law enforcement officials and personnel at each school.<sup>47</sup> Some states have taken these requirements further, and have added various provisions to their laws that require specific types of intruder drills, such as the active shooter drill, and give guidelines as to how the drills should proceed.<sup>48</sup> Specifically, the legislation in Illinois stipulates that schools perform the active shooter drills and that local law enforcement aids in these performances.<sup>49</sup> Former Illinois Governor Pat Quinn had publicly indicated that he would support drills that required shooting simulations in schools.<sup>50</sup> The statute enacted, however, does not require that colleges and universities perform these drills,

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Edwards, *Tornado Preparedness Tips for School Administrators*, STORM PREDICTION CTR. FOR NAT'L OCEANIC & ATMOSPHERIC ADMIN., <http://www.spc.noaa.gov/faq/tornado/school.html> (last visited Apr. 15, 2015).

<sup>38</sup> David Greenberg, *Fallout Can Be Fun: How the Cold War Civil-Defense Programs Became Farce*, SLATE (Feb. 20, 2003, 10:50 AM), [http://www.slate.com/articles/news\\_and\\_politics/history\\_lesson/2003/02/fallout\\_can\\_be\\_fun.html](http://www.slate.com/articles/news_and_politics/history_lesson/2003/02/fallout_can_be_fun.html).

<sup>39</sup> Sydney Lupkin, *School Safety Experts Disagree on Lock Down Procedures After Newtown Shooting*, ABC NEWS (Dec. 16, 2012), <http://abcnews.go.com/US/school-safety-experts-disagree-lockdown-procedures-newtown-shooting/story?id=17978485>.

<sup>40</sup> *Id.*

<sup>41</sup> Tina Kelley, *In an Era of School Shootings, a New Drill*, N.Y. TIMES (Mar. 25, 2008), <http://www.nytimes.com/2008/03/25/nyregion/25drills.html?pagewanted=all>.

<sup>42</sup> See Bronstein, *supra* note 1 (describing parent complaints); see, e.g., Kelley, *supra* note 41 (describing the practice of lockdown drills in New Jersey and New York school districts).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Nirvi Shah, *States Pressing Schools to Add 'Intruder' Drills*, EDUC. WEEK (May 21, 2013), [http://www.edweek.org/ew/articles/2013/05/22/32emergency\\_ep.h32.html](http://www.edweek.org/ew/articles/2013/05/22/32emergency_ep.h32.html).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> Monique Garcia, *Quinn Signs Bill Requiring Schools to Hold Shooting Safety Drills*, CHI. TRIB., (July 1, 2013, 2:01 PM), <http://www.chicagotribune.com/news/local/politics/chi-quinn-signs-bill-requiring-schools-to-hold-shooting-safety-drills-20130701-story.html>.

<sup>50</sup> Shah, *supra* note 46.

though this was thought to be the next step by the legislature.<sup>51</sup> Many universities across the United States conduct their own active shooter drills at their discretion.<sup>52</sup>

### III. THE LEGISLATIVE HISTORY OF THE ACTIVE SHOOTER DRILL ACROSS THE NATION

Presently, in the United States, only six states require mandatory active shooter drills in one form or another.<sup>53</sup> Those states are Arkansas, Illinois, Missouri, New Jersey, Oklahoma, and Tennessee.<sup>54</sup>

The Illinois statute lays out the different types of drills that are required to be implemented by all schools—public, private, and charter.<sup>55</sup> Those drills include evacuations from the school or from buses for reasons of fire, suspicious items or persons, or incidents that involve hazardous materials.<sup>56</sup> They also include what the legislature calls “law enforcement drills” in which the purpose is to prepare school personnel for any event that might require the presence of law enforcement to deal with an emergency situation, including the possibility of a shooting incident.<sup>57</sup> Additionally, the legislation requires severe-weather drills and shelter-in-place drills, which require preparation for any kind of severe weather or chemical, biological, or nuclear warfare.<sup>58</sup>

Primary and secondary schools in Illinois are required to conduct a minimum of three evacuation drills with at least one including the local fire department.<sup>59</sup> The school districts do have the discretion to conduct more drills if they choose, with the additional drills accounting for “other evacuation incidents.”<sup>60</sup> One of the more edited parts of the legislation is the language concerning the mandatory school shooting incident drills.<sup>61</sup> Under Illinois law, schools are required to conduct a law enforcement drill to address a school shooting incident.<sup>62</sup> This drill must include participation by the appropriate law enforcement agency.<sup>63</sup> Furthermore, the protocol for these drills is to be set by the school districts.<sup>64</sup> The remaining state requirements for the drill concern informing the law enforcement agencies.<sup>65</sup>

Missouri passed the Active Shooter and Intruder Response Training for Schools legislation on August 28, 2013.<sup>66</sup> In contrast to the other states with mandatory active shooter drill laws, the Missouri legislation provides a more detailed description of how the drills should be conducted.<sup>67</sup> It provides more guidance on how to train the school staff, both teachers and

<sup>51</sup> Garcia, *supra* note 49.

<sup>52</sup> See Talia Richman, *Campus Shootings Spark Increase in Lockdown Drills*, USA TODAY (Mar. 15, 2014, 8:01 AM), <http://www.usatoday.com/story/news/nation/2014/03/15/campus-shooting-become-more-common-so-do-lockdown-drills/5833311/>.

<sup>53</sup> Bronstein, *supra* note 1.

