

Committee Report

REGULAR CALENDAR

October 15, 2020

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Education to which was referred HB
1509,**

**AN ACT relative to emergency threat protection orders
for individuals at post secondary educational
institutions. Having considered the same, report the
same: RECOMMENDED FOR FUTURE LEGISLATION.**

Rep. David Luneau

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 1509
Title:	relative to emergency threat protection orders for individuals at post secondary educational institutions.
Date:	October 15, 2020
Consent Calendar:	REGULAR
Recommendation:	RECOMMENDED FOR FUTURE LEGISLATION

STATEMENT OF INTENT

University System of New Hampshire campus safety officials are seeing an increase in threats involving firearms and have asked the legislature for tools to help reduce these threats to the safety of students, faculty, and staff. This bill enables campus safety officials to investigate and take action based on reports made by friends, family, roommates, and others concerned about the safety and wellbeing of a member of the school community or a potential threat to persons on campus. While some on the committee are concerned that this policy would erode constitutional rights to possess a firearm, the majority of the committee believes it provides campus safety officials with the right tools to help reduce threats that could manifest in a higher education community, and puts some actual structure behind the phrase "see something, say something."

Vote 9-4.

Rep. David Luneau
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Education

HB 1509, relative to emergency threat protection orders for individuals at post secondary educational institutions.**RECOMMENDED FOR FUTURE LEGISLATION** .

Rep. David Luneau for Education. University System of New Hampshire campus safety officials are seeing an increase in threats involving firearms and have asked the legislature for tools to help reduce these threats to the safety of students, faculty, and staff. This bill enables campus safety officials to investigate and take action based on reports made by friends, family, roommates, and others concerned about the safety and wellbeing of a member of the school community or a potential threat to persons on campus. While some on the committee are concerned that this policy would erode constitutional rights to possess a firearm, the majority of the committee believes it provides campus safety officials with the right tools to help reduce threats that could manifest in a higher education community, and puts some actual structure behind the phrase "see something, say something." **Vote 9-4.**

Original: House Clerk
Cc: Committee Bill File

HB 1509 relative to emergency threat protection orders for individuals at post-secondary educational institutions

Recommendation: Future legislation (9/4)

USNH campus safety officials are seeing an increase in threats involving firearms and have asked the legislature for tools to help reduce these threats to the safety of students, faculty and staff. This bill enables campus safety officials to investigate and take action based on reports made by friends, family, roommates and others concerned about the safety and wellbeing of a member of the school community or a potential threat to persons on campus. While some on the committee are concerned that this policy would erode constitutional rights to possess a firearm, the majority of the committee believes it provides campus safety officials with the right tools to help reduce threats that could manifest in a higher education community, and puts some actual structure behind the phrase "see something, say something."

Rep. Luneau

Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 1509

BILL TITLE: relative to emergency threat protection orders for individuals at post secondary educational institutions.

DATE: September 22, 2020

LOB ROOM: Remote Meeting

MOTION:

Interim Study (2nd yr) Recommended for Future Legislation

Moved by Rep. Luneau

Seconded by Rep. Le

Vote: 9-4

Respectfully submitted,

Rep Linda Tanner, Clerk

HOUSE COMMITTEE ON

EXECUTIVE SESSION on

BILL TITLE: H~~B~~ 1509 Relative to emergency threat protection orders
DATE: 9/22/20 FOR INDIVIDUALS AT post secondary educational
LOB ROOM: Remote institutions

MOTION: Recommended for Future Legislation
 Not Recommended for Future Legislation

Moved by Rep. Luneau Seconded by Rep. Le Vote: 9-4

Respectfully submitted,

Rep. *Sarah L. Turner*
Committee Clerk



STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK

9/17/2020 11:41:54 AM
Roll Call Committee Registers
Report

2020 SESSION

Education

Bill #: HB 1509 Motion: _____ AM #: _____ Exec Session Date: 9/22/20

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Myler, Mel Chairman	9		
Luneau, David J. Vice Chairman	1		
Shaw, Barbara E.		1	
Cornell, Patricia	2		
Doherty, David B.	3		
Le, Tamara N.	4		
Tanner, Linda L. Clerk		2	
Ellison, Arthur S.	5		
Mullen, Sue M.	6		
Riel, Cole J.	7		
Vallone, Mark A			
Woodcock, Stephen L.	8		
Ladd, Rick M.		3	
Cordelli, Glenn A			
Elliott, Robert J. A			
Boehm, Ralph G. A			
Wolf, Dan H. A			
Allard, James C.		4	
Lekas, Alicia D. A			
TOTAL VOTE:	9	4	

Sub-Committee Actions

HOUSE COMMITTEE ON EDUCATION

SUBCOMMITTEE WORK SESSION on HB 1509

BILL TITLE: relative to emergency threat protection orders for individuals at post secondary educational institutions.

DATE: September 22, 2020

Subcommittee Members: Reps. Myler, Luneau, Tanner, Shaw, Cornell, Doherty, Le, Ellison, Mullen, Riel, Woodcock, Ladd and Allard

Comments and Recommendations: This bill was brought forward by the Higher Education Study Committee to help by giving this tool to protect students who may have themselves or others. Issues in language of this bill were pointed out.

MOTION:

Interim Study (2nd yr) Recommended for Future Legislation

Moved by Rep. Luneau

Seconded by Rep. Le

Vote: 9-4

Respectfully submitted,

Rep. Linda Tanner
Subcommittee Clerk

HOUSE COMMITTEE ON

SUBCOMMITTEE WORK SESSION on

BILL TITLE: *HB 1509 Relative to EMERGENCY threat PROTECTION ORDERS*
DATE: *9/22/20* *FOR INDIVIDUALS AT POST SECONDARY EDUCATIONAL*
INSTITUTIONS

Subcommittee Members:

Comments and Recommendations:

This bill was brought forward by the Higher Ed Study Committee - to help by giving them tools to protect students who may harm themselves or others. Issues in language of this bill were pointed out.

MOTION:

- Recommended for Future Legislation
 Not Recommended for Future Legislation

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

Respectfully submitted,

Rep. _____
Subcommittee Chairman/Clerk

Committee Report

REGULAR CALENDAR

February 12, 2020

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Education to which was referred HB
1509,**

**AN ACT relative to emergency threat protection orders
for individuals at post secondary educational
institutions. Having considered the same, report the
same with the recommendation that the bill be
REFERRED FOR INTERIM STUDY.**

Rep. Mark Vallone

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 1509
Title:	relative to emergency threat protection orders for individuals at post secondary educational institutions.
Date:	February 12, 2020
Consent Calendar:	REGULAR
Recommendation:	REFER FOR INTERIM STUDY

STATEMENT OF INTENT

University System of New Hampshire campus safety officials are seeing an increase in threats involving firearms and have asked the legislature for tools to help address reducing these threats to the safety of students, faculty, and staff. This bill enables campus safety officials to investigate and take action based on reports made by friends, family, roommates, and others concerned about the safety and well-being of another member of the school community or a potential threat to persons on campus. Officials will have the authority to remove weapons from an individual if they find that specific conditions exist to substantiate the report. The individual's rights are protected through a process that is based on the state's involuntary emergency admissions statute, which involve a hearing before a judge in the circuit court and the right to an attorney. The bill applies only to persons who are or were recently members of the college community, is narrowly limited to threats of suicide by gun or mass shooting, and safeguards civil rights with a proven method taken from existing state law. The amendment clarifies these limitations and the due process protection. However, this is a bill that needs more study. Further work is needed on technical and language issues. Vote 11-6.

Vote 11-6.

Rep. Mark Vallone
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Education

HB 1509, relative to emergency threat protection orders for individuals at post secondary educational institutions. **REFER FOR INTERIM STUDY.**

Rep. Mark Vallone for Education. University System of New Hampshire campus safety officials are seeing an increase in threats involving firearms and have asked the legislature for tools to help address reducing these threats to the safety of students, faculty, and staff. This bill enables campus safety officials to investigate and take action based on reports made by friends, family, roommates, and others concerned about the safety and well-being of another member of the school community or a potential threat to persons on campus. Officials will have the authority to remove weapons from an individual if they find that specific conditions exist to substantiate the report. The individual's rights are protected through a process that is based on the state's involuntary emergency admissions statute, which involve a hearing before a judge in the circuit court and the right to an attorney. The bill applies only to persons who are or were recently members of the college community, is narrowly limited to threats of suicide by gun or mass shooting, and safeguards civil rights with a proven method taken from existing state law. The amendment clarifies these limitations and the due process protection. However, this is a bill that needs more study. Further work is needed on technical and language issues. Vote 11-6. **Vote 11-6.**

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Education
Bill Number:	HB 1509
Title:	relative to emergency threat protection orders for individuals at post secondary educational institutions.
Date:	February 12, 2020
Consent Calendar:	REGULAR
Recommendation:	REFER FOR INTERIM STUDY

STATEMENT OF INTENT

USNH campus safety officials are seeing an increase in threats involving firearms and have asked the legislature for tools to help address reduce these threats to the safety of students, faculty and staff. This bill enables campus safety officials to investigate and take action based on reports made by friends, family, roommates and others concerned about the safety and wellbeing of another member of the school community or a potential threat to persons on campus. Officials will have the authority to remove weapons from an individual if they find that specific conditions exist to substantiate the report. The individual's rights are protected through a process that is based on the state's involuntary emergency admissions statute, which involve a hearing before a judge in the circuit court and the right to an attorney. The bill applies only to persons who are or were recently members of the college community, is narrowly limited to threats of suicide by gun or mass shooting, and safeguards civil rights with a proven method taken from existing state law. The amendment clarifies these limitations and the due process protection. However, this is a bill that needs more study. Further work is needed on technical and language issues. Vote 11-6.

Vote 11-6.

Researcher Edited

Rep. Mark Vallone
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Education **VALLONE FOR THE CMTE**

HB 1509, relative to emergency threat protection orders for individuals at post secondary educational institutions. **WITHOUT RECOMMENDATION** ~~RE I/S~~

~~Statement in support of Without Recommendation:~~ USNH campus safety officials are seeing an increase in threats involving firearms and have asked the legislature for tools to help address reduce these threats to the safety of students, faculty and staff. This bill enables campus safety officials to investigate and take action based on reports made by friends, family, roommates and others concerned about the safety and wellbeing of another member of the school community or a potential threat to persons on campus. Officials will have the authority to remove weapons from an individual if they find that specific conditions exist to substantiate the report. The individual's rights are protected through a process that is based on the state's involuntary emergency admissions statute, which involve a hearing before a judge in the circuit court and the right to an attorney. The bill applies only to persons who are or were recently members of the college community, is narrowly limited to threats of suicide by gun or mass shooting, and safeguards civil rights with a proven method taken from existing state law. The amendment clarifies these limitations and the due process protection. ~~The bill was developed based on research and analysis conducted by the FBI. The committee believes it provides campus safety officials with the right tools to help reduce threats that could manifest in a higher education community, and puts some actual structure behind the phrase "see something, say something."~~

~~Rep. David Luneau~~

~~Statement in support of Ought to Pass with Amendment:~~ This is a bill that needs more study. ~~As written the bill actually increases rather than reduces the risk of harm. Further work is needed on technical and language issues.~~

~~Rep. Mark Vallone~~

HOWEVER: THIS IS A BILL
that needs more study.
Further work is needed on
technical and language issues.

COMMITTEE REPORT

LUNEAU

COMMITTEE: Education

BILL NUMBER: HB 1509

TITLE: Relative to emergency threat protection orders for individuals at post secondary educational institutions

DATE: 2/12 CONSENT CALENDAR: YES NO

OUGHT TO PASS

OUGHT TO PASS W/ AMENDMENT

INEXPEDIENT TO LEGISLATE

INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.
0596h

STATEMENT OF INTENT:

WITHOUT RECOMMENDATION

SEE EMAIL

COMMITTEE VOTE: 10-10

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. [Signature]
For the Committee

COMMITTEE: Ed Vallone

BILL NUMBER: HB 1509

TITLE: emergency threat protector

DATE: 2/12 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- ~~OUGHT TO PASS W/ AMENDMENT~~
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. <u>0596h</u>

STATEMENT OF INTENT:

HB 1509 is a bill that needs more study.
As written, the bill actually increases
rather than reduces the risk of harm.
Further work is needed on technical
and language issues.

COMMITTEE VOTE: 10-10

RESPECTFULLY SUBMITTED,

• Copy to Committee Bill File

Rep. _____
 For the Minority

Bill is not really
more

- May create risk.
- ^{could} create problem.
- Set a precedent for a too high burden of proof.
bill references standards.
- Lacked standards.
- Bill needs to address technical & language.

HB 1509 - is a bill that needs more study.
As written, the bill ~~creates the possibility~~ ^{could actually reverse the}
risk of harm if implemented. The bill
~~references but does not set~~ further work ^{needed}
on technical & language issues is

Voting Sheets

HOUSE COMMITTEE ON EDUCATION

EXECUTIVE SESSION on HB 1509

BILL TITLE: relative to emergency threat protection orders for individuals at post secondary educational institutions.

DATE: 2/23

LOB ROOM: 207

MOTION: (Please check one box)

MAIN Motion

- ~~OTP/A~~ ITL Retain (1st year) Adoption of Amendment # 0596h
- Interim Study (2nd year) (if offered)

Moved by Rep. Luneau Seconded by Rep. Doherty Vote: 10-10

MOTION: (Please check one box)

Amend

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # 0596h
- Interim Study (2nd year) (if offered)

Moved by Rep. Luneau Seconded by Rep. Doherty Vote: 12-8

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. Vallone Seconded by Rep. LADD Vote: 11-6

MOTION: (Please check one box)

- OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
- Interim Study (2nd year) (if offered)

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? Yes 1 No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Linda L. Tanner
Rep Linda Tanner, Clerk

OFFICE OF THE HOUSE CLERK



1/2/2020 10:38:23 AM
 Roll Call Committee Registers
 Report

Education

2020 SESSION
Relative to emergency threat protection orders for individuals at post secondary educational institutions

Bill #: 1509 Motion: interim study AM #: _____ Exec Session Date: 2/12

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Myler, Mel Chairman			
Luneau, David J. Vice Chairman		1	
Shaw, Barbara E.			
Cornell, Patricia	1		
Doherty, David B.		2	
Le, Tamara N.		3	
Tanner, Linda L. Clerk	2		
Ellison, Arthur S.		4	
Mullen, Sue M.	3		
Riel, Cole J.			
Vallone, Mark	4		
Woodcock, Stephen L.		5	
Ladd, Rick M.	5		
Cordelli, Glenn	6		
Elliott, Robert J.	7		
Boehm, Ralph G.	8		
Wolf, Dan H.		6	
Allard, James C.	9		
Forsythe, Robert L.	10		
Lekas, Alicia D.	11		
TOTAL VOTE:	11	6	



2020 SESSION

Education

Relative to emergency threat protection orders for individuals at post secondary educational institutions.