<sup>54</sup> *Id.*

<sup>55</sup> School Safety Drill Act, 105 ILL. COMP. STAT. ANN. 128/15-40 (West 2015); see also ALICE TRAINING INST., <http://www.alicetraining.com/what-we-do/alice-components/> (last visited Apr. 18, 2015) (providing information, guidance, and tools for schools using the program).

<sup>56</sup> 105 ILL. COMP. STAT. ANN. 128/15-40(1)(A)–(C), (2)(A)–(C).

<sup>57</sup> *Id.* at 15-3.

<sup>58</sup> *Id.* at 15-4(A)–(C).

<sup>59</sup> *Id.* at 20(a)–(a)(1).

<sup>60</sup> *Id.* at 20(a)(2).

<sup>61</sup> *Id.* at 20(c).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 20(c)(1)(B)–(F).

<sup>66</sup> MO. ANN. STAT. § 170.315 (West 2015).

<sup>67</sup> *Id.* § 3.



personnel, rather than just stipulating the drill requirement.<sup>68</sup> But the Missouri law requires that all school personnel participate in a simulated active shooter drill conducted and led by law enforcement.<sup>69</sup> The law breaks down what the active shooter drills entail by enumerating discretionary steps that public school districts and charters schools can take.<sup>70</sup> Further, the law includes, as a final requirement, that public schools foster an environment that encourages students to report any potential threat or dangerous situation.<sup>71</sup>

The State of New Jersey enacted the School Security Drill Law in 2010.<sup>72</sup> It requires that every school in the state perform school security drills, in addition to fire drills.<sup>73</sup> The New Jersey legislature provides a frequently-asked-questions (“FAQ”) section in conjunction with the law in order to clarify the terms, details, and types of drills along with the logistics of performing them.<sup>74</sup> According to the language of the New Jersey law, and a definition provided by the law’s FAQ section, a school security drill is “an exercise, other than a fire drill, to practice procedures that respond to an emergency situation including, but not limited to, a non-fire evacuation, lockdown, or active shooter situation and is similar in duration to a fire drill.”<sup>75</sup>

The New Jersey law clearly articulates the aims of the legislature with respect to the level of preparedness it expects from the state’s schools. One specific requirement of the state is that every school holds at least one fire drill and one school security drill each month within school hours.<sup>76</sup> This includes summer months where the schools are open for instructional programs.<sup>77</sup> Furthermore, the law requires that school districts keep records of school security drill activity.<sup>78</sup>

In Arkansas, Senator Missy Irvin introduced the Safe School Initiative Act, which passed and became law in March 2013, which has since been amended in April 2015.<sup>79</sup> In the Act, there were small changes to the requirements for emergency drill mandates already in place.<sup>80</sup> But the act also includes a provision that mandated the use of active shooter drills in Arkansas school districts.<sup>81</sup> It falls under the Safe School Initiative Act, which also provides for tornado drills, emergency plans for terrorist attacks, and various forms of training for school personnel and students.<sup>82</sup>

<sup>68</sup> *Id.* §§ 1, 2.

<sup>69</sup> *Id.* § 3.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.* § 6.

<sup>72</sup> School Security Drill Law, N.J. STAT. ANN. § 18A:41-1 (West 2015), available at <http://www.state.nj.us/education/schools/security/drill/Law.pdf>; see *School Security Drill Law N.J.S. 18A:41-1 FAQs*, N.J. DEP’T EDUC., <http://www.state.nj.us/education/schools/security/drill/faq.pdf> (last visited Apr. 18, 2015).

<sup>73</sup> N.J. STAT. ANN. § 18A:41-1. School Security Drill Law, N.J. STAT. ANN. § 18A:41-1 (West 2015), available at <http://www.state.nj.us/education/schools/security/drill/Law.pdf>.

<sup>74</sup> N.J. DEP’T EDUC., *supra* note 72.

<sup>75</sup> *Id.*; N.J. STAT. ANN. § 18A:41-6 (West 2015).

<sup>76</sup> N.J. DEP’T EDUC., *supra* note 72; N.J. STAT. ANN. § 18A:41-1.

<sup>77</sup> N.J. DEP’T EDUC., *supra* note 72; N.J. STAT. ANN. § 18A:41-1.

<sup>78</sup> N.J. DEP’T EDUC., *supra* note 72.

<sup>79</sup> Safe Schools Initiative Act, ARK. CODE ANN. § 6-15-1303(a) (West 2015), amended by 2015 ARK. ACTS 950; Ryan Saylor, ‘Active Shooter’ Drills Coming to a School Near You?, CITY WIRE (Feb. 28, 2013, 6:43 PM), [http://www.thecitywire.com/node/26700#\\_VLyysC58uLN](http://www.thecitywire.com/node/26700#_VLyysC58uLN).

<sup>80</sup> Safe Schools Initiative Act, ARK. CODE ANN. § 6-15-1303(a) (requiring training for all students and school personnel for preventing and responding to acts of violence, terrorism, and nature).

<sup>81</sup> *Id.* § (a)(3).

<sup>82</sup> *Id.* § (a); see also Marci Manley, *Conway High School Conducts Crisis Drill with FBI, Local Law Enforcement*, ARK. MATTERS (Jan. 5, 2015, 5:38 PM), <http://www.arkansasmatters.com/story/d/story/conway-high-school-conducts-crisis-drill-with-fbi/33812/oBuyWztFoUmPHddA9FyJfw> (describing an Arkansas parent’s and superintendent’s respective reactions to the implementation of active shooter drills).

Other states, such as Arizona, use the lockdown drill.<sup>83</sup> It is similar in concept to the Illinois, Missouri, New Jersey, and Arkansas active shooter drill laws discussed above, but it does not involve active shooter simulations with props, guns, theatrical makeup and the like.<sup>84</sup> Instead, when the schools announce a lockdown drill, teachers sweep the area, bringing adults and students into the nearest classrooms where they lock the doors and turn off the lights, remaining quiet and out of sight.<sup>85</sup> Lockdown drills are not just prompted by criminal threats to the school's children.<sup>86</sup> In fact, Arizona schools use lockdown drills for weather or chemical-related emergencies, as the lockdown procedure provides a safe space for students and adults alike.<sup>87</sup> Furthermore, teaching can continue during modified lockdown procedure, while only the students' movement throughout the school building is restricted.<sup>88</sup>

"Lockdown drills" are not necessarily a new phenomenon.<sup>89</sup> They have been used since the Columbine massacre in 1999; however, because of Sandy Hook, the growing pressure to use more realistic simulation drills has caused many parents pause.<sup>90</sup> The use of theatrical make-up to simulate wounds, real but unloaded guns, and armed police officers begs the question of whether this is what makes students more prepared to respond in an active shooter situation.<sup>91</sup> The response of students and teachers in these drills seems to suggest that the simulated violence and carnage are causing more trauma than necessary,<sup>92</sup> while at the same time potentially failing to prepare students more effectively for an emergency.

#### IV. ANALYZING THE USE AND EFFICACY OF ACTIVE SHOOTER DRILLS IN SCHOOLS

##### A. A Look at this Approach

Much of what is at issue with the active shooter drill is whether it actually provides the best amount of preparation for students and staff in case there should ever be an active shooter present on school grounds.<sup>93</sup> The next major issue is the effect that they have on the students and also on the school staff.<sup>94</sup> A great deal of the "preparation" comes from the shock value of the drills, in that they have been used to highlight just how emotionally traumatic these intrusions are for staff and students.<sup>95</sup> In fact, these active shooter drills have gone so far with terrifying students that there have been reports of students text messaging their parents mid-drill and post-drill about how traumatizing the experience was.<sup>96</sup> Parents' opinions are reportedly split on whether active shooter drills are a wise response or an overreaction to past tragedies.<sup>97</sup> But schools have

<sup>83</sup> Karen Schmidt, *School Lockdown Drills Regularly Practiced in Arizona*, AZ CENT. (July 31, 2014, 3:54 PM), <http://www.azcentral.com/story/news/local/chandler/2014/07/30/school-lockdown-drills-regularly-practiced-in-arizona/13283571/>.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> Lisa Belkin, *School Lockdown Drills: Where is the Line Between Preparing Our Kids and Terrifying Them?*, HUFFINGTON POST (Feb. 6, 2013, 4:39 PM), [http://www.huffingtonpost.com/lisa-belkin/school-lockdown-drills\\_b\\_2632252.html](http://www.huffingtonpost.com/lisa-belkin/school-lockdown-drills_b_2632252.html).

<sup>90</sup> *Id.*

<sup>91</sup> *Id.* See discussion *infra* Part V.A.

<sup>92</sup> William McGuinness, *Oregon Teachers Fail Active Shooter Drill as Masked Men Shoot Blanks at Surprised Faculty*, HUFFINGTON POST (May 1, 2013, 6:09 PM), [http://www.huffingtonpost.com/2013/05/01/active-shooter-drill-oregon\\_n\\_3195706.html](http://www.huffingtonpost.com/2013/05/01/active-shooter-drill-oregon_n_3195706.html) (questioning the efficacy of school shooting drills as they stand).

<sup>93</sup> *Id.*

<sup>94</sup> See *id.*

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> *Id.* But see, Anna Almendrala, *The Harsh Dilemma of Preparing Kids for the Worst at School*, HUFFINGTON POST (Feb. 19, 2014, 10:52 AM), [http://www.huffingtonpost.com/2014/02/19/active-shooter-drills-at-school\\_n\\_4785349.html](http://www.huffingtonpost.com/2014/02/19/active-shooter-drills-at-school_n_4785349.html) (providing the perspective of



maintained that the drills are necessary, as high-stress tests can be more accurate in identifying flaws in emergency response plans.<sup>98</sup> There is support from law enforcement officials as well, who note that while it is tragic that such measures have to be taken, there is value in the preparation for law enforcement officers, staff, and students.<sup>99</sup> But with all of the terror and trauma that these active shooter drills induce, it is hard not to wonder if simply frightening students is enough to cause them to learn from the experience.<sup>100</sup>

#### B. Alternatives for Preparation

In lieu of taking such dramatic steps in the active shooter drills, some experts have noted that it is more effective to provide students with instructions on how they should respond and practice.<sup>101</sup> The experts also noted that drills that did not use traumatic stimuli, such as fake blood and gunshots, led to increased preparedness of the students and did not lead to heightened anxiety or perceptions of schools being unsafe.<sup>102</sup> Additionally, these results were consistent with drills that were announced to students prior to their performance.<sup>103</sup> The unannounced drills do not have sufficient research to guide experts, but it is possible that for students and adults who suffer from anxiety or have history of trauma, participation in unannounced drills without being properly prepared could be incredibly distressing and mentally damaging.<sup>104</sup>

Along the lines of providing students with instructions, it may be more beneficial to use presentations to students, perhaps even smaller workshops to ensure participation by every student. Furthermore, the National Association of School Psychologists (“NASP”) recommends a hierarchy of education and training.<sup>105</sup> This means that when schools implement active shooter drills, rather than jump directly into performing the full simulation drill, schools should progress to that point.<sup>106</sup> The NASP suggests that schools start off small, with simple, low-cost, discussion-based exercises.<sup>107</sup> This could include introductions to crisis responders, presumably so that students feel comfortable and safe should those responders arrive at their school and would be more likely to follow their instructions.<sup>108</sup> Schools could also use orientation activities or

a parent desperately advocating for active shooter drills in California, a state that has denied legislation for their mandate, in contrast to the perspectives of other parents and researchers who disagree with the level of intensity of the drills).