Bill #: HB 1509 Motion: OTP-A AM #: 0596h Exec Session Date: 2/12

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Myler, Mel Chairman HEATH	10		
Luneau, David J. Vice Chairman	1		
Shaw, Barbara E.	2		
Cornell, Patricia	3		
Doherty, David B.	4		
Le, Tamara N.	5	§	
Tanner, Linda L. Clerk		1	
Ellison, Arthur S.	6		
Mullen, Sue M.	7		
Riel, Cole J. COURSIN		2	
Vallone, Mark		3	
Woodcock, Stephen L.	8		
Ladd, Rick M.		4	
Cordelli, Glenn		5	
Elliott, Robert J.		6	
Boehm, Ralph G.		7	
Wolf, Dan H.	9		
Allard, James C.		8	
Forsythe, Robert L.		9	
Lekas, Alicia D.		10	
TOTAL VOTE:	10	10	

OFFICE OF THE HOUSE CLERK



1/2/2020 10:38:23 AM
Roll Call Committee Registers
Report

HB Emergency Threat Protection ORDER
2020 SESSION

Education

Amendment

Bill #: ~~552~~ *HB 1509*

Motion: *OTP-*

AM #: *0596h*

Exec Session Date: *2/12*

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Myler, Mel Chairman <i>HEATH</i>	12		
Luneau, David J. Vice Chairman	1		
Shaw, Barbara E.	2		
Cornell, Patricia	3		
Doherty, David B.	4		
Le, Tamara N.	5		
Tanner, Linda L. Clerk	6		
Ellison, Arthur S.	7		
Mullen, Sue M.	8		
Riel, Cole J. <i>COURSIN</i>	9		
Vallone, Mark		1	
Woodcock, Stephen L.	10		
Ladd, Rick M.		2	
Cordelli, Glenn		3	
Elliott, Robert J.		4	
Boehm, Ralph G.		5	
Wolf, Dan H.	11		
Allard, James C.		6	
Forsythe, Robert L.		7	
Lekas, Alicia D.		8	
TOTAL VOTE:	12	8	

Amendment to HB 1509

1 Amend RSA 135-G:1, VIII through XIX as inserted by section 1 of the bill by replacing them with the
2 following:

3

4 VIII. "Individual" means any person who is a student, former student who left the
5 institution within the last 12 months, employee, or former employee at a post secondary educational
6 institution.

7 IX. "Law enforcement official" means a law enforcement official employed by a state,
8 municipal, or local law enforcement agency in New Hampshire or a private security official employed
9 by a postsecondary educational institution.

10 X. "Licensed mental health professional" means a person licensed by the state of New
11 Hampshire or another state to provide mental health services and who has had suicide threat
12 training.

13 XI. "Mental health" for purposes of RSA 135-G:2, or II(b)(1) means an individual who
14 appears to have depression, anxiety, or paranoia, in his or her daily life in the 6 months before the
15 attack. "Mental health" is not synonymous with a diagnosis of mental illness.

16 XII. "Other weapons" means any item capable of causing mass casualties such as, but not
17 limited to, an explosive device, a motor vehicle, or bio-hazardous materials.

18 XIII. "Planning" means specific thoughts and actions involved in carrying out a shooting
19 attack as revealed in words and/or conduct. These actions may include the decision to engage in
20 violence, the selection of specific or random targets, the act of conducting surveillance, and other
21 practical issues such as obtaining victim schedules, transportation, and site access. A general intent
22 to act violently does not constitute planning.

23 XIV. "Postsecondary educational institution" means any institution governed by the higher
24 education commission under RSA 21-N:8-a.

25 XV. "Potential stressors" means physical, psychological, or social forces within the last year
26 that place real or perceived demands or pressures on an individual and which are causing
27 psychological and/or physical distress.

28 XVI. "Preparation" means actions within the last year taken to procure the means for the
29 attack, such as a firearm, ammunition, special clothing, or body armor.

30 XVII. "Primary grievance" means the cause of the active shooter's distress or resentment; a
31 perception, not necessarily based in reality, of having been wronged or treated unfairly or
32 inappropriately. It is more than a typical feeling of resentment or passing anger, rather it is one

1 that results in a grossly distorted preoccupation with a sense of injustice, such as interpersonal,
2 employment, governmental, academic, or financial actions that were perceived as distinctly personal
3 to the respondent.

4 XVIII. "Public mass casualty shooter" means an individual who plans to kill, attempts to
5 kill, or kills more than one person at a postsecondary educational institution.

6 XIX. "Respondent" means the individual against whom the petition in RSA 135-G:4 is filed.

7 XX. "Targeting" means a person or group of people who were identifiable before the shooting
8 occurred and whom the respondent intended to attack. It is not necessary that the respondent
9 knows the target by name; intending to attack a person holding a position at or affiliated with a
10 business, educational facility, or in a governmental agency shall be sufficient.

11
12 Amend RSA 135-G:3, II as inserted by section 1 of the bill by replacing it with the following:

13
14 II. Any person may report their concerns to a law enforcement official regarding an
15 individual who may meet one or more of the standards in this section. That official shall conduct an
16 investigation, including outreach to the individual in question, if possible and practical, subject to
17 the notice exception of RSA 135-G:6.

18
19 Amend RSA 135-G:6, I as inserted by section 1 of the bill by replacing it with the following:

20
21 I. The respondent shall not have the firearms removed prior to the hearing unless upon
22 filing of the petition as described in RSA 135-G:3, the circuit court concludes, by a preponderance of
23 the evidence, that an imminent risk of serious harm exists prior to the scheduled hearing pursuant
24 to RSA 135-G:4 to the respondent or to other people pursuant to the standard in RSA 135-G:2. The
25 court is not required to hold a hearing or to provide notice to the respondent prior to issuing such
26 order if it determines from the petition that the imminence of the risk is such that immediate
27 involuntary removal is necessary. After issuance of a pre-hearing order, the court shall designate
28 appropriate authorities to identify less intrusive alternatives to potential removal at a RSA 135-G:10
29 hearing.

Hearing Minutes

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 1509

BILL TITLE: relative to emergency threat protection orders for individuals at post secondary educational institutions.

DATE: February 5, 2020

LOB ROOM: 207 **Time Public Hearing Called to Order:** 10:14 a.m.

Time Adjourned: 12:29 p.m.

Committee Members: Reps. Luneau, Cornell, Doherty, Le, Ellison, Mullen, Vallone, Woodcock, Ladd, Cordelli, Allard and A. Lekas

Bill Sponsors:

Rep. Luneau
Rep. Rodd

Rep. Bordenet
Rep. Amanda Bouldin

Rep. Welch

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

(1.) *Rep. Luneau - Sponsor Supports

Intent - Improve safety on institutes of higher education. See written testimony. Focuses on two threats - suicide by gun and mass shootings. Gives tools needed to investigate threats.

(2.) *Dr. James Silver - Supports - See written testimony

FBI study of pre-attack behaviors. Statements are own.

(1.) There isn't a profile. Age range 11-88 years old.

(2.) Rarely impulsive or spontaneous.

(3.) Pathway to violence - planning

See warning signs - report - respond.

Bill is based on what people are doing.

Evidence - not who they are.

Bill has limited approach.

Not just a checklist.

TAPS Act - federal - experts to put together standards for threat assessment.

(3.) * Albert Scherr - Professor of Law, UNH Franklin Pierce School of Law

Supports - Written testimony.

Emphasis on engaging the person.

Rights of due process. No hearsay. Full right to appeal.

Used as rough model - involuntarily hospitalization.

Would recommend expanding to all public institutions.

Not intended to be a gun grab, but safety issues at post secondary educational institutions.

(4.) *Rep. David Coursin - Opposition - Written testimony and chart

Feels HB 1509 falls short of RSA 135-C;27-33 and 173-B. Feels protections should be in place before notice.

(5.) Rep. David Welch - Co-Sponsor - Part of bill

Likes that due process is included.

(6.) *Robin Skudlarek - Member of Moms Demand for Gun Sense in America - Oppose

Too narrow.

- (7.) **Rep. Werner Horn - Oppose**
Feels takes away constitutional right to keep and bear arms.
- (8.) **Donna Pare - Support**
Question - How many killed during the 63 mass shootings studied
- (9.) **Tracy Hahn-Burkett - Oppose - Kent St. Coalition**
Feels to specific and unclear.
- (10.) **Alan Rice - Gun Owners of America - Oppose**
Issue is seeking to predict future behavior.
- (11.) **Rep. Ray Newman - Nashua - Oppose.**

Respectfully submitted:

Rep. Patricia Cornell

Rep. Patricia Cornell, Acting Clerk

HOUSE COMMITTEE ON EDUCATION

PUBLIC HEARING ON HB 1509

BILL TITLE: relative to emergency threat protection orders for individuals at post secondary educational institutions.

DATE: 2/5/2020

ROOM: 207

Time Public Hearing Called to Order: 10:14

Time Adjourned: 12:29

(please circle if present)

Committee Members: Reps. Myler, Luneau, Tanner, Shaw, Cornell, Doherty, Le, Ellison, Mullen, Riel, Vallone, Woodcock, Ladd, Cordell, Elliott, Boehm, Wolf, Allard, Forsythe and A. Lekas

Bill Sponsors:

Rep. Luneau
Rep. Rodd

Rep. Bordenet
Rep. Amanda Bouldin

Rep. Welch

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

- * ① Rep Luneau - intent - improve safety on institutes of higher education. see written testimony
Focuses on 2 threats - suicide by gun and mass shootings. Gives tools needed to investigate threats. supports. See written testimony.
- * ② Dr James Silver - FBI study of pre-attack behaviours. statements are over.
- ① There isn't a profile. Age range 11-88 yrs. old.
2. Rarely impulsive or spontaneous.
3. Pathway to violence - planning
See warning signs - report - respond.
Bill is based on what people are doing - evidence - not who they are.
Bill has limited approach.
not just a checklist.

over ->

TAPS Act - federal - expires to put ~~regulation~~

for threat assessment

* ③ Albert Scher - UNH Franklin Pierce School of Law - see written testimony.

Emphasis on engaging the person.
Rights of due process. No hearsay. Full right to appeal.
Used as rough model - involuntarily hospitalization.
Would recommend expanding to all public institutions.

Not intended to be a gun grab, but safety issues at post secondary educational institutions.

* ④ Rep David Courson - opposition. Written testimony + chart. Feels HB 1509 falls short of 135-C:27-33 and 173-B. Feels protections should be in place before notice.

⑤ Rep David Welch - cosponsor - part of bill. Likes that due process was included.

* ⑥ Robin Skudlarek - Londonderry - member of Moms Demand. Oppose. Too narrow.

⑦ Rep Werner Horn - oppose - feels takes away constitutional right to keep & bear arms.

⑧ Donna Pare - support Question how many killed during the 63 mass shootings studied.

⑨ Tracy Hahn - Burkett - oppose - Kent ST. Feels too specific and unclear.

⑩ Alan Rice - Gun Owners of America. Oppose. Issue is seeking to predict future behavior.

⑪ Rep Ray Newman - Nashua - oppose

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 1509 Date February 5, 2020
 Committee Education

** Please Print All Information **

Name	Address	Phone	Representing	(check one)	
				Pro	Con
REP JOHN POTUCEK	Rock 6		DEERY		<input checked="" type="checkbox"/>
Alvin See	London		Self		<input checked="" type="checkbox"/>
REP DAVID MEUSE	PORTSMOUTH		ROUN 29		<input checked="" type="checkbox"/>
Sarah Chamberlain	Salisbury		Self		<input checked="" type="checkbox"/>
Linda Hartwell - Lyndhurst			Nash		<input checked="" type="checkbox"/>
REP. RAY NEWMAN			HILLS 29		<input checked="" type="checkbox"/>
Troy Hahn-Burkett	Bow		self + KSC		<input checked="" type="checkbox"/>
Albert Schier	Portsmouth		self	<input checked="" type="checkbox"/>	
Lauren LePage			NRA		<input checked="" type="checkbox"/>
Chris Maidment	Peterborough		Self		<input checked="" type="checkbox"/>
Hon Joe Hannon	Gun owners of New Hampshire				<input checked="" type="checkbox"/>
Rep David Cousin	Rock, DRAFT		NORTHWOOD		<input checked="" type="checkbox"/>
Rep Judy Aron	Sullivan T				<input checked="" type="checkbox"/>
house	Spencer		Self		<input checked="" type="checkbox"/>
Rep Dick Hinch	House Republican Office				<input checked="" type="checkbox"/>
Nathaniel Lambert	Cornish NH	344-5357	Self		<input checked="" type="checkbox"/>
JAMES GAFFNEY	WARREN NH		Self		<input checked="" type="checkbox"/>
JK HOELL	NHFC	DUNBARTON NH	NHFC		<input checked="" type="checkbox"/>
Tony Hook	Goffstown NH				<input checked="" type="checkbox"/>
REP. LARRY L. WAFLAMME	COOS # 3			<input checked="" type="checkbox"/>	
Donna Pare	Stratham, NH			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> OKP
Zandra Rice Hawkins	Granite State Progress				<input checked="" type="checkbox"/>
Deidre Reynolds	Nashua NH				<input checked="" type="checkbox"/>
Rep. Debra Altschuler	Rockingham 19				<input checked="" type="checkbox"/>

Testimony

individual of concern prior to the filing of any petition that seeks to remove a constitutional right. Undoubtedly, such requirements will increase the likelihood of a volatile situation being resolved short of the temporary deprivation of any right.

Further, the Court considering whether to grant the ETPO order must evaluate less intrusive alternatives to the situation other than temporary removal of a constitutional right. Again, the emphasis is as much on finding resolutions to the underlying crisis as it is the ability to remove someone's guns specifically.

CONCLUSION

Balancing the threat of public safety in a school setting or self-harm in a potential suicide circumstance with the constitutional right to possess guns is a difficult one. But, insuring the right balance is critical to legislation that will not only be upheld in courts, but will be effective in practice. HB1509 achieves this. I respectfully urge the members of this Committee to vote "***Ought to Pass***" on HB1509.

These threats – of suicide by gun and of mass casualty shooters – are real, more importantly for HB1509, there are evidence-backed threat factors that can identify particular people in the moment who we believe are immediate threats in either category. Unlike other red flag legislation, HB 1509 narrowly defines a set of specific individuals who show reliable signs that they are a real and present threat to cause injury with a gun to themselves or others or another weapon capable of causing injury to multiple people. This narrow and tailored focus achieves the goals of Red Flag legislation, while avoiding the constitutional challenges posed by broader alternatives.

THE CONSTITUTIONAL DEPRIVATION

Any discussion around legislation like this inevitably must take into account and balance other interests with the Constitutional right in New Hampshire to possess guns. Part I, Article 2-a of the New Hampshire Constitution says: ““All persons have the right to keep and bear arms in defense of themselves, their families, their property, and the state.” This constitutional provision and its equivalent in the United States Constitution have been interpreted to protect gun owners from some restrictive gun laws such as licensing provisions or before-the-fact prohibitions on the possession of certain types of guns.

HB1509 would allow the state to deprive a gun owner, at least temporarily, of their right to possess an otherwise lawfully own a gun through an Emergency Threat Protection Order (ETPO) Such a deprivation is more than a restriction. It constitutes the removal, albeit temporarily, of a constitutional right and merits significant due process protection before it occurs.

We want to make sure that the temporary deprivation is correct; that it gives the target notice of the possible deprivation ahead of time; that it gives them the substantive tools and ability to challenge the claims underlying the reasons for the deprivation and that it gives them the chance to have an appellate court review the deprivation order to see if a mistake was made. These protections are the essence of fairness.