<sup>98</sup> McGuinness, *supra* note 92.

<sup>99</sup> Bridget O’Shea, *Active Shooter Drill Trains Cops, Staff, and Students at BHS*, CHI. TRIB. (Mar. 20, 2015, 3:56 PM), <http://www.chicagotribune.com/suburbs/barrington/news/ct-bcr-active-shooter-drill-tl-0326-20150320-story.html> (providing information on how a full-scale active shooter drill carried out with real gunshots with blank ammunitions, theatrical makeup, and informed volunteers could be effective).

<sup>100</sup> McGuinness, *supra* note 92.

<sup>101</sup> Bronstein, *supra* note 1.

<sup>102</sup> *Id.*

<sup>103</sup> *See id.* But *see Active Shooter Drill Underway in Clay County*, NEWS 4 JAX (Mar. 13, 2015, 9:47 AM), <http://www.news4jax.com/news/active-shooter-drill-underway-in-clay-county/31775598> (announcing to the community that the active shooter drill was taking place, but did not state what, if any, stimuli would be used). *See also, Active Shooter Drills at Two Andover Schools Today*, KWCH12 (Apr. 17, 2015, 7:49 AM), <http://www.kwch.com/news/local-news/Active-Shooter-Drills-at-two-Andover-schools-today/32418612> (announcing that parents were forewarned that an active shooter drill was taking place, with the use of guns and blank ammunitions, but students were not part of the drill). *But cf. Illinois School Shooting Drill: Cary-Grove High School to Fire Blanks in Hallway, Angering Parents*, HUFFINGTON POST (Jan. 29, 2013, 2:07 PM), [http://www.huffingtonpost.com/2013/01/29/illinois-school-shooting-drill-cary\\_n\\_2575023.html](http://www.huffingtonpost.com/2013/01/29/illinois-school-shooting-drill-cary_n_2575023.html) (noting that the active shooter drill was preannounced in the form of letters sent to parents in order to avoid inducing student anxiety through its performance, however, there was still a negative response from parents to the use of one traumatic stimuli, the gunshots, for the drill).

<sup>104</sup> Bronstein, *supra* note 1.

<sup>105</sup> *See* NAT’L ASS’N SCH. PSYCHOLOGISTS, BEST PRACTICE CONSIDERATIONS FOR SCHOOLS IN ACTIVE SHOOTER AND OTHER ARMED ASSAILANT DRILLS 4–5 (2014), available at [http://www.nasponline.org/resources/handouts/BP\\_Armed\\_Assailant\\_Drills.pdf](http://www.nasponline.org/resources/handouts/BP_Armed_Assailant_Drills.pdf) [hereinafter NASP REPORT].

<sup>106</sup> *Id.* at 4.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.*

instructional media, such as educational videos.<sup>109</sup> While these kinds of exercises might seem trite in comparison to a full-scale drill, this may help schools avoid the repercussions of a full-scale simulation, such as traumatized students or the potential for lawsuits.<sup>110</sup> After the small-scale exercises have been conducted, and if the school determines it is appropriate, only then does the NASP recommend transitioning toward more complex, operations-based exercises.<sup>111</sup>

For simulations, the NASP notes that it is exceptionally important that those simulations are preceded by extensive prior education and preparation, while also taking into account the readiness of the individuals involved in the drill.<sup>112</sup> The NASP notes a potential split in the results of the drill, with some participants left feeling prepared and empowered, and others left feeling emotionally traumatized.<sup>113</sup> The NASP also explains that should the simulation drills include simulated gunfire or individuals being tackled, then participation should never be mandatory for students or staff.<sup>114</sup> Unfortunately, for some states with the mandatory drill legislation already in place, this “opt-out” provision is not available.<sup>115</sup>

However, some schools have shown that the process can be effectively carried out if the active shooter drill is planned well in advance and its participants are aware of the process at its inception.<sup>116</sup> In those cases, the students are aware of the drills in advance, and their status as volunteers shows that they were willing to participate in the drill and not surprised by it.<sup>117</sup> The issue, however, remains that the use of theatrical makeup to simulate gunshot wounds, the sounds of guns firing, and the predatory acting on the part of the mock shooter, may all be too traumatic, even with the benefit of prior notice.<sup>118</sup> Further, the advantage of testing beneficial crisis software during a drill<sup>119</sup> may not outweigh the cost of the potential traumatic effect, even for those previously-informed student volunteers.<sup>120</sup>

### *C. Should the Legislation be Amended to Control the Situation Better?*

One option to deal with the contentious reactions and results of active shooter simulation drills is to amend the legislation that mandates schools in their respective states perform them. However, the practicality of this approach may be outweighed by further problems this can cause. The first consideration is always the logistical one: Would the amended legislation pass? In the immediate years following the Sandy Hook shooting, this question might not have been so inhibiting, as some states, such as Arkansas, which proposed the legislation the month following then passed the legislation within two years, a relatively short timeline.<sup>121</sup> Now, with so much

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* at 5.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.* at 6.