HB 1509 has significant due process protections. It provides for notice even in an emergency situation. It provides for the single best due process protection, the right to counsel, for a removal hearing to effectively implement all the other due process protections. It requires live witnesses, rather than simply a written affidavit. It requires the opportunity to cross-examine and challenge those witnesses offering evidence that an actionable threat exists. It requires that the respondent (the target) may call their own witnesses and provides the authority of the court behind any witness request. It protects the respondent from the use of unreliable evidence like character attacks, hearsay and other stale, rumor-based information.

HB 1509 also has another protection that increases the chances of a fair and appropriate resolution of the matter. It requires a concerned individual to report their concerns to the police who are required to do an investigation before filing a petition. Only the police may file a petition for a court order and, when they do so, they must report whether they have asked the individual to relinquish their gun temporarily and whether a petition for involuntary emergency commitment has been filed, instead of an emergency threat protection order (ETPO) petition. These requirements effectively emphasize the importance of trained people reaching out to the

**STATEMENT BY ALBERT SCHERR
PROFESSOR OF LAW, UNH FRANKLIN PIERCE SCHOOL OF LAW
HOUSE EDUCATION COMMITTEE
HOUSE BILL 1509
FEBRUARY 5, 2020**

I have been on the faculty at UNH Law for over 25 years and, prior to that, I was a public defender in New Hampshire for 13 years. I teach, write and lecture about constitutional criminal procedure issues in the criminal justice system. I have been involved in the criminal justice system in New Hampshire for almost 39 years and have worked closely and on a bipartisan basis with many legislators on various constitutional issues.

I make this statement in my individual capacity, and the opinions I am expressing are solely mine and are not those of either UNH Franklin Pierce School of Law or of the University of New Hampshire. I appreciate the opportunity to testify before this committee and ask you to vote *ought to pass* on HB 1509.

One of the central challenges with any so-called red flag bill is to balance two compelling concerns: the safety of those who are a threat to commit suicide and the threat to the public of those who are what I would call incipient public mass casualty shooters with the due process rights inherent in the constitutional right to gun ownership for self-defense in New Hampshire.

THE THREAT

We do not want to sit by powerlessly if someone is an identifiable threat to commit suicide and who has a gun or access to one. Sixty percent of gun deaths in the United States are suicides. We want to act quickly and effectively when the threat is real. With suicide, we know experts can identify factors that tell us when the threat is real.

We also do not want to sit by powerlessly when we see demonstrable signs that someone is a threat to engage in a mass casualty shooting. Experts like the FBI's Behavioral Analysis Unit and Professor Silver tell us that in a number of the public mass casualty shootings that have occurred a certain set of pre-attack behaviors were observable. Taken together, such signs allow us to identify at least some of those who are tangible threats to engage in a mass casualty shooting.

These two kinds of threats are particularly acute in educational institutions. The threat of suicide in teenagers is very real.¹ The threat of a public mass casualty shooter in a school is also real and deeply alarming. One only need remember what happened in Columbine high school, Virginia Tech, Sandy Hook elementary school, Stoneman Douglas high school and others to understand that school are too commonly the targets of mass casualty shooters. Though HB 1509 currently covers only higher education institutions, I strongly recommend that it be amended to include any educational institutional in New Hampshire, public and private.

¹ According to the National Institutes of Health, "The rate of teen suicide has increased over the last decade. Suicide is now the second leading cause of death for teens and young adults in the United States."

time it would take to have a person evaluated by a mental health professional could be the difference between life and death. In many cases, concerned family members or law enforcement may not have the power to get a person who is contemplating suicide evaluated by a mental health professional at all (voluntarily or otherwise). In cases where no professional evaluation is conducted, the bill only allows for intervention if a sufficient number of enumerated risk factors are present. This arbitrary formula would dangerously undermine the efficacy of this policy.

An effective ERPO policy must enable courts to restrict firearm access quickly in cases where the risk of harm is imminent. HB1509 fails across the board in establishing an impactful tool for NH. I urge you to oppose HB 1509 and focus on passing HB 687.

Robin Skudlarek
Londonderry

2/5/2020

New Hampshire Education Committee
Legislative Office Building
107 North Main Street
Concord, NH 03301

Hello House Education Committee Members,

Thank you for allowing me to speak on HB1509. My name is Robin Skudlarek. I am a resident of Londonderry and a member of Moms Demand Action for Gun Sense in America.

I want to express my strong opposition to HB1509. Though well intentioned, this bill does not provide a sound tool with which to comprehensively address an imminent threat of firearm suicide or homicide. It's narrow focus and overly specific criteria make it impractical and it limits jurisdiction to people with connections to college campuses. New Hampshire would be much better served putting energy into passing HB 687, passed by the House in January, to establish a robust extreme risk protection order process.

Threat of a person becoming a public mass casualty shooter is one of only two reasons this bill allows for intervention (the other being risk of suicide). The bill sets up an exceedingly narrow set of definitions of those who can be found to pose such a threat. Though suicides and public mass shootings are two of the types of gun violence tragedies that ERPOs can prevent, focusing solely on these types of threats, and defining them as narrowly as this bill does, is dangerous and unnecessary. The 'public mass casualty shooter definition would fail to address countless incidents of imminent risk. For example, a person who displays warning signs that they are likely to kill only 1 other person with a firearm would not meet the standards set by this bill, as they would fall outside the definition of 'public mass casualty shooter.' Likewise, a person who displays warning signs that they are likely to kill multiple people but not to do so in a public place would not meet the standards set by this bill, as they would fall outside the definition of 'mass casualty shooter.'

The bill does allow for issuance of ERPOs in cases where there is a risk of suicide, but, again, the draft uses a needlessly narrow approach to define the circumstances in which these orders can be issued. The bill would only allow orders to be issued if 1) four or more of nine enumerated risk factors are present in a given case or 2) based on the testimony of a mental health professional. The checklist approach is fatally flawed and this narrow focus would render the policy largely ineffective. In a moment of crisis, the

Testimony of Tracy Hahn-Burkett on HB 1509
House Committee on Education, February 5, 2020

Thank you for giving me the opportunity to speak to you today. My name is Tracy Hahn-Burkett, and I'm the Convener of the Kent Street Coalition's Working Group on Gun Violence Prevention.

We applaud the intent of this legislation. People in New Hampshire do need a means within the law to be able to remove firearms in an emergency situation from those who present an imminent danger to themselves or others. However, we have a number of concerns about the way this bill takes on that goal. I will lay out just a few of those concerns here.

First, in any life-and-death emergency, speed is of the essence. But several provisions here slow or stop the process of removing firearms from someone who is posing a threat, thus unnecessarily and dangerously increasing the risk of harm. For example:

1. Only a law enforcement officer can file a petition; not a close relative of any kind. This creates an additional layer of procedure to jump through for someone who feels threatened or worried for their own or a loved one's safety in a potential life-threatening situation. And in some situations, the petition has to include an affidavit from a mental health professional who has examined the respondent within 7 days prior to the filing of a petition. These requirements are not reflective of reality in a real emergency.
2. The number and character of the criteria for behavior giving rise to an "emergency threat protection order" or a "public mass casualty shooter" are so specific and demanding in both quality and quantity that they exclude numerous legitimate situations where an ERPO ought to apply. For example, in G:2 II(a), if verbal suicide threats are present, why

would previous suicide attempts not be reason enough to remove firearms for the person's safety?

3. Even if the very specific standards of the bill are met, the court is only supposed to issue an order when “no other reasonable alternatives exist...” A non-exclusive list of such alternatives includes mental health counseling or gun-safety training. As another organization phrased it, “There are no circumstances in which the standard of proof has been met as required by this very specific statute and gun-safety training is an appropriate remedy.”
4. The language of the bill is unclear; is there a provision to remove firearms immediately if there's an imminent risk of harm though it might be before the hearing, or isn't there? The point of any ERPO or ERPO-like law should be to intervene before someone dies, but it's just not clear that this intervention can take place in time here.

There are more issues, but you get the idea. In closing, I need to add that there is another bill working its way through the House now that accomplishes the goal of providing a means for issuing an emergency risk protection order when someone poses an imminent risk of harm to themselves or others. HB 687 is the result of literally years of work with legislators and stakeholders, it provides protection for everyone—not just those in the post-secondary setting, and we believe it to be the superior bill.

Thank you for your time.

answer
→

Characteristics	IEA Statute 135-C:27-33	Domestic Violence Statute 173-B	HB 1509 N/A
Proceedings Prior To Protective Order (PO)	<ol style="list-style-type: none"> 1. Eye witness testimony signed by Justice of the Peace. 2. Police locate and transport respondent to ER. 3. ES evaluation by licensed MH professional. 4. IEA pursuant to statute (PO). 	<ol style="list-style-type: none"> 1. Eye witness testimony of immediate and present danger presented to the court. 2. PO for temporary relief pursuant to statute. 	<ol style="list-style-type: none"> 1. Report of concern to a police officer by any person. 2. Investigation by officer including notice to respondent implicit in "outreach." 3. Petition for PO presented by officer in a circuit court. 4. Court hearing. 5. Testimony of petitioner. 6. Testimony of respondent. 7. Testimony of witnesses 8. Testimony of mental health professional if court has ordered an evaluation. ** 9. Cross examination. 10. PO pursuant to statute.
Burden of Proof to Justify PO*	Probable Cause.	Some Credible Evidence.	Preponderance of evidence prior to hearing. Clear and Convincing evidence at hearing.
Duration of PO	3-5 days.	5-30 days.	1 -180 days.
Consequences to Respondent:			
1. Freedom of movement	Complete loss in public.	Partial loss in public.	
2. Relationship freedoms	Partial loss.	Partial loss.	
3. Access to possessions	Partial loss.	Partial loss.	
4. Access to firearms	Complete loss during PO.	Complete loss during PO if probable cause found.	Complete loss during PO.
Protections prior to Notice	Yes	Yes	No
Unpredictable risk between the petition and the PO created by the legislation.	No.	No.	Yes.

*Burden of proof in order of least stringent to most stringent.

- Probable Cause
- Some Credible Evidence
- Preponderance of the Evidence
- Clear and Convincing Evidence
- Beyond Reasonable Doubt

**Practical realities of obtaining court ordered evaluation pursuant to HB 1509

Such an evaluation would be a forensic evaluation assessing risk of dangerous behavior from a mental illness for the court not for the patient. The patient is under no oath to be honest and revealing and often has many reasons to minimize or obfuscate. It is very unlikely that the court can find a mental health professional to do the evaluation for the following reasons:

1. Emergency Services provided by the mental health centers in hospital ERs do clinical evaluations for the patient. They do not do forensic evaluations.
2. Private practice forensic psychiatrist are few in number. They are very unlikely to accept a case accompanied by scant confirmed prior history or background gathered by the referral source that requires a report within four days and court testimony within five days subject to cross-examination and possibly creating significant liability.
3. The psychiatrists providing independent psychiatric evaluations assessing dangerousness dues to a mental illness for probate judges are few in number and barely keeping up with the needs of the probate courts.
4. The Office of Forensic Examiners in the Department of Corrections is understaffed and generally required to provide a court-ordered report within 90days for individuals who are not incarcerated. These evaluations are extensive and the reports are commonly between 15-20 pages.

Regarding the affidavit from a licensed mental health provider described on page 5, lines 27-30. This is an evaluation done within seven days prior to the petition being filed with the court, most likely in the course of treatment or an assessment for some other reason. It would have been done without knowledge of what the court required to “satisfy the standards for removal of the individual’s firearms,” so it is very unlikely to be useful to the court.

In addition, if an individual presented with the elements described in 135-G: 2, II, the treating clinician would likely have sought an IEA, leaving the client in the hospital or at home and potentially wary.

Why This Emergency Threat Protection Order (ETPO) Proposal (HB 1509)

SCOPE

- The three possible groups of concern:
 1. Those who are a threat to commit suicide using a gun
 2. Those who are a threat to become a public mass casualty shooter.
 3. Those who are a risk to commit a violent act with a gun.
- The suicide-by-gun and public-mass-casualty-shooter individuals **each** present immediate and observable threats to imminent gun violence to themselves or groups of others. If we observe certain behaviors as identified in the proposal in RSA 135-E:2 (A) & (B), it means that individual is an immediate and observable threat.
- The risk-of-violence group is much less so. Someone who owns a gun with a past history of some sort of violence is a greater risk to commit a future violent act with a gun **but not** everyone with a past history of violence will commit a future crime with a gun.
- This ETPO proposal does not exist in a vacuum. Any proposed ETPO or ERPO legislation fills in the gap that exists between the Involuntary Emergency Admission (IEA) statute and criminal statutes. An ETPO order would intervene in a circumstance not covered by the IEA or criminal statutes. So, those who have a serious mental illness and threaten to shoot themselves or others will fit under the IEA statute.

PROCESS

- This proposal removes firearms from one who has a constitutional right to possess them under the NH Constitution. The process afforded that individual shall be commensurate with the process due the removal of a constitutional right.
- This ETPO proposal does that by using the IEA statute, a deprivation-of-a-constitutional-right statute, as a rough model. The IEA process model has been vetted over the last 30+ years as to its constitutionality.

STATEMENT OF JAMES SILVER
ASSISTANT PROFESSOR OF CRIMINAL JUSTICE
WORCESTER STATE UNIVERSITY
HOUSE EDUCATION COMMITTEE
HOUSE BILL 1509
FEBRUARY 5, 2020

I was an Assistant United States Attorney in Washington, DC and criminal defense lawyer in Massachusetts. Currently I am an assistant professor of criminal justice at Worcester State University with a research focus on public mass shootings and terrorism. As part of my scholarship, I was a research fellow at the Federal Bureau of Investigations Behavioral Analysis Unit in Quantico, Virginia where I ran a study of active shooters. I am the lead author of the FBI's 2018 publication *A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 and 2013*. I continue to investigate and publish studies of offenders who commit public mass violence.

I make this statement in my individual capacity, and the opinions and statements I make are solely my own and not those of either the FBI or Worcester State University. I appreciate the opportunity to testify before this committee and ask you to vote *ought to pass* on HB 1509.

I will focus my testimony on three key points related to the involuntary relinquishment standard for potential public mass/active shooters:

1. There is no useful “profile” of an active shooter.
2. Most active shooters do not just “snap.” These shootings are most frequently the result of understandable and often discoverable thoughts and behaviors.
3. There is a growing consensus that active shooters frequently engage in behaviors that can serve as “warning signs” that can identify those on a path toward violence.

There is no useful “profile” of an active shooter

Numerous studies of active shootings (which includes school shootings, workplace shootings, public space shootings, etc.) have demonstrated that – aside from being overwhelmingly male – there is no profile that can predict who will become an active shooter. For example, in the FBI's 2018 study of active shooters, the youngest offender was 11 the oldest 88, there was a wide range of education levels, employment and relationship histories, and race was generally proportional to the US population. Somewhat surprisingly, these active shooters had limited criminal histories, so it is not useful to focus on prior criminal justice involvement.

Related studies conducted and funded by the US Secret Service, the Department of Education, and the National Institute of Justice draw the same conclusion – it is not useful to rely on

demographic factors to identify active shooters in advance. Efforts to do so would inevitably identify millions of “false positives.”

Active shooters do not just “snap.”

Research has found that few active shootings are impulsive (e.g., the result of a sudden physical or emotional confrontation). For instance, one study of public mass shooters in the US found that less than 15% were spontaneous, with the rest occurring after a period of planning and preparation.

Of course, it is often challenging to identify the exact moment when an active shooter decides to engage in violence, but the FBI study of the pre-attack behaviors of active shooters found that (where it could be determined) most active shooters spent a week or longer planning and preparing for their attack. A recent study of the deadliest public mass shooters showed that these “worst of the worst” offenders (those who kill more than 8 victims) often engage in extended periods of planning and preparation.

The existence of warning signs

The idea that most active shootings are the result of understandable and often discoverable thoughts and behaviors has been widely confirmed by researchers. There is a growing agreement that, if noticed, these thoughts and behaviors can serve as “warning signs” (sometimes referred to as “red flag indicators” or “attacks signals”) to help identify those on a trajectory toward violence.

For example, among the most common of these warning signs is “leakage” – which is when a prospective offender intentionally or unintentionally reveals clues to feelings, thoughts, or plans related to a mass shooting. Studies have consistently shown that between 50% and 80% of public mass shooters exhibit leakage (the 2018 FBI study of active shooters found leakage by 56% of the attackers). Other common “warning signs” include factors like inappropriate displays of aggressive attitudes, the development of a specific grievance, and contextually inappropriate firearms-related behaviors.

In fact, the existence of these “warning signs” is the predicate for what is becoming a more widespread practice in the US – threat assessment. Threat assessment is a systematic strategy for identifying, assessing, and managing potential violent offenders. This threat assessment model – built on the premise of identifying behaviors of those moving toward violence – is considered a best practice by the US Secret Service, the FBI, the US Department of Education, and the American Psychological Association as well as many other organizations and institutions.

Importantly, threat assessment differs from violence *risk assessment*. Violence risk assessment is generally the process of evaluating the likelihood that a person may engage in general violence, and uses findings of the prevalence of violence in various populations to which the person of concern belongs. Adjustments are made based on the presence or absence of

individual risk and mitigating factors. Therefore, *risk assessment* is essentially a group-data approach. Threat assessment has an operational context that emphasizes behavioral and situational factors. Threat assessment is focused less on base-rates of potential violence and more on observable behaviors. These behaviors may be detected by law enforcement, but research has shown neighbors, co-workers, friends, and family of the person of concern are the most likely to notice concerning behaviors.

Conclusion

I believe this bill properly focuses on what the person has done and is doing (e.g., violence indicating behaviors like leakage and development of a primary grievance) and not on who the person is (e.g., demographic factors like race, age, mental health status). If the intent of this bill is to limit instances of removing guns from an individual who has not yet committed a crime to only the most obvious threats, reliance on five or more factors (or three or more factors) is reasonable. Nevertheless, I believe that there will be people who could be identifiable as threats to become an active shooter based on fewer than five factors.

Finally, I believe it is important to underscore that the analysis of whether a danger exists that a person may become an active shooter should not be a “checklist” exercise. The mere presence of factors – whatever the number – should not, by itself, be enough to find that a person is a threat. Context matters, as do potential interactions between the listed criteria and other relevant circumstances in the life of the person of concern.

References

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HB 1509

Introduction DL

Last year, I served on the legislature's public higher education study commission. We met seven times throughout the summer and fall. At our meeting on September 9th, we met with the UNSH chancellor and representatives from UNH, KSU, PSU, GSC and the community college system to talk about campus safety. A summary of findings is documented in the committee report issued in November 2019, and you have copies of page 3 from that report, which I'll read to you briefly... ***

READ PAGE 3 PARA 1

That request for "tools" came directly from campus safety officials – in fact they used the word "beg" – they begged us to do something to help them. HB 1509 is our response to that request.

The bill is based on research and data. *** HOLD UP THE REPORT. You have copies of this. Research conducted by the US Department of Justice and specifically and FBI, and led by Dr. James Silver of Worcester State University – and he's with us this morning, and I believe is coming up next.

HB 1509 is based on this research (HOLD UP THE FBI REPORT) and the findings of our public higher education study committee (HOLD UP THE PHEC REPORT).

The bill focusses on two threats to campus safety as articulated in the findings: Suicide by Gun, and campus mass shootings.

It's not to say that other threats don't exist on campus, or in our society at large, but HB 1509 doesn't contemplate them – it is a narrow bill --- focused on threats to campus safety – and an approach to improve campus safety by providing campus safety officials with the tools they need.

HB 1509 gives safety officials the tools they need to investigate potential threats -- and to take precautionary steps – when somebody – a friend, roommate, family member, faculty member, advisor – when somebody notices that something's just not right.

It's modeled after existing laws and has proven safeguards in place for due process and to protect civil rights.

And again, it doesn't contemplate all threats – it's narrowly focused based on the findings of the higher education study committee and the research conducted by the FBI in 2018.

(Hypothetical situation??? – read the room)

Happy to take questions about the work we did on the higher education study committee, but really the next two people are much better positioned to address questions about the FBI research on gun violence and the mechanics and framework of the bill.

Findings:

After thorough study and discussion, the committee finds as follows:

- 1) Campus safety officials at institutions statewide are working to keep our colleges and universities safe for students, faculty, staff, and neighbors. The committee heard from leaders representing UNH, Keene State College, Plymouth State University, and the Community College System of New Hampshire (CCSNH). All campuses have layered emergency planning and preparedness procedures that address 'All Hazards.' Physical security and access involves: campus and community police presence, campus service officer patrols, building access control (card readers at UNH), master key system, CCTV cameras in designated buildings and on campuses, and alarm systems (fire, burglary, panic, and trouble). Institutional alert systems are coordinated with Homeland Security and campus security/ police communications are tied into State Police. While concerns manifest differently among the institutions, there was common focus on security measures necessary to prevent or suppress active shooter events, improve physical security and manage access, and address crises related to mental health and substance abuse. The institutions acknowledged the necessity of effective communication with local police and emergency services, but some had concerns that campus safety officials need more tools to address threats on campus in a way that aligns with campus culture.
- 2) State colleges and universities are also taking seriously sexual harassment and sexual assault. State institutions have built robust systems for training staff and students, accepting disclosures, and responding to disclosures. Additionally, staff support victims by connecting them with crisis centers and/ or law enforcement, providing protective measures on campus, and offering academic and emotional support.
- 3) State institutions are working to foster relationships with the business community in a variety of ways.
 - a. The UNH Entrepreneurship Center is a forum for students to bring ideas and receive the mentorship and resources necessary to form a business plan. Students can earn funds to put toward their student loans by participating in events, and student entrepreneurs can compete for prizes and internships. Local startups rent office space in the center and enrich the culture of innovation and mentorship there.
 - b. Adjacent to the UNH Entrepreneurship center is the University of New Hampshire InterOperability Laboratory (IOL). The IOL attracts numerous technology companies from around the globe which use the independent lab to test networking and data communications products. The IOL is staffed by over 120 students, exposing them to state of the art technology and uniquely equipping them with skills to enter the technology industry as they complete their degree programs. The IOL has introduced leading tech firms to the University of New

FINAL REPORT

Public Higher Education Study Committee.

RSA 187-A:28-a (HB 401, Chapter 292:2, Laws of 1995)

November 1, 2019

Representative Mel Myler, Chairman
Senator Lou D'Allesandro
Senator Jay Kahn
Senator John Reagan
Representative David Doherty, Clerk
Representative Mary Heath
Representative Rick Ladd
Representative David Luneau

Committee Charge:

The committee is charged with the following duties pursuant to RSA 187-A: 28-c:

I. The committee shall study, among other things, the following:

- (a) The operation of public higher education.
- (b) The goals and purposes of public higher education.
- (c) The organization of public higher education.
- (d) The size of public higher education.
- (e) The financing of public higher education.

(f) Any other areas which will act as a guide to the legislature and trustees in formulating policies for the future.

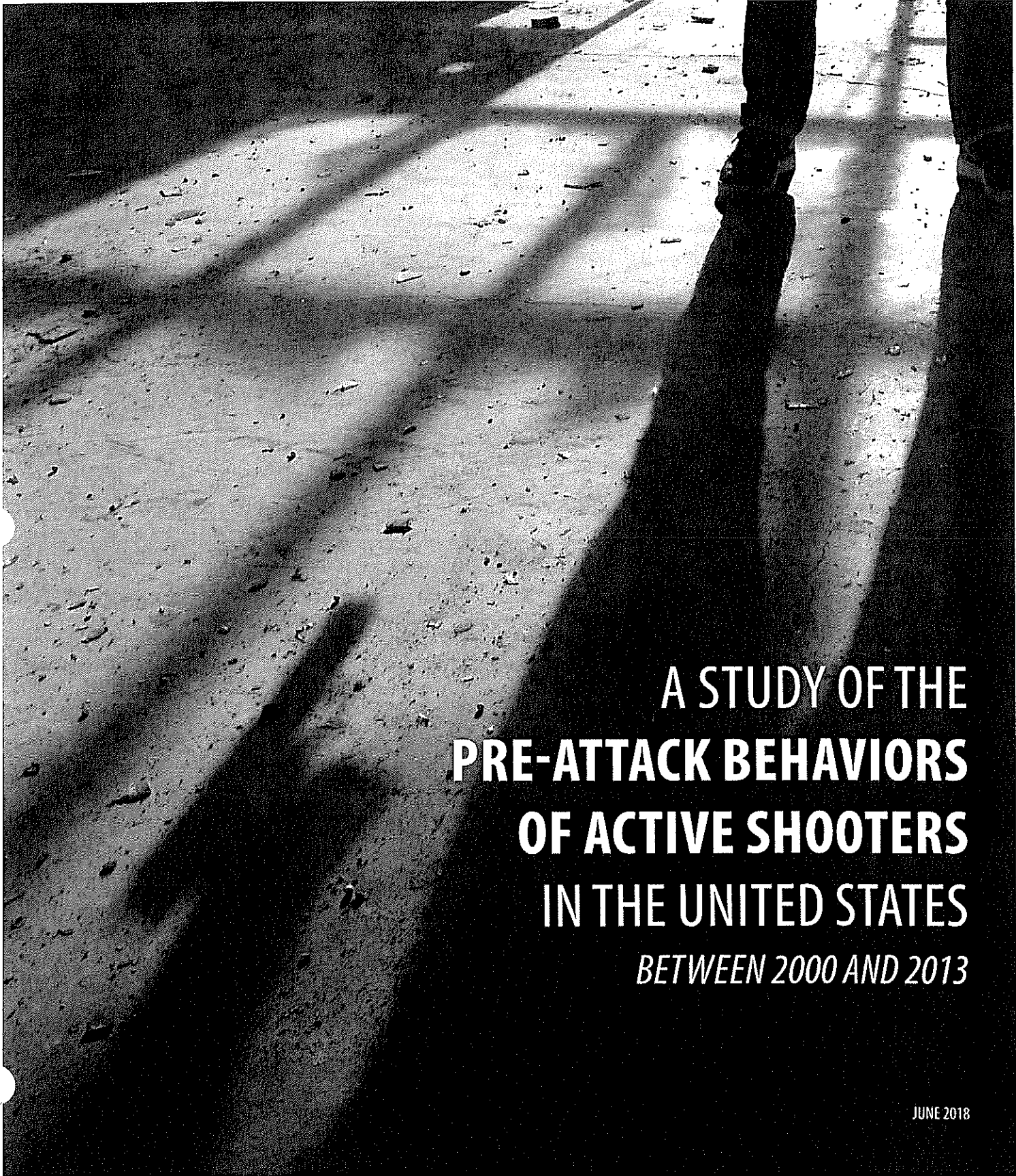
(g) The economic effects of student activities on higher education campuses as reported in studies by the university system of New Hampshire and municipalities. The committee shall study possible solutions and recommend legislation. Possible solutions for the committee to study include payments to the municipalities by institutions of higher education in lieu of taxes; additional fees or assessments; and any other remedy suggested by the municipalities affected by higher education campuses.

I-a. In addition to the duties set forth in paragraph I, the committee shall study the feasibility of granting state franchise rights to the providers of on-line education courses which may include but is not limited to, the institutions of the university system of New Hampshire and the regional community-technical college system. The committee may consult with any individual or organization with information or expertise relevant to this aspect of the committee's duties.

Findings:

After thorough study and discussion, the committee finds as follows:

- 1) Campus safety officials at institutions statewide are working to keep our colleges and universities safe for students, faculty, staff, and neighbors. The committee heard from leaders representing UNH, Keene State College, Plymouth State University, and the Community College System of New Hampshire (CCSNH). All campuses have layered emergency planning and preparedness procedures that address 'All Hazards.' Physical security and access involves: campus and community police presence, campus service officer patrols, building access control (card readers at UNH), master key system, CCTV cameras in designated buildings and on campuses, and alarm systems (fire, burglary, panic, and trouble). Institutional alert systems are coordinated with Homeland Security and campus security/ police communications are tied into State Police. While concerns manifest differently among the institutions, there was common focus on security measures necessary to prevent or suppress active shooter events, improve physical security and manage access, and address crises related to mental health and substance abuse. The institutions acknowledged the necessity of effective communication with local police and emergency services, but some had concerns that campus safety officials need more tools to address threats on campus in a way that aligns with campus culture.
- 2) State colleges and universities are also taking seriously sexual harassment and sexual assault. State institutions have built robust systems for training staff and students, accepting disclosures, and responding to disclosures. Additionally, staff support victims by connecting them with crisis centers and/ or law enforcement, providing protective measures on campus, and offering academic and emotional support.
- 3) State institutions are working to foster relationships with the business community in a variety of ways.
 - a. The UNH Entrepreneurship Center is a forum for students to bring ideas and receive the mentorship and resources necessary to form a business plan. Students can earn funds to put toward their student loans by participating in events, and student entrepreneurs can compete for prizes and internships. Local startups rent office space in the center and enrich the culture of innovation and mentorship there.
 - b. Adjacent to the UNH Entrepreneurship center is the University of New Hampshire InterOperability Laboratory (IOL). The IOL attracts numerous technology companies from around the globe which use the independent lab to test networking and data communications products. The IOL is staffed by over 120 students, exposing them to state of the art technology and uniquely equipping them with skills to enter the technology industry as they complete their degree programs. The IOL has introduced leading tech firms to the University of New

A black and white photograph of a crime scene floor. The floor is covered in debris, including small pieces of wood and metal. Long, dark shadows are cast across the floor, suggesting a light source from the upper right. The overall atmosphere is somber and investigative.

**A STUDY OF THE
PRE-ATTACK BEHAVIORS
OF ACTIVE SHOOTERS
IN THE UNITED STATES**
BETWEEN 2000 AND 2013

JUNE 2018

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A Study of the Pre-Attack Behaviors of Active Shooters in the United States

Between 2000 and 2013

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The authors are exceptionally grateful to our many threat assessment colleagues who have partnered with and supported the BAU over several years. These professionals quietly and tirelessly work each day to prevent active shootings in our schools, universities, houses of worship, and businesses.