<sup>115</sup> See MO. ANN. STAT. § 170.315.3 (West 2015).

<sup>116</sup> O’Shea, *supra* note 99; see generally Carolyn Thompson, *School Shooting Drills: How Realistic Should They Be?*, HUFFINGTON POST (Jan. 31, 2013, 8:52 AM), [http://www.huffingtonpost.com/2013/01/31/school-shooting-drills-ho\\_n\\_2589517.html](http://www.huffingtonpost.com/2013/01/31/school-shooting-drills-ho_n_2589517.html) (explaining the ambivalence parents and students feel toward the use of active shooter drills).

<sup>117</sup> See O’Shea, *supra* note 99.

<sup>118</sup> See Thompson, *supra* note 116 (citing an associate professor of educational psychology at the University of Buffalo about necessity or lack thereof of extreme realism in active shooter drills).

<sup>119</sup> See, e.g., O’Shea, *supra* note 99 (discussing CrisisGo, a mobile app that acts as an internal communication device to connect staff, administrators, and emergency responders).

<sup>120</sup> See, e.g., Nona Willis Aronowitz, *Fake Blood and Blanks: Schools Stage Active Shooter Drills*, NBC NEWS (Feb. 14, 2014, 3:48 AM), <http://www.nbcnews.com/news/us-news/fake-blood-blanks-schools-stage-active-shooter-drills-n28481> (describing the visible emotional reaction of student volunteers who were shaking and crying following the drill’s conclusion).

<sup>121</sup> See Saylor, *supra* note 79; see S. 140, 89th Gen. Assemb., Reg. Sess. (Ark. 2013), available at <http://www.arkleg.state.ar.us/acts/2013/Public/ACT484.pdf> (codified at ARK. CODE ANN. § 6-15-1303(a) (West 2015)).

fallout over the practice of the drills,<sup>122</sup> it stands to reason that the legislation might not pass with such ease this time around. A further problem with amended legislation is that it causes a liability problem. With states directing schools on exactly what procedures to carry out, there becomes a chain of liability that was not present before, leaving the states open to more lawsuit potential than what already exists.<sup>123</sup>

Conversely, if the legislation was clearer on what schools can and cannot do with respect to carrying out these active shooter drills, this could prevent the drills from becoming even more alarming or desensitizing than they currently are.<sup>124</sup> As will be discussed further in Part V, children are at risk of becoming desensitized or hypersensitive to the active shooter drills.<sup>125</sup> The risk here is that those children may be at a disadvantage should a real active shooter ever be present on school grounds. This would be contrary to the entire purpose of the legislation and the preparedness it aims to instill in the classroom.

## V. THE IMPACT OF ACTIVE SHOOTER DRILLS IN SCHOOLS

### A. What this Legislation Means for Current and Future Students

The legislation for active shooter drills varies from state to state,<sup>126</sup> but the reactions to the drills seem to be very similar.<sup>127</sup> The drills are being met with a great deal of criticism and concern from parents, students, and staff alike.<sup>128</sup> One potential result of these drills, critics argue, is that students and staff will not be sufficiently prepared should there be a real active shooter on school grounds.<sup>129</sup> If the drills are only achieving shock value, that is, if they only highlight the under-preparedness of the staff and students,<sup>130</sup> then they are unlikely to bring about any meaningful improvement. An arguably worse consequence is that students, in their eagerness to perform the drills,<sup>131</sup> may no longer take the drills seriously enough should they be performed regularly at alarming levels.

Some schools have heightened the attractiveness of the drills to a point where students look forward to playing the roles of victims.<sup>132</sup> In a particularly disturbing quote from a school in

<sup>122</sup> See Bronstein, *supra* note 1 (highlighting the growing concern over the efficacy and extreme nature of the drills and the spreading media coverage of the trauma and upset that active shooter drills are causing).

<sup>123</sup> See NASP REPORT, *supra* note 105, at 4 (explaining the current lawsuit potential for schools implementing active shooter drills).

<sup>124</sup> *Id.* at 5.

<sup>125</sup> See Aronowitz, *supra* note 120.

<sup>126</sup> See MO. ANN. STAT. § 170.315.3 (West 2015); see N.J. STAT. ANN. § 18A:41-6 (West 2015); see Safe Schools Initiative Act, ARK. CODE ANN. § 6-15-1303(a) (West 2015); see 105 ILL. COMP. STAT. ANN. 128/15-40(1)(A), (2)(A)–(C).

<sup>127</sup> McGuinness, *supra* note 92. Compare Stephanie Mencimer, *Active Shooter Drills Don't Really Prepare People, But They Do Make Them Cry*, MOTHER JONES (Sept. 5, 2014, 10:58 AM), <http://www.motherjones.com/mojo/2014/09/active-shooter-drills-lawsuits> (explaining the terrified reactions of individuals in the workplace and in schools during unannounced active shooter drills and expressing the futility of the practice), with Denise Civiletti, *Realistic 'Active Shooter' Drill Held at Riley Avenue Tests School, Emergency Response to Horrifying Scenario*, RIVERHEAD LOCAL (Nov. 15, 2014, 12:11 PM), <http://www.riverheadlocal.com/2014/11/15/realistic-active-shooter-drill-in-riverhead-tests-emergency-response/> (explaining how a well-planned drill to informed participants can be successful, but still anxiety inducing).