The authors and researchers from the FBI's Behavioral Analysis Unit involved in preparing this report are aware of the horrific impact these shootings have had on victims, survivors, families, and communities. We extend our deepest sympathies to those who have suffered the unimaginable tragedy of an active shooting, either personally or as a family member. We know that behind the statistics and numbers presented here are thousands of individuals with personal stories of grief, bravery, and resilience. In partnership with other law enforcement and threat assessment professionals, we remain committed to doing everything possible to prevent future attacks. Although much work remains, we present this report as a step towards disrupting those who would seek to inflict catastrophic harm.

Introduction

In 2017 there were 30 separate active shootings in the United States, the largest number ever recorded by the FBI during a one-year period.¹ With so many attacks occurring, it can become easy to believe that nothing can stop an active shooter determined to commit violence. “The offender just snapped” and “There’s no way that anyone could have seen this coming” are common reactions that can fuel a collective sense of a “new normal,” one punctuated by a sense of hopelessness and helplessness. Faced with so many tragedies, society routinely wrestles with a fundamental question: can *anything* be done to prevent attacks on our loved ones, our children, our schools, our churches, concerts, and communities?

There is cause for hope because there *is* something that can be done. In the weeks and months before an attack, many active shooters engage in behaviors that may signal impending violence. While some of these behaviors are intentionally concealed, others are observable and — if recognized and reported — may lead to a disruption prior to an attack. Unfortunately, well-meaning bystanders (often friends and family members of the active shooter) may struggle to appropriately categorize the observed behavior as malevolent. They may even resist taking action to report for fear of erroneously labeling a friend or family member as a potential killer. Once reported to law enforcement, those in authority may also struggle to decide how best to assess and intervene, particularly if no crime has yet been committed.

By articulating the concrete, observable pre-attack behaviors of many active shooters, the FBI hopes to make these warning signs more visible and easily identifiable. This information is intended to be used not only by law enforcement officials, mental health care practitioners, and threat assessment professionals, but also by parents, friends, teachers, employers and anyone who suspects that a person is moving towards violence.

In 2014, the FBI published a report titled *A Study of Active Shooter Incidents in the United States Between 2000 and 2013*.² One hundred and sixty active shooter incidents in the United States occurring between 2000 and 2013 were included in the sample. In this first report, the FBI focused on the circumstances of the active shooting events (e.g., location, duration, and resolution) but did not attempt to identify the motive driving the offender, nor did it highlight observable pre-attack behaviors demonstrated by the offender. The 2014 report will be referred to as the “Phase I” study.

The present study (“Phase II”) is the natural second phase of that initiative, moving from an examination of the parameters of the shooting events to assessing the pre-attack behaviors of the shooters themselves. This second phase, then, turns from the vitally important inquiry of “what happened during and after the shooting” to the pressing questions of “how do the active shooters behave *before* the attack?” and, if it can be determined, “why did they attack?” The FBI’s objective here was to examine specific behaviors that may precede an attack and which might be useful in identifying, assessing, and managing those who may be on a pathway to deadly violence.

1 <https://www.fbi.gov/file-repository/active-shooter-incidents-us-2016-2017.pdf/view>

2 <https://www.fbi.gov/file-repository/active-shooter-study-2000-2013-1.pdf/view>

Key Findings of the Phase II Study

1. The **63** active shooters examined in this study did not appear to be uniform in any way such that they could be readily identified prior to attacking *based on demographics alone*.
2. Active shooters take time to plan and prepare for the attack, with **77%** of the subjects spending a week or longer planning their attack and **46%** spending a week or longer actually preparing (procuring the means) for the attack.
3. A majority of active shooters obtained their firearms legally, with only very small percentages obtaining a firearm illegally.
4. The FBI could only verify that **25%** of active shooters in the study had ever been diagnosed with a mental illness. Of those diagnosed, only three had been diagnosed with a psychotic disorder.
5. Active shooters were typically experiencing multiple stressors (an average of **3.6** separate stressors) in the year before they attacked.
6. On average, each active shooter displayed **4 to 5** concerning behaviors over time that were observable to others around the shooter. The most frequently occurring concerning behaviors were related to the active shooter's mental health, problematic interpersonal interactions, and leakage of violent intent.
7. For active shooters under age 18, school peers and teachers were more likely to observe concerning behaviors than family members. For active shooters 18 years old and over, spouses/domestic partners were the most likely to observe concerning behaviors.
8. When concerning behavior was observed by others, the most common response was to communicate directly to the active shooter (**83%**) or do nothing (**54%**). In **41%** of the cases the concerning behavior was reported to law enforcement. Therefore, just because concerning behavior was *recognized* does not necessarily mean that it was *reported* to law enforcement.
9. In those cases where the active shooter's primary grievance could be identified, the most common grievances were related to an adverse interpersonal or employment action against the shooter (**49%**).
10. In the majority of cases (**64%**) at least one of the victims was specifically targeted by the active shooter.

*All percentages in this report are rounded to the nearest whole number.

Methodology

With the goal of carefully reviewing the pre-attack lives and behaviors of the active shooters, the FBI developed a unique protocol of 104 variables covering, among other things:

- Demographics
- Planning and preparation
- Acquisition of firearms in relation to the attack
- Stressors
- Grievance formation
- Concerning pre-attack behaviors and communications
- Targeting decisions
- Mental health

Whereas Phase I analyzed event circumstances that are typically well documented both in law enforcement incident reports and reliable open sources³, this second phase is substantially based on observations of what are often nuanced behavioral indicators demonstrated by the active shooter prior to the attack. Given the subtle nature of many of the factors relevant to the inquiry, the FBI decided to use data that have been verified to the greatest possible extent, relying almost exclusively on information contained in official law enforcement investigative files.⁴ For this reason, Phase II includes only those cases where the FBI obtained law enforcement investigative files that contained “background” materials (e.g., interviews with family members, acquaintances, neighbors; school or employment records; writings generated by the subject) adequate to answer the protocol questions.⁵ In addition, as Phase II focused on identifying pre-attack behaviors of those on a trajectory to violence, active shooting events which appeared to be spontaneous reactions to situational factors (e.g., fights that escalated) were excluded. This resulted in a final sample of 63 active shooting incidents included in the Phase II study.

The use of law enforcement investigative case files as the primary source of data makes this study unique in comparison to other reports that typically rely upon unverified data derived from open sources. The comprehensive evaluation of law enforcement case files for suitability and completeness also contributed to the substantial time it has taken to prepare and publish this study.

The FBI examined whether the 63 cases included in Phase II are representative of the entire Phase I sample ($N = 160$). To identify the differences in the samples between Phase I and Phase II ($N = 160$ versus $N = 63$), the FBI compared those cases that were *only* in Phase I ($n = 97$) to those cases included in Phase II ($N = 63$), assessing potential differences between the active shooters (e.g., race, gender, age, and whether the offender committed suicide subsequent to the attack), as well as potential differences in the characteristics of the incidents (number of victims killed, number of law enforcement officers killed, location of the incident, active shooter movement during the event, and if the event concluded prior to the arrival of law enforcement).

³ Incident overview (e.g., date, location), incident specifics (weapon(s) used, duration of event), and incident outcome (deaths, injuries, resolution).

⁴ For one incident, the study relied on publicly available official reports which were based on the complete law enforcement investigative files.

⁵ The investigative files did not contain uniform amounts of subject-related behavioral information, as the depth and breadth of investigations varied based on several factors, including available resources, the prospect or not of trial, and the complexity of the event.

As compared to the 97 cases that were only in Phase I, the 63 cases in Phase II had the following characteristics:

- Had a higher number of victims killed on average during each shooting;
- Were more likely to end before law enforcement arrived;
- Were more likely to include offenders who identified with Asian and Caucasian ethnicity, with active shooters identified with African American and Hispanic ethnicity generally underrepresented as compared to Phase I;
- Were more likely to occur in an educational facility or a house of worship; and
- Were more likely to end with the active shooter committing suicide.

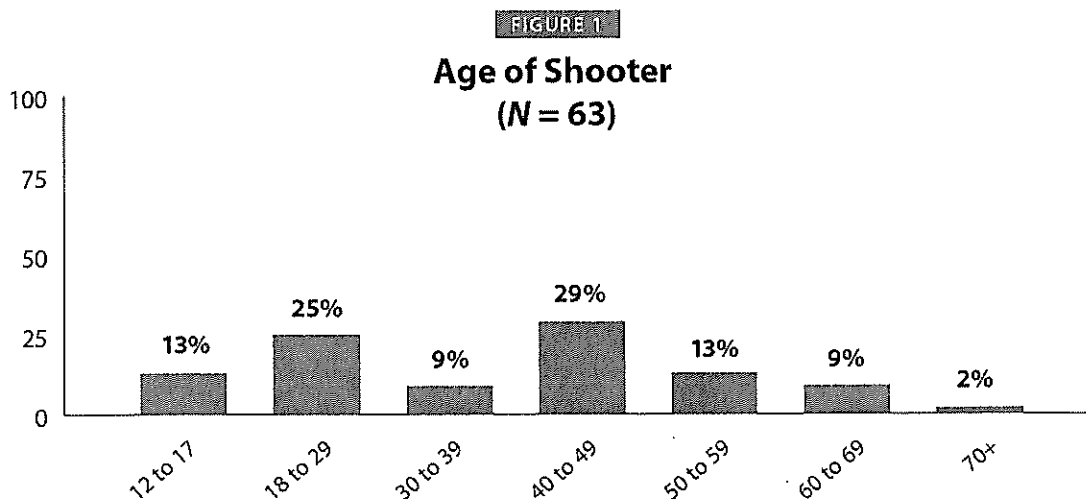
After cases were identified, a three-stage coding process was utilized. First, two researchers read all case materials and independently coded each of the cases across all protocol variables. The researchers took a conservative approach to coding, declining to definitively answer any question that was not supported by record evidence. Second, another experienced coder (the “reviewer”) also read each investigative file. In the final stage, the coders and the reviewer met for each of the 63 cases, compared answers, discussed disagreements, and produced a single reconciled set of data.

SHOOTER DEMOGRAPHICS

The sample comprised individuals who varied widely along a range of demographic factors making it impossible to create a demographic profile of an active shooter. Indeed, the findings and conclusions of this study should be considered in light of the reality that these 63 active shooters did not appear to be uniform in any way such that they could be readily identified prior to attacking *based on demographics alone*.

Age:

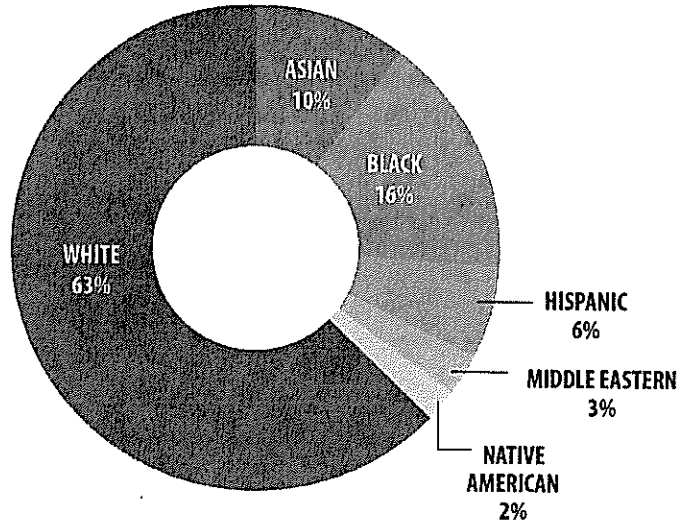
The youngest active shooter was 12 years old and the oldest was 88 years old with an average age of 37.8 years. Grouping the active shooters by age revealed the following:



Gender and Race:

The sample was overwhelmingly male (94%, $n = 59$), with only four females in the data set (6%, $n = 4$), and varied by race as shown in Figure 2:⁶

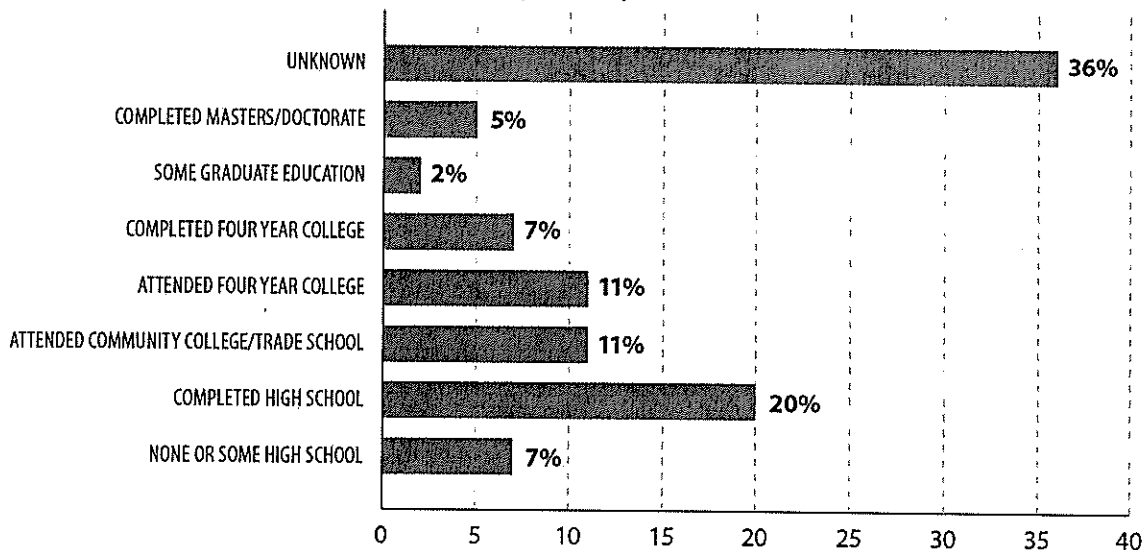
FIGURE 2
Race (N = 63)



Highest Level of Education⁷:

None of the active shooters under the age of 18 had successfully completed high school, and one (age 12) had not yet entered high school. When known, the highest level of education of adults varied considerably, as shown in Figure 3:

FIGURE 3
Highest Level of Education Completed – 18 Years and Older
(n = 55)



*Does not sum to 100% due to rounding.

⁶ Descriptors of active shooters' races were obtained from law enforcement records.

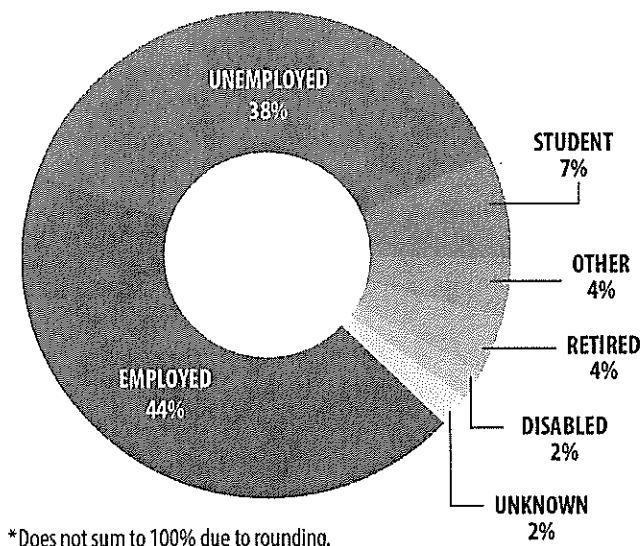
⁷ Active shooters under the age of 18 ($n=8$) were excluded in analyses for those variables not typically pertaining to juveniles (e.g., marital status, higher education).

Employment:

The active shooters who were under 18 years old were all students. As featured in Figure 4, nearly equal percentages of the adult active shooters 18 years or older were employed as were unemployed, and 7% ($n = 4$) were primarily students. The rest of the adults were categorized as retired, disabled/receiving benefits, or other/unknown.

FIGURE 4

Employment – 18 Years and Older ($n = 55$)



Military:

Of the active shooters 18 and older, 24% ($n = 13$) had at least some military experience, with six having served in the Army, three in the Marines, two in the Navy, and one each in the Air Force and the Coast Guard.

Relationship Status:

The active shooters included in the Phase II study were mostly single at the time of the offense (57%, $n = 36$). Thirteen percent ($n = 8$) were married, while another 13% were divorced. The remaining 11% were either partnered but not married ($n = 7$) or separated (6%, $n = 4$).

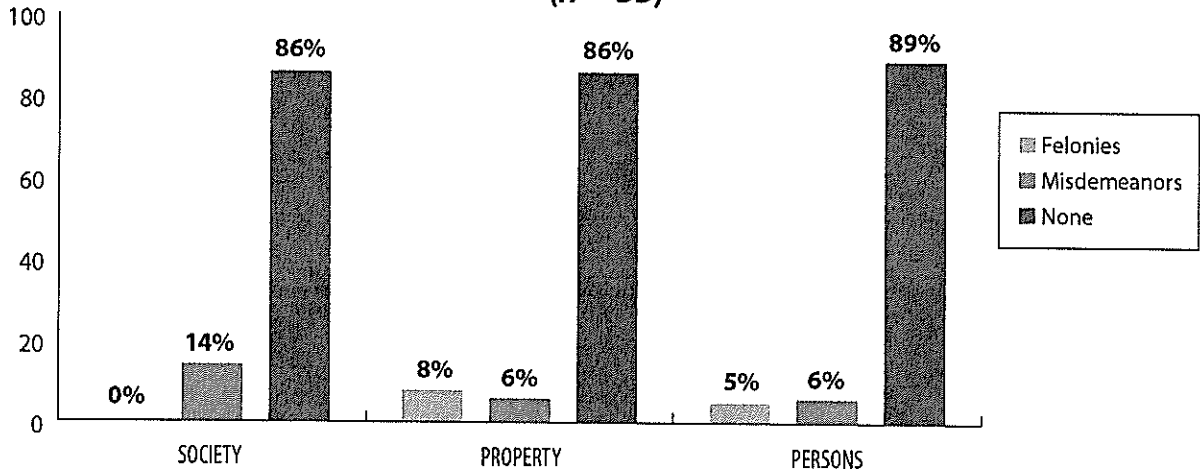
Criminal Convictions and Anti-Social Behavior⁸:

Nineteen of the active shooters aged 18 and over (35%) had adult convictions prior to the active shooting event. As visualized in Figure 5, the convictions can be categorized as crimes against society, property, or persons. The category of “crimes against society” included offenses such as driving under the influence, disorderly conduct and the possession of drug paraphernalia. Both the misdemeanor and felony “crimes against property” involved non-violent offenses, such as conspiracy to commit theft, theft, possession of stolen property, and criminal mischief. The misdemeanor “crimes against persons” were not inherently dangerous, but the felony “crimes against persons” involved convictions for criminal sexual assault of a family member, aggravated stalking, and endangering a person (although no active shooter was convicted of more than one crime against a person).

⁸ The study does not include juvenile adjudications; therefore, we did not run the analyses on those aged 17 and younger.

FIGURE 5

Adult Criminal Convictions – 18 Years and Older (n = 55)



*There was only one case where an active shooter had both a felony and a misdemeanor conviction in a single category (under "Property").

In sum, the active shooters had a limited history of adult convictions for violent crime and a limited history of adult convictions for crime of any kind.

Because formal criminal proceedings may not capture the full range of anti-social behaviors in a person's background, the FBI also looked for evidence of behaviors that were abusive and/or violent, but which did not result in a criminal charge. For some active shooters, no evidence of these behaviors was found, but given that these actions by definition did not involve the formal criminal justice system, it is possible that more violent incidents occurred than are reported here.

We found evidence that 62% (n = 39) of the active shooters had a history of acting in an abusive, harassing, or oppressive way (e.g., excessive bullying, workplace intimidation); 16% (n = 10) had engaged in intimate partner violence; and 11% (n = 7) had engaged in stalking-related conduct.⁹

Considerations

There were very few demographic patterns or trends (aside from gender) that could be identified, reinforcing the concept that there is no one "profile" of an active shooter. Perhaps most noteworthy is the absence of a pronounced violent criminal history in an overwhelming majority of the adult active shooters. Law enforcement and threat management professionals assessing a potentially violent person may therefore wish to avoid any reliance on demographic characteristics or on evidence (or lack thereof) of prior criminal behavior in conducting their assessments.

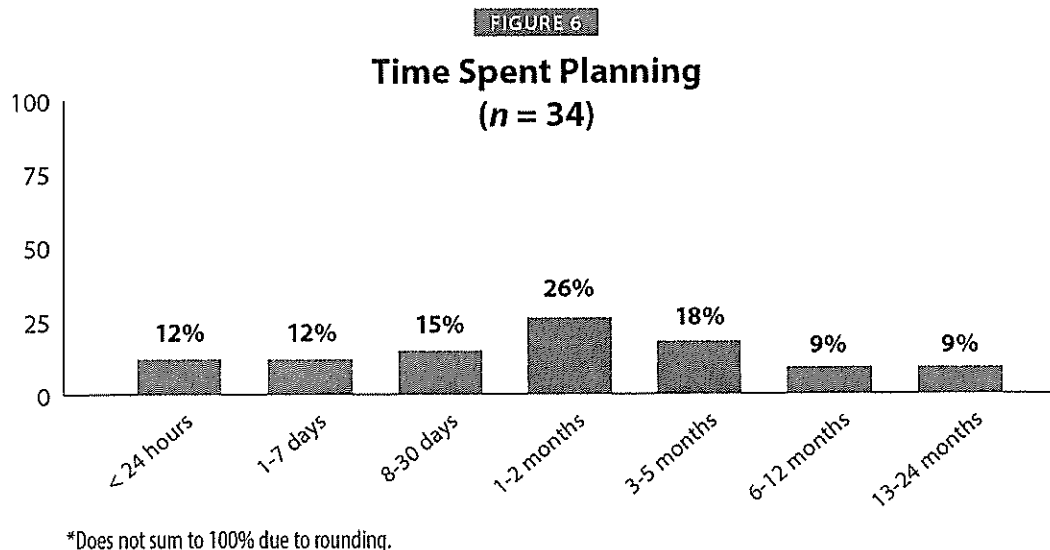
⁹ This number may be underrepresented given the high percentage of unknown responses as related to stalking behaviors (68%).

PLANNING AND PREPARATION

This study examined two related but separate temporal aspects of the active shooters' pre-attack lives — total time spent *planning* the attack and total time spent *preparing* for the attack.^{10,11,12} The purpose in analyzing these chronologies was to establish the broad parameters during which active shooters were moving toward the attack and to identify behaviors that may have been common during these time periods.

In this context, planning means the full range of considerations involved in carrying out a shooting attack. This includes the decision to engage in violence, selecting specific or random targets, conducting surveillance, and addressing all ancillary practical issues such as victim schedules, transportation, and site access. Planning is more specific than a general intent to act violently and involves the thought processes necessary to bring about an intended outcome. Since planning may primarily be an internal thought process, it was often difficult to find objective, observable indications of an active shooter's planning. In nearly half of the cases, the total time spent planning is unknown. However, this is different than declaring that there was no evidence of planning at all, because in every case there was at least some evidence that the active shooter planned the attack; the challenge was ascertaining when the planning began.

In establishing the total duration of planning, the FBI looked for evidence of behaviors that were observable (e.g., conversations, conducting surveillance) as well as in materials that were private to the active shooter (e.g., journals, computer hard drives) and likely unknowable to others until after the attack. As demonstrated in Figure 6, there was a wide range of planning duration in the 34 cases where the time spent planning could reasonably be determined.



With regard to specific planning activities, care should be taken in the interpretation of the data. For instance, our study indicates that few active shooters overall approached or conducted surveillance on their target (14%, *n* = 9), and fewer still researched or studied the target site where the attack occurred (10%, *n* = 6). While this could indicate that the active shooters were uninterested in knowing about their targets or attack sites in advance or engaged in little tactical planning, this is inconsistent with the operational experience of the FBI. The likely reason for this finding is that the active shooters often attacked people and places with which they were already familiar. There was

10 Calhoun, T., & Weston, S., (2003). Contemporary threat management. San Diego: Specialized Training Services;

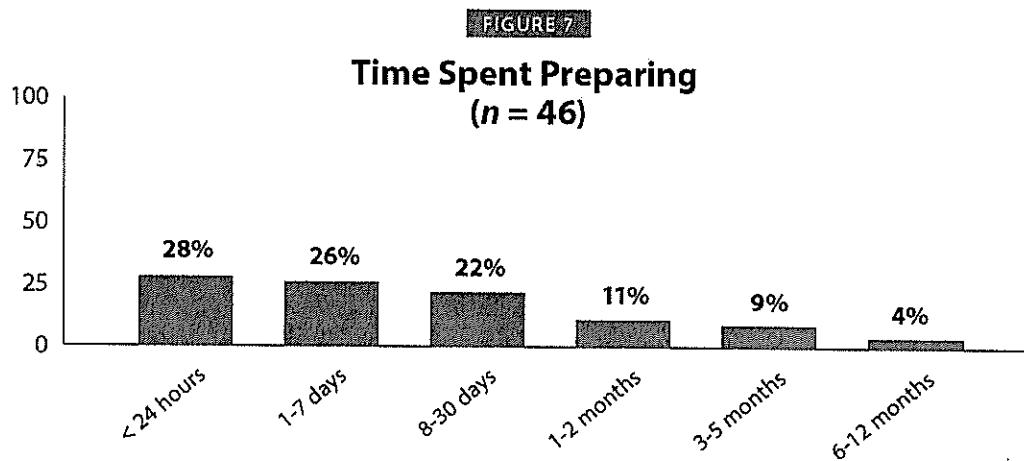
11 Fein, R. & Vossekuil, B. (1999). Assassination in the United States: an operational study of recent assassins, attackers, and near-lethal approachers. *Journal of Forensic Sciences*.

12 Vossekuil, B., Fein, R., Reddy, M., Borum, R., & Modzeleski, W. (2004). *The final report and findings of the safe school initiative: Implications for the prevention of school attacks in the United States*. Washington, DC: U.S. Secret Service and the U.S. Department of Education.

a known connection between the active shooters and the attack site in the majority of cases (73%, $n = 46$), often a workplace or former workplace for those 18 and older (35%, $n = 19$), and almost always a school or former school for those younger than 18 (88%, $n = 7$), indicating that in most cases the active shooter was already familiar with both the attack site as well as the persons located at the site. Conversely, those active shooters with no affiliation to the targeted site behaved differently. Active shooters with no known connection to the site of their attack were more likely to conduct surveillance ($p < .05$) and research the site ($p < .01$). With routine contact, pre-attack surveillance could presumably be conducted concurrent to normalized activity and eliminate the need for a more formalized or detectable reconnaissance of a chosen target.

The investigative files also demonstrated that only some active shooters researched or studied past attacks by others (21%, $n = 13$). This is not to say that other active shooters were unaware of past attacks — it is difficult to imagine that they did not have at least some basic knowledge of prior infamous shootings that received national media coverage. The FBI again suspects that this behavior may be underrepresented in the study sample, especially as we could not determine if active shooters researched past attacks in 46% of the cases.

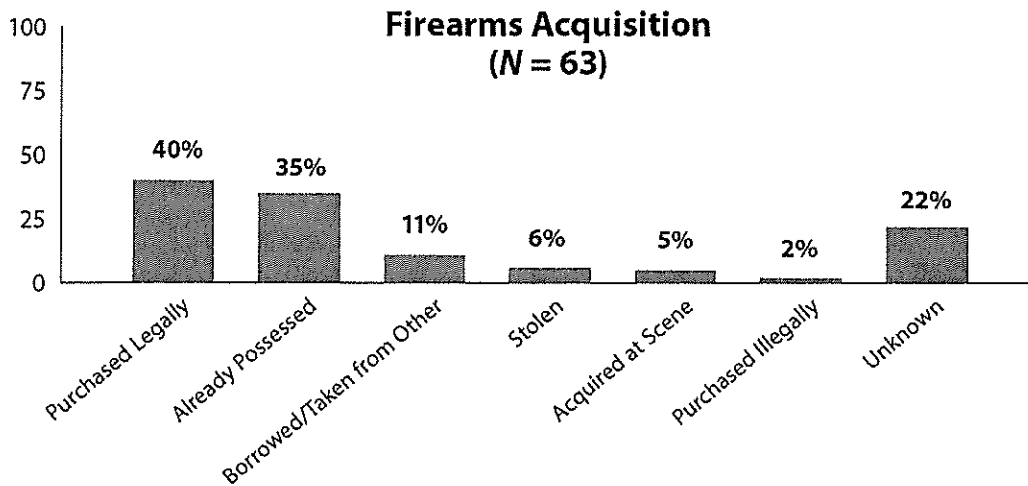
Preparing was narrowly defined for this study as actions taken to procure the means for the attack, typically items such as a handgun or rifle, ammunition, special clothing and/or body armor. The focus was on activities that could have been noticed by others (e.g., a visit to a gun store, the delivery of ammunition) and which were essential to the execution of the plan. The FBI was able to find evidence of time spent preparing in more cases than for time spent planning (likely reflecting the overt nature of procuring materials as opposed to the presumably largely internal thought process of planning). As Figure 7 demonstrates, in more than half of the cases where the time spent preparing was known, active shooters spent one week or less preparing for the attack.



FIREARMS ACQUISITION

As part of the review of the active shooter's preparations, the FBI explored investigative records and attempted to identify how each active shooter obtained the firearm(s) used during the attack. Most commonly (40%, $n = 25$), the active shooter purchased a firearm or firearms legally and specifically for the purpose of perpetrating the attack. A very small percentage purchased firearms illegally (2%, $n = 1$) or stole the firearm (6%, $n = 4$). Some (11%, $n = 7$) borrowed or took the firearm from a person known to them. A significant number of active shooters (35%, $n = 22$) already possessed a firearm and did not appear (based on longevity of possession) to have obtained it for the express purpose of committing the shooting.

FIGURE 8



*Data percentages detailed above add to greater than 100% as active shooters could have obtained multiple firearms in different ways.

Considerations

Active shooters generally take some time to plan and carry out the attack. However, retrospectively determining the exact moment when an active shooter decided to engage in violence is a challenging and imprecise process. In reviewing indicators of planning and preparing, the FBI notes that most active shooters (who demonstrated evidence of these processes in an observable manner) spent days, weeks, and sometimes months getting ready to attack. In fact, in those cases where it could be determined, 77% of the active shooters ($n = 26$) spent a week or longer planning their attack, and 46% ($n = 21$) spent a week or longer preparing. Readers are cautioned that simply because some active shooters spent less than 24 hours planning and preparing, this should not suggest that potential warning signs or evidence of an escalating grievance did not exist before the initiation of these behaviors. In the four cases where active shooters took less than 24 hours to plan and prepare for their attacks, all had at least one concerning behavior and three had an identifiable grievance.