<sup>128</sup> Bronstein, *supra* note 1; Maxim Alter, *Students, Parents: No Warning Before Active Shooter Drill at Hughes STEM High School*, WCPO 9 CINCINNATI (Apr. 27, 2015, 2:27 PM), <http://www.wcpo.com/news/local-news/hamilton-county/cincinnati/students-parents-no-warning-before-active-shooter-drill-at-hughes-stem-high-school> (highlighting the anger felt by both students and parents, how the lack of information led a student and parents to call 911 in response to the drill, and quoting one parent's grievances over the lack of communication); see also Elisha Fieldstadt, *Teacher Sues Oregon School District for Traumatic Active Shooter-Drill*, NBC NEWS (Apr. 21, 2015, 3:00 PM), <http://www.nbcnews.com/news/us-news/teacher-sues-oregon-elementary-school-traumatic-active-shooter-drill-n345631> (explaining that one Oregon teacher involved in an unannounced active shooter drill during an in-service day has now filed a federal lawsuit as a result of the trauma she felt when the mock gunman simulated shooting her).

<sup>129</sup> Alter, *supra* note 128; McGuinness, *supra* note 92.; Mencimer, *supra* note 127.

<sup>130</sup> McGuinness, *supra* note 92.

<sup>131</sup> Aronowitz, *supra* note 120.

<sup>132</sup> *Id.*

Troy, Missouri, one student volunteer, a high school freshman, looked forward to “getting shot” in an active shooter drill, and seemed to view the entire incident as a sort of game.<sup>133</sup> This phenomenon lies at the other extreme on the spectrum of emotional responses to the active shooter drills. While some students will be terrified of the experience,<sup>134</sup> others will look forward to it with a disturbing amount of enthusiasm, one that seems to blur the line between fantasy and reality.<sup>135</sup> Some elementary-aged students have incorporated lockdown drills into their playtime at home, using the procedures they are taught in schools as a recreational activity with younger siblings, while another has reported nightmares as a result of the drills.<sup>136</sup> This type of response by students begs the question of what will happen should a real shooting incident occur. And furthermore, what, and how different, will the students’ responses be should that happen? Will they be sufficiently prepared?

At the other end of the spectrum, the more typical results are manifested, in which students were more traumatized than anything else.<sup>137</sup> In those situations, students felt that the process was either too lax or too stressful.<sup>138</sup> Both of those characteristics can be highly detrimental in preparing students for the real life equivalent.<sup>139</sup>

In the middle of these two extremes, some students felt safe and prepared by the active shooter drills. One student in Arkansas noted that he felt safe and was confident in his school’s ability to respond to an active shooter.<sup>140</sup> With such differing results, it makes sense that schools would keep active shooter drills in place. But what is the cost of such a decision?

#### *B. At What Point Does Preparedness Go Too Far?*

As if the active shooter drills were not sufficiently fraught with controversy, there has been a push from states and lawmakers as well as special interest groups, such as the National Rifle Association (“NRA”), to allow teachers or security guards to carry guns in schools.<sup>141</sup> In a notoriously publicized quote following the Sandy Hook school shooting, Wayne LaPierre, president of the NRA, declared that “the only thing that stops a bad guy with a gun is a good guy with a gun.”<sup>142</sup> The call to use armed guards or to arm teachers has been met with disgust and abhorrence by many, even some of the NRA’s Republican allies.<sup>143</sup>

<sup>133</sup> *Id.*

<sup>134</sup> Bronstein, *supra* note 1.

<sup>135</sup> See Jack Healy, *In Age of School Shootings, Lockdown Is the New Duck-and-Cover*, N.Y. TIMES, Jan. 17, 2014, at A1, available at [http://www.nytimes.com/2014/01/17/us/in-age-of-school-shootings-lockdown-drills-are-the-new-duck-and-cover.html?\\_r=0](http://www.nytimes.com/2014/01/17/us/in-age-of-school-shootings-lockdown-drills-are-the-new-duck-and-cover.html?_r=0) (providing examples of three young children from North Carolina, Kentucky, and Kansas who have incorporated active shooter drill tactics into their playtime games); Aronowitz, *supra* note 120. (highlighting the enthusiasm that participating students felt with respect to performing in the drills).

<sup>136</sup> Healy, *supra* note 135.

<sup>137</sup> Bronstein, *supra* note 1.

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> See Bronstein, *supra* note 1; see Dan Friedman & Chelsia Marcus, *NRA’s Solution to Prevent Future School Shootings . . . More Guns at Schools*, N.Y. DAILY NEWS (Dec. 21, 2012, 2:32 PM), <http://www.nydailynews.com/news/national/nra-defiance-newtown-draws-swift-harsh-reactions-article-1.1225243>; see Andrea Billups, *Schools, Legislatures Move to Allow Guns on Campuses*, NEWSMAX (Feb. 24, 2014, 3:19 PM), <http://www.newsmax.com/Newsfront/schools-guns-safety-Jim-Irvine/2014/02/24/id/554453/> (expressing conservative views on gun ownership and how those rights should be extended to allow teachers who already have concealed carry permits to bring their guns to school); see also *Republican Lawmaker Whose Son Survived Arapahoe High School Shooting Wants Armed Teachers*, *supra* note 36 (expressing one lawmaker’s desire to arm teachers in order to better protect students in case of a school shooting).

<sup>142</sup> Friedman & Marcus, *supra* note 141.

<sup>143</sup> *Id.*; Billups, *supra* note 141.