Perhaps unsurprisingly, active shooters tended to attack places already familiar to them, likely as a result of a personal grievance which motivated the attack and/or as a result of operational comfort and access. A unique challenge for safety, threat assessment, and security professionals will be to identify “outside” active shooters who are not already operating within the target environment. Pre-attack site surveillance by an outsider may be one observable behavior in physical or online worlds indicative of planning and preparation activities.

STRESSORS

Stressors are physical, psychological, or social forces that place real or perceived demands/pressures on an individual and which may cause psychological and/or physical distress. Stress is considered to be a well-established correlate of criminal behavior.¹³ For this study, a wide variety of potential stressors were assessed, including financial pressures, physical health concerns, interpersonal conflicts with family, friends, and colleagues (work and/or school), mental health issues, criminal and civil law issues, and substance abuse.¹⁴

13 Felson, R.B., Osgood, D.W., Horney, J. & Wiernik, C. (2012). Having a bad month: General versus specific effects of stress on crime. *Journal of Quantitative Criminology*, 28, 347-363 for a discussion of various theories describing the relationship between stress and crime.

14 See Appendix A.

The FBI recognizes that most (if not all) people in some way confront similar issues on a regular basis in their daily lives, and that most possess adequate personal resources, psychological resiliency, and coping skills to successfully navigate such challenges without resorting to violence. Therefore, the FBI focused on identifying stressors that appeared to have more than a minimal amount of adverse impact on that individual, and which were sufficiently significant to have been memorialized, shared, or otherwise noted in some way (e.g., in the active shooter's own writings, in conversation with family or friends, work files, court records). Given the fluid nature of some (although not all) of the stressors, the analysis was limited to the year preceding the attack.

The variables were treated as binary, that is, either the stressor was present or not, without regard for the number of separate circumstances giving rise to the stressor. So, an active shooter who had conflict with *one* family member and a shooter who had conflicts with *several* family members were both coded as "yes" for "conflict with other family members."

Overall, the data reflects that active shooters were typically experiencing multiple stressors (an average of 3.6 separate stressors) in the year before they attacked. For example, in the year before his attack, one active shooter was facing disciplinary action at school for abuse of a teacher, was himself abused and neglected at home, and had significant conflict with his peers. Another active shooter was under six separate stressors, including a recent arrest for drunk driving, accumulating significant debt, facing eviction, showing signs of both depression and anxiety, and experiencing both the criminal and civil law repercussions of an incident three months before the attack where he barricaded himself in a hotel room and the police were called.

The only stressor that applied to more than half the sample was mental health (62%, $n = 39$). Other stressors that were present in at least 20% of the sample were related to financial strain, employment, conflicts with friends and peers, marital problems, drug and alcohol abuse, other, conflict at school, and physical injury.

TABLE 1: STRESSORS

Stressors	Number	%
Mental health	39	62
Financial strain	31	49
Job related	22	35
Conflicts with friends/peers	18	29
Marital problems	17	27
Abuse of illicit drugs/alcohol	14	22
Other (e.g. caregiving responsibilities)	14	22
Conflict at school	14	22
Physical injury	13	21
Conflict with parents	11	18
Conflict with other family members	10	16
Sexual stress/frustration	8	13
Criminal problems	7	11
Civil problems	6	10
Death of friend/relative	4	6
None	1	2

MENTAL HEALTH

There are important and complex considerations regarding mental health, both because it is the most prevalent stressor and because of the common but erroneous inclination to assume that anyone who commits an active shooting must de facto be mentally ill. First, the *stressor* “mental health” is not synonymous with a *diagnosis* of mental illness. The stressor “mental health” indicates that the active shooter appeared to be struggling with (most commonly) depression, anxiety, paranoia, etc. in their daily life in the year before the attack. There may be complex interactions with other stressors that give rise to what may ultimately be transient manifestations of behaviors and moods that would not be sufficient to warrant a formal diagnosis of mental illness. In this context, it is exceedingly important to highlight that the FBI could only verify that 25% ($n = 16$) of the active shooters in Phase II were known to have been diagnosed by a mental health professional with a mental illness of *any kind* prior to the offense.¹⁵ The FBI could not determine if a diagnosis had been given in 37% ($n = 23$) of cases.

Of the 16 cases where a diagnosis prior to the incident could be ascertained, 12 active shooters had a mood disorder; four were diagnosed with an anxiety disorder; three were diagnosed with a psychotic disorder; and two were diagnosed with a personality disorder. Finally, one active shooter was diagnosed with Autism spectrum disorder; one with a developmental disorder; and one was described as “other.” Having a diagnosed mental illness was unsurprisingly related to a higher incidence of concurrent mental health stressors among active shooters.

Considerations

It is clear that a majority of active shooters experienced multiple stressors in their lives before the attack. While the active shooters’ reactions to stressors were not measured by the FBI, what appears to be noteworthy and of importance to threat assessment professionals is the active shooters’ ability to navigate conflict and resiliency (or lack thereof) in the face of challenges. Given the high prevalence of financial and job-related stressors as well as conflict with peers and partners, those in contact with a person of concern at his/her place of employment may have unique insights to inform a threat assessment.

In light of the very high lifetime prevalence of the symptoms of mental illness among the U.S. population, formally diagnosed mental illness is not a very specific predictor of violence of any type, let alone targeted violence.^{16,17,18} Some studies indicate that nearly half of the U.S. population experiences symptoms of mental illness over their lifetime, with population estimates of the lifetime prevalence of diagnosable mental illness among U.S. adults at 46%, with 9% meeting the criteria for a personality disorder.^{19,20} Therefore, absent specific evidence, careful consideration should be given to social and contextual factors that might interact with any mental health issue before concluding that an active shooting was “caused” by mental illness. In short, declarations that all active shooters must simply be mentally ill are misleading and unhelpful.

CONCERNING BEHAVIORS

Concerning behaviors are *observable* behaviors exhibited by the active shooter. For this study, a wide variety of concerning behaviors were considered, including those related to potential symptoms of a mental health disorder, interpersonal interactions, quality of the active shooter’s thinking or communication, recklessness, violent media usage, changes in hygiene and weight, impulsivity, firearm behavior, and physical aggression.²¹ Although these may be related to stressors in the active shooter’s life, the focus here was not on the internal, subjective experience of

15 The number of documented, diagnosed mental illness may be the result of a number of factors, including those related to situational factors (access to health care) as well as those related to the study factors (access to mental health records).

16 Elbogen, E.B., & Johnson, S.C. (2009). The intricate link between violence and mental disorder. *Arch Gen Psychiatry*, 66(2), 152-161.

17 Glied, S.A., and Frank, R.G. (2014). Mental illness and violence: Lessons from the evidence. *American Journal of Public Health*, 104, e5-e6 doi:10.2015/AJPH.2013.301710

18 Monahan, J., Steadman, H. J., Silver, E., Applebaum, P.S., Clark Robbins, P., Mulvey, E. P., & Banks, S. (2001). *Rethinking Risk Assessment: The MacArthur Study of Mental Disorder and Violence*. Oxford, UK: Oxford University Press

19 Kessler, R.C., Berglund, P., Demler, O., Jin, R., Merikangas, K.R., Walters, E.E. Lifetime prevalence and age-of-onset distributions of DSM-IV disorders in the National Comorbidity Survey Replication. *Arch Gen Psychiatry*. 2005;62(6): 593-602.

20 Lenzenweger, M.F., Lane, M.C., Loranger, A.W., Kessler, R.C., DSM-IV personality disorders in the National Comorbidity Survey Replication. *Biol Psychiatry*. 2007;62(6): 553-564.

21 See Appendix B.

the active shooter, but rather on what was *objectively knowable* to others. So, while the assessment of stressors is meant to provide insight into the active shooter’s inner turmoil, the examination of concerning behaviors addresses a related but separate issue — the possibility of identifying active shooters before they attack by being alert for observable, concerning behaviors. The FBI looked for documented confirmation that someone noticed a facet of the shooter’s behavior causing the person to feel a “more than minimal” degree of unease about the well-being and safety of those around the active shooter.

Before examining what behaviors were observable by others, it is useful to address the widespread perception that active shooters tend to be cut off from those around them. In general, the active shooters in Phase II were not completely isolated and had at least some social connection to another person. While most of the active shooters age 18 and older were single/never married (51%, $n = 28$) or separated/divorced (22%, $n = 12$) at the time of the attack, the majority did live with someone else (68%, $n = 43$). This percentage was slightly less (64%, $n = 35$) for only those active shooters who were 18 years or older. Most had significant in-person social interactions with at least one other person in the year before the attack (86%, $n = 54$), and more than a quarter of them had significant online interactions with another person within a year of the attack (27%, $n = 17$). All active shooters either: a) lived with someone, or b) had significant in-person or online social interactions.

Since the observation of concerning behaviors offers the opportunity for intervention prior to the attack, this study examines not only what was observed, but when the observations were made, who made them, and what if anything the person(s) did with regard to these observations. To better serve threat assessment teams, mental health professionals, community resources, and law enforcement officials, the FBI expanded the inquiry to capture behaviors that may have been observed at any point (in many cases beyond one year) before the attack.

Overall, active shooters showed concerning behaviors in multiple ways, with an average of 4.7 concerning behaviors per active shooter. Behaviors observed in more than half of the sample were related to the shooter’s mental health²², interpersonal interactions, leakage (the communication to a third-party of an intent to harm someone, discussed with threats in a separate section), and the quality of the active shooter’s thinking or communication.

Of note was that contextually inappropriate firearms behavior was noted in approximately one fifth of the active shooters, while drug and alcohol abuse figured even less prominently in the sample (for the purposes of the study, contextually inappropriate firearms behavior was defined as interest in or use of firearms that appeared unusual given the active shooter’s background and experience with firearms).

TABLE 2: CONCERNING BEHAVIORS

Concerning Behavior	Number	%
Mental health	39	62
Interpersonal interactions	36	57
Leakage	35	56
Quality of thinking or communication	34	54
Work performance*	11	46
School performance**	5	42
Threats/confrontations	22	35
Anger	21	33
Physical aggression	21	33

Continues on next page

²² Thirty-nine active shooters were experiencing a mental health stressor, and 39 active shooters showed concerning behaviors related to mental health, but the same 39 active shooters did not appear in each category; there were five active shooters who had a mental health stressor but who did not show a concerning behavior, and five other active shooters who showed a mental health-related concerning behavior but for whom there was no evidence of mental health stress.

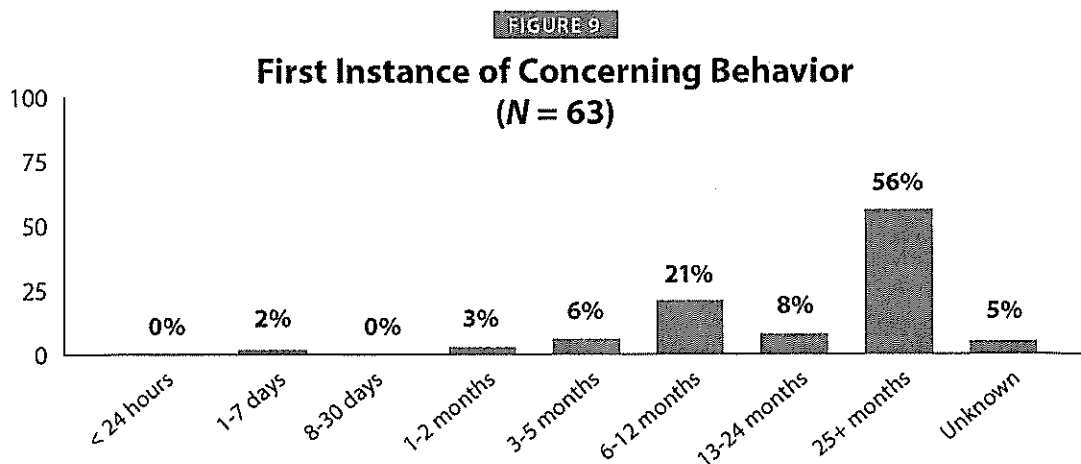
Risk-taking	13	21
Firearm behavior	13	21
Violent media usage	12	19
Weight/eating	8	13
Drug abuse	8	13
Impulsivity	7	11
Alcohol abuse	6	10
Physical health	6	10
Other (e.g. idolizing criminals)	5	8
Sexual behavior	4	6
Quality of sleep	3	5
Hygiene/appearance	2	3

* Based on the 24 active shooters who were employed at the time of the offense

** Based on the 12 active shooters who were students at the time of the offense

When Were the Concerning Behaviors Noticed?

Since the overwhelming majority of active shooters (all but three) displayed at least two concerning behaviors, there are a number of different ways to assess the data. One way is to examine the data by active shooter and to observe the first instance that any concerning behavior was noticed (this could not be determined for three active shooters). Figure 9 shows this data and helps frame the longest time before a shooting during which others were concerned about the active shooter's behavior.



*Does not sum to 100% due to rounding.

Again, this chart shows the first instance of *any* concerning behavior, and it should be kept in mind that this behavior might not have been the type that by *itself* would cause a reasonable person to be alarmed or to report it to others. For example, a co-worker who noticed that an active shooter had more than the normal amount of conflict with a supervisor might be unlikely to take any action. Perhaps only after an attack and with the benefit of hindsight would this singular behavior be considered to be — in and of itself — troubling or concerning. Yet, on average, each active shooter displayed *four to five* concerning behaviors over time. While it may only be the interaction and cumulative effect of these behaviors that would cause alarm, early recognition and detection of growing or interrelated problems may help to mitigate the potential for violence.

In What Way Were the Concerning Behaviors Noticed?

Concerning behaviors came to the attention to others in a variety of ways, with some far more common than others. The most prevalent way in which concerning behaviors were noticed was verbal communication by the active shooter (95%, $n = 60$), followed by observing the physical actions of the active shooter (86%, $n = 54$), written communication (27%, $n = 17$), and finally instances where concerning behavior was displayed online (16%, $n = 10$). A large majority of active shooters (89%, $n = 56$) demonstrated concerning behaviors that were noticed in multiple ways.

Who Noticed the Concerning Behaviors?

At least one person noticed a concerning behavior in every active shooter's life, and on average, people from three different groups noticed concerning behaviors for each active shooter. As shown below, classmates (for those who were students), partners (for those in relationships), family members and friends most frequently noticed concerning behavior, followed by co-workers, other, and law enforcement:

TABLE 3: WHO NOTICED CONCERNING BEHAVIORS

Who Noticed	Number	%
Schoolmate*	11	92
Spouse/domestic partner**	13	87
Teacher/school staff*	9	75
Family member	43	68
Friend	32	51
Co-worker	25	40
Other (e.g. neighbors)	23	37
Law enforcement	16	25
Online individual	6	10
Religious mentor	3	5

* Percentage calculated only with those active shooters who were students at the time of the offense

** Percentage calculated only with those active shooters who were in a relationship at the time of the offense

What, If Anything, Did the Concerned Party Do?