Unfortunately, some states have taken that notion into consideration, and school districts in Texas have gone as far as to allow teachers to carry weapons on school grounds.<sup>144</sup> Districts such as the Argyle Independent School District have allowed some teachers the right to carry a gun on school grounds in order to “protect our students.”<sup>145</sup> Before they can carry a gun on school property, the teachers must meet certain requirements.<sup>146</sup> They must obtain a license to carry a gun, pass a psychological evaluation, and be trained in how to use the weapon.<sup>147</sup> Argyle is not the only school district allowing teachers to be armed; in fact, twenty-eight states have laws allowing adults to carry licensed guns into schools.<sup>148</sup> Not surprisingly, there is significant pushback from state government leaders in allowing weapons on school grounds.<sup>149</sup> Some of the rural districts in Kansas City, Missouri have provided weapons and training to teachers, despite a veto from Governor Jay Nixon of the legislation that would permit the special training for teachers.<sup>150</sup> The governor’s asserted reasoning for vetoing the legislation is one of common sense: “arming teachers will not make our schools safer . . . I cannot condone putting firearms in the hands of educators who should be focused on teaching our kids.”<sup>151</sup> Additional pushback against legislation allowing teachers to carry guns in schools has also come from the press. Specifically, one reporter in Kansas City advised that the legislature look to an incident at Idaho State University, where a professor with a concealed hand gun accidentally shot himself in the foot and, fortunately, did not harm any of his students.<sup>152</sup> Generally, the notion and practice of arming teachers is one that is highly contentious and disliked by a wide variety of individuals and groups across the state. However, that has not stopped the practice from being put into effect in some places.

### C. What it Could Mean to Repeal or Amend the Legislation

While it is important for students and staff alike to be prepared for whatever kind of harm they could be exposed to during school hours, it is probably not necessary to go to the lengths that school districts and state legislatures have gone to thus far.<sup>153</sup> At this point, if the active shooter drills are leaving students traumatized or desensitized,<sup>154</sup> as some reports have shown, then a different approach could be more effective in the long run, while still preparing students and staff for the unthinkable.

A different approach need not entirely remove the active shooter drill. In fact, removing a few elements of the drill could go further than dismissing the drills in their entirety. First, striking the use of guns and blank ammunitions<sup>155</sup> could alleviate a great deal of the stress that is caused by these drills. As of June 10, 2014, there had been thirty-four school shootings since Sandy Hook on December 14, 2012.<sup>156</sup> Statistically speaking, the likelihood of students being in a school

<sup>144</sup> Valerie Strauss, *Texas School District Arms Teachers and Posts Warning Signs*, WASH. POST (Sept. 6, 2014), <http://www.washingtonpost.com/blogs/answer-sheet/wp/2014/09/06/texas-school-district-arms-teachers-and-posts-warning-signs/>.

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> Kate Murphy, *Armed Teachers Aim to Defend K-12 Schools*, NEWS21 (Aug. 16, 2014), <http://gunwars.news21.com/2014/armed-teachers-aim-to-defend-k-12-schools/>; Strauss, *supra* note 144.

<sup>149</sup> *See, e.g.*, Strauss, *supra* note 144.

<sup>150</sup> *Id.*

<sup>151</sup> *Id.*

<sup>152</sup> Lewis Diuguid, *Missouri Lawmakers Should Pay Attention to Accidental Shooting on Idaho Campus Ahead of Veto Session Next Week*, KAN. CITY STAR (Sept. 3, 2014, 2:19 PM), <http://www.kansascity.com/opinion/opn-columns-blogs/lewis-diuguid/article1439244.html>.

<sup>153</sup> *See generally* Bronstein, *supra* note 1.

<sup>154</sup> *Id.*

<sup>155</sup> *See id.*; Aronowitz, *supra* note 120.

<sup>156</sup> *Spinning Statistics on School Shootings*, FACTCHECK.ORG (June 25, 2014), <http://www.factcheck.org/2014/06/spinning-statistics-on-school-shootings/>.



shooting incident is incredibly low.<sup>157</sup> The odds of “any particular K-12 school in the United States experiencing a shooting incident in any year are approximately 1 in 53,925.”<sup>158</sup> By that logic, the likelihood of a school shooting happening at any one school is low enough to not warrant the firing of blank ammunitions on school grounds, given the significant trauma this action often causes students. Instead, a frank discussion about weapons could be an acceptable alternative. If a school still does not feel that this is sufficient, then perhaps an unloaded weapon could be brought to school for visually demonstrative purposes only. Although the sight of a gun could be traumatic in itself, it would still be preferable to the visceral reaction the sound of shots fired evokes.

Perhaps the most important alteration to the active shooter drill would be prior mandatory notice to parents, students, and staff. Much of the issues that school districts face center around the lack of informed consent to these drills.<sup>159</sup> Notice and explanations of what the drills will entail along with their purpose could go a long way in ensuring meaningful preparation, rather than causing trauma from the sheer shock value of the exercise.

#### *D. What Are the Legal Consequences?*

At this point, the complaints that schools across the nation have received in response to these active shooter drills have stayed within the school system.<sup>160</sup> The consequences have thus far been limited to a revision of the active shooter drill procedure, or simply a promise to forewarn parents and students about when the school will be conducting the drills.<sup>161</sup> The concern with active shooter drills being too traumatic is not limited to parents and students. In fact, teachers from Missouri, where active shooter drills are required by law in schools, have expressed significant concern.<sup>162</sup> They have complained to the Missouri State Teachers Association about the drills being “overwhelming” and that instead of feeling prepared to help, their reaction has been that they will not know what to do if an active shooter does come onto school grounds.<sup>163</sup> At one school in Oregon, teachers were “shocked and caught off guard” after the school held a shooting drill.<sup>164</sup> During an in-service day in which students were not present, two masked men burst into a room, where fifteen teachers were having a meeting, and began firing guns with blank ammunition.<sup>165</sup> The terrified staff members only realized it was not a real shooting when they noticed that none of them were bleeding.<sup>166</sup>

<sup>157</sup> *Youth Gun Violence Fact Sheet*, NAT'L ASS'N SCH. PSYCH. (2013), [http://www.nasponline.org/resources/crisis\\_safety/youth\\_gun\\_violence\\_fact\\_sheet.pdf](http://www.nasponline.org/resources/crisis_safety/youth_gun_violence_fact_sheet.pdf).

<sup>158</sup> Maximillian Wachtel, *School Shootings: What Are the Odds?*, PSYCHLAW J., <http://www.psychlawjournal.com/2012/12/school-shootings-what-are-odds.html> (last visited Apr. 18, 2015).

<sup>159</sup> See, e.g., *Mom Says Local Grade School's Active Shooter Drill Traumatized Child*, KMOV (Feb. 13, 2014, 6:28 PM), <http://www.kmov.com/story/28500383/mom-says-local-grade-schools-active-shooter-drill-traumatized-child>.

<sup>160</sup> See *id.* (expressing one mother's grievances through the use of the media).

<sup>161</sup> See generally Aaron Mesmer, *Parents Furious After Unannounced Shooter Drill at Polk Middle School*, FOX 13 NEWS (Nov. 14, 2014, 3:36 AM), <http://www.myfoxtampabay.com/story/27383629/parents-furious-after-unannounced-shooter-drill-at-polk-middle-school> (explaining the parent outcry and the subsequent repercussions following an unannounced active shooter drill).

<sup>162</sup> Dan Frosch, *'Active Shooter' Drills Spark Raft of Legal Complaints*, WALL ST. J. (Sept. 4, 2014, 3:04 PM), <http://online.wsj.com/articles/active-shooter-drills-spark-raft-of-legal-complaints-1409760255>.

<sup>163</sup> *Id.*

<sup>164</sup> *Teachers Shocked, Frightened After School Holds Unplanned Shooting Drill*, CBS SEATTLE (May 2, 2013, 6:53 AM), <http://seattle.cbslocal.com/2013/05/02/teachers-shocked-frightened-after-school-holds-unplanned-shooting-drill/>; see Fieldstadt, *supra* note 128 (noting that for a development concerning a federal lawsuit that has been filed by one of the Oregon teachers who was traumatized during the unannounced drill has filed a federal lawsuit).

<sup>165</sup> *Teachers Shocked, Frightened After School Holds Unplanned Shooting Drill*, *supra* note 164.

<sup>166</sup> *Id.*



*E. The Expansion of Active Shooter Drills Out of the Schools*

But schools are not the only arena in which these types of drills are taking place.<sup>167</sup> In fact, many other public and private institutions and businesses are implementing these drills in order to better prepare their employees and their response plans.<sup>168</sup> However, instead of resulting in better preparedness, some of these drills have sparked legal complaints.<sup>169</sup> In Denver, Colorado, a nurse working at a retirement facility was so traumatized by the drill, which she did not know was a simulation, that she quit her job and filed a federal law suit against the officer who conducted the active shooter drill at the facility, as well as against the facility.<sup>170</sup>

In a similar incident in Florida, a nurse with the Okaloosa County Health Department was not informed that the active shooter drill being conducted was a simulated exercise.<sup>171</sup> The nurse's sister filed a complaint with state officials, and according to that complaint, employees were not informed about the drill, which included a police officer firing blank ammunitions.<sup>172</sup> After an investigation, the health department found that no policies were violated, but the nurse nonetheless intends to file a lawsuit because of the physical effects of the drill—including her overwhelming belief that she was going to have a heart attack throughout the course of the simulation.<sup>173</sup>

Given the reported frequency of these situations and results, it is actually quite surprising that more lawsuits have not been filed. But with the continuation of surprise tactics such as these, it seems likely that it will only be a matter of time before some irate parent or teacher lashes back at school districts and the local law enforcement agencies who aid in carrying out these drills.<sup>174</sup>

## VI. CONCLUSION

When determining the best course of action for proceeding with active shooter drills, it is important to weigh the benefits of being prepared with the repercussions of traumatized students and staff. The drills will lose all efficacy if carried out in such a manner that overly traumatizes, or worse, desensitizes students to the seriousness of their objective, which is to prepare students for an intruder's attack. At this point, states with the mandatory active shooter drills would benefit from providing students, parents, and staff with more information prior to conducting any drills. A full- scale simulation drill should not be used if the students are not aware that it will happen prior to its use, nor if the school has not taken preliminary steps to prepare to students, such as drills and evacuations that do not involve the use of traumatic stimuli. Furthermore, the schools across the nation would benefit from frank and honest discussions about the realities of school shootings and how to recognize and be prepared for the danger. Ultimately, student safety is paramount, but the process by which schools and the states aim to ensure that safety should not come at the expense of students' education and well-being.

<sup>167</sup> Frosch, *supra* note 162.

<sup>168</sup> *See id.*

<sup>169</sup> *Id.*

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> *Id.*

<sup>174</sup> Ken Trump, *School Active Shooter Drills Trigger Lawsuit and Injury Claims*, NAT'L SCH. SAFETY SEC. SERVS. (Sept. 4, 2014), <http://www.schoolsecurity.org/2014/09/school-active-shooter-drills-trigger-lawsuit-injury-claims/>.