If the person recognizes behaviors as problematic but takes no action, the opportunity for intervention is missed. Whether and how a person responds to an active shooter's concerning behavior is likely influenced by a host of personal and situational factors (e.g., whether the behavior is threatening to the observer or others, the relationship of the observer and active shooter, avenues for anonymous reporting, and/or confidence in authorities or others to address the behavior).

In this study, even in cases where an active shooter displayed a variety of concerning behaviors that might indicate an intent to act violently, the observer(s) of that information did not necessarily pass it along to anyone else. As shown above, the people most likely to notice concerning behaviors were those who knew the active shooter best — family, friends and classmates. For the very reason they are the people most likely to take note of concerning behaviors, they are also people who may feel constrained from acting on these concerns because of loyalty, disbelief, and/or fear of the consequences.²³

23 Bonum, R. (2013). Informing Lone-Offender Investigations. *Criminology & Public Policy*, 12(1), 103-112.

Again, keeping in mind that active shooters displayed multiple concerning behaviors and those who observed these behaviors might have responded in different ways to each, the most common response was to communicate directly to the active shooter (83%, $n = 52$) or do nothing (54%, $n = 34$). Thus, in many instances, the concern stayed between the person who noticed the behavior and the active shooter.

The next most common responses were: report the active shooter to a non-law enforcement authority (51%, $n = 32$); discuss the concerning behavior with a friend or family member (49%, $n = 31$); and, report the active shooter to law enforcement authority (41%, $n = 26$).

Considerations

The analysis above is not intended to, nor could it, encompass the innumerable ways in which the observer of a concerning behavior might react. Nor does it suggest that every concerning behavior warrants assertive intervention; many of the concerning behaviors that registered with others likely would not have presaged deadly violence to a reasonable person. The FBI is aware that in retrospect certain facts may take on a heightened degree of significance that may not have been clear at the time.

Nevertheless, understanding that there are often opportunities before a shooting to recognize concerning behaviors that may suggest progression toward violence, the FBI is highlighting the most common behaviors displayed in the sample. There is no single warning sign, checklist, or algorithm for assessing behaviors that identifies a prospective active shooter. Rather, there appears to be a complex combination of behaviors and interactions with bystanders that may often occur in the days, weeks, and months leading up to an attack. Early recognition *and* reporting of concerning behaviors to law enforcement or threat assessment professionals may initiate important opportunities for mitigation.

PRIMARY GRIEVANCE

A grievance is defined for this study as the cause of the active shooter's distress or resentment; a perception — not necessarily based in reality — of having been wronged or treated unfairly or inappropriately.^{24,25,26} More than a typical feeling of resentment or passing anger, a grievance often results in a grossly distorted preoccupation with a sense of injustice, like an injury that fails to heal. These thoughts can saturate a person's thinking and foster a pervasive sense of imbalance between self-image and the (real or perceived) humiliation. This nagging sense of unfairness can spark an overwhelming desire to "right the wrong" and achieve a measure of satisfaction and/or revenge. In some cases, an active shooter might have what appeared to be multiple grievances but, where possible, the FBI sought to determine the primary grievance. Based on a review of the academic literature and the facts of the cases themselves, the FBI identified eight categories of grievances, with an additional category of "other" for grievances that were entirely idiosyncratic.

As shown in the following table, the FBI could not identify a primary grievance for 13 (21%) of the active shooters, either because they did not have one or because there was insufficient evidence to determine whether one existed. While it may be particularly difficult to understand the motivation(s) for attacks that do not appear to be based on identifiable grievances, these active shooters still displayed concerning behaviors, were under identifiable stressors, and engaged in planning and preparation activities. For example, for the active shooters where no grievance could be identified, all had at least two behaviors (with an average of 5.4 behaviors) that were noted to be concerning by others.

24 Calhoun, T., & Weston, S., (2003).

25 Fein, R., & Vossekuil, B. (1999).

26 Vossekuil, B., Fein, R., Reddy, M., Borum, R., & Modzeleski, W. (2004).

The majority (79%, $n = 50$) of the active shooters did appear to be acting in accord with a grievance of some kind. Of course, the grievance itself may not have been reasonable or even grounded in reality, but it appeared to serve as the rationale for the eventual attack, giving a sense of purpose to the shooter. Most of these grievances seem to have originated in response to some specific action taken regarding the active shooter. Whether interpersonal, employment, governmental, academic, or financial, these actions were (or were perceived to be) directed against the active shooter personally. In contrast, grievances driven by more global or broad considerations — such as ideology or hatred of a group — account for less than 7% of the overall cases. In general then, active shooters harbored grievances that were distinctly personal to them and the circumstances of their daily lives.

TABLE 4: PRIMARY GRIEVANCE

Primary Grievance	Number	%
Adverse interpersonal action against the shooter	21	33
Adverse employment action against the shooter	10	16
Other (e.g. general hatred of others)	6	10
Adverse governmental action against the shooter	3	5
Adverse academic action against the shooter	2	3
Adverse financial action against the shooter	2	3
Domestic	2	3
Hate crime	2	3
Ideology/extremism	2	3
Unknown	13	21

Precipitating Events

Of the 50 active shooters who had an identifiable grievance, nearly half of them experienced a precipitating or triggering event related to the grievance (44%, $n = 22$). Seven active shooters (14%) did not experience a precipitating event, and the FBI could not determine whether the remaining 21 (42%) did. Precipitating events generally occurred close in time to the shooting and included circumstances such as an adverse ruling in a legal matter, romantic rejection, and the loss of a job.

These precipitating events were of more consequence in the timing of the attack, and while they appear to have accelerated the active shooter's movement on the trajectory to violence, they did not by themselves appear to set the course.

Considerations

Of course, many people have grievances and never act violently. What caused the active shooters in this study to act the way they did cannot be explained simply by the presence of a grievance. There was likely the interaction of a variety of operational considerations and psychological stressors that eventually crystallized in the decision to ignore non-violent options and choose to attack. However, the types of grievances most commonly experienced by the active shooters in this study may be important considerations for the many threat assessment teams and law enforcement professionals who work each day to assess a subject's progression along the pathway to violence.

TARGETING

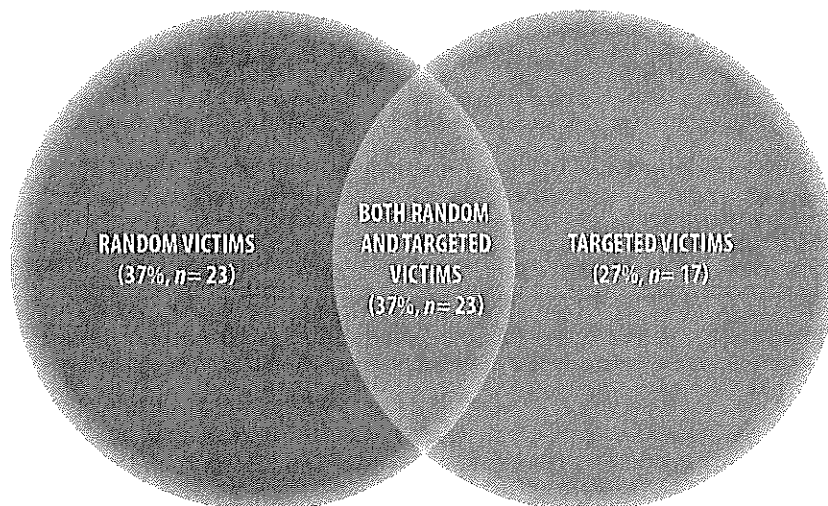
For this study, a target is defined as a person or group of people who were *identifiable before the shooting occurred* and whom the active shooter intended to attack. It was not necessary that the active shooter knew the target by name; intending to attack a person holding a position at or affiliated with a business, educational facility, or in a governmental agency sufficed. The target could be a group, so long as members of that group could have been identified prior to the attack.

In cases where the victims could not reasonably have been identified prior to the shooting, the active shooter was deemed to have selected the victims at random. While there is *some* element of selection in any attack where there is more than one potential victim (unless the active shooter literally does not aim at all), the FBI considered victims to be random where there was: 1) no known connection between the active shooter and the victims, and 2) the victims were not specifically linked to the active shooter's grievance.

In many cases, there was a mix of targeted and random victims in the same shooting. The typical circumstance occurred when an active shooter went to a location with targets in mind and also shot others who were at the same location, either because they presented some obstacle in the attack or for reasons that could not be identified.

The overall numbers for targeted and random victims are listed below:

FIGURE 10



*Does not sum to 100% due to rounding.

Considerations

While approximately one-third of active shooters in this sample victimized only random members of the public, most active shooters arrive at a targeted site with a specific person or persons in mind. Awareness of targeting behaviors can provide valuable insight for threat assessment professionals. Relatedly, the FBI has observed that when an active shooter's grievance generalizes — that is, expands beyond a desire to punish a specific individual to a desire to punish an institution or community — this should be considered to be progression along a trajectory towards violence and ultimately a threat-enhancing characteristic.

SUICIDE: IDEATION AND ATTEMPTS

For this study, “suicidal ideation” was defined as thinking about or planning suicide, while “suicide attempt” was defined as a non-fatal, self-directed behavior with the intent to die, regardless of whether the behavior ultimately results in an injury of any kind. Although these definitions are broad, the FBI concluded that an active shooter had suicidal ideation or engaged in a suicide attempt only when based on specific, non-trivial evidence.

Nearly half of the active shooters had suicidal ideation or engaged in suicide-related behaviors at some time prior to the attack (48%, $n = 30$), while five active shooters (8%) displayed no such behaviors (the status of the remaining 28 active shooters was unknown due to a lack of sufficient evidence to make a reasonable determination).

An overwhelming majority of the 30 suicidal active shooters showed signs of suicidal ideation (90%, $n = 27$), and seven made actual suicide attempts (23%). Nearly three-quarters (70%, $n = 21$) of these behaviors occurred within one year of the shooting.

Considerations

The high levels²⁷ of pre-attack suicidal ideation — with many appearing within 12 months of the attack — are noteworthy as they represent an opportunity for intervention. If suicidal ideation or attempts in particular are observed by others, reframing bystander awareness within the context of a mass casualty event may help to emphasize the importance of telling an authority figure and getting help for the suicidal person. Without stigmatizing those who struggle with thoughts of self-harm, researchers and practitioners must continue to explore those active shooters who combined suicide with externalized aggression (including homicidal violence) and identify the concurrent behaviors that reflect this shift.

CONCERNING COMMUNICATIONS

One useful way to analyze concerning communications is to divide them into two categories: *threats/confrontations* and *leakage of intent*.

Threats/Confrontations

Threats are *direct communications to a target* of intent to harm and may be delivered in person or by other means (e.g., text, email, telephone). For this study, threats need not be verbalized or written; the FBI considered in-person confrontations that were intended to intimidate or cause safety concerns for the target as falling under the category of threats as well.

More than half of the 40 active shooters who had a target made threats or had a prior confrontation (55%, $n = 22$). When threats or confrontations occurred, they were almost always in person (95%, $n = 21$) and only infrequently in writing or electronically (14%, $n = 3$). Two active shooters made threats both in person and in writing/electronically.

Leakage

Leakage occurs when a person intentionally or unintentionally reveals clues to a *third-party* about feelings, thoughts, fantasies, attitudes or intentions that may signal the intent to commit a violent act.²⁸ Indirect threats of harm are included as leakage, but so are less obvious, subtle threats, innuendo about a desire to commit a violent attack, or boasts about the ability to harm others. Leakage can be found not only in verbal communications, but

27 The National Survey on Drug Use and Health (2015) shows that in 2015: 4% of adults had serious thoughts of suicide, 1.1% made serious plans, and 0.6% attempted suicide (<https://www.samhsa.gov/data/sites/default/files/NSDUH-DR-FFR3-2015/NSDUH-DR-FFR3-2015.htm>)

28 Meloy, J. R. & O'Toole, M. E. (2011). The concept of leakage in threat assessment. *Behavioral Sciences and the Law*, 29, 513-527

also in writings (e.g., journals, school assignments, artwork, poetry) and in online interactions (e.g., blogs, tweets, texts, video postings). Prior research has shown that leakage of intent to commit violence is common before attacks perpetrated by both adolescents and adults, but is more common among adolescents.^{29,30,31}

Here, too, leakage was prevalent, with over half of the active shooters leaking intent to commit violence (56%, $n = 35$). In the Phase II sample, 88% ($n = 7$) of those active shooters age 17 and younger leaked intent to commit violence, while 51% ($n = 28$) of adult active shooters leaked their intent. The leaked intent to commit violence was not always directed at the eventual victims of the shootings; in some cases what was communicated was a more general goal of doing harm to others, apparently without a particular person or group in mind. For example, one active shooter talked to a clerk at a gas station about killing “a family” and another expressed interest in becoming a sniper like a character featured in *The Turner Diaries*. In 16 of the 40 cases (40%) where the active shooter had a target, however, the leaked intent to act violently was directly pertaining to that target. In these cases, the leakage was generally a statement to a third-party of the intent to specifically harm the target.

Legacy Tokens

Finally, the FBI considered whether or not an active shooter had constructed a “legacy token” which has been defined as a communication prepared by the offender to claim credit for the attack and articulate the motives underlying the shooting.³² Examples of legacy tokens include manifestos, videos, social media postings, or other communications deliberately created by the shooter and delivered or staged for discovery by others, usually near in time to the shooting. In 30% ($n = 19$) of the cases included in this study, the active shooter created a legacy token prior to the attack.

Considerations

Although more than half of the active shooters with pre-attack targets made threats ($n = 22$), in the majority (65%) of the overall cases no threats were made to a target, and the FBI cautions that the absence of a direct threat should not be falsely reassuring to those assessing the potential for violence raised by other circumstances and factors. Nor should the presence of a threat be considered conclusive. There is a significant amount of research and experience to demonstrate that direct threats are not correlated to a subsequent act of targeted violence.^{33,34,35,36,37,38}

It is important to highlight that in this Phase II study the overwhelming majority of direct threats were verbally delivered by the offender to a future victim. Only a very small percentage of threats were communicated via writing or electronically. In many ways this is not surprising. Written, directly communicated threats against a target (e.g., “I’m going to shoot and kill everyone here on Tuesday”) often spark a predictable response that includes a heightened law enforcement presence and the enhancement of security barriers. These responses are highly undesirable to an offender planning an active shooting.³⁹ Verbal threats issued directly to another person appear to be far more common among the active shooters included in the Phase II study.

29 Hemple, A., Meloy, J.R., & Richards, T. (1999). Offender and offense characteristics of a nonrandom sample of mass murderers. *Journal of the American Academy of Psychiatry and the Law*, 27, 213-225. Meloy, J.R., Hoffman, J., Guldemann, A., & James, D. (2011). The role of warning behaviors in threat assessment: An exploration and suggested typology. *Behavioral Sciences and the Law*, 30, 256-279.

30 Meloy, J. R. & O’Toole, M. E. (2011).

31 Meloy, J.R., Hoffman, J., Guldemann, A., & James, D. (2011). The role of warning behaviors in threat assessment: An exploration and suggested typology. *Behavioral Sciences and the Law*, 30, 256-279.

32 Simons, A., & Tunkel, R. (2014). The assessment of anonymous threatening communications. In J.R. Meloy & J. Hoffman (Eds.), *International handbook of threat assessment* (pp. 195-213). New York: Oxford University Press.

33 Borum, R., Fein, R. Vossekuil, B., & Berglund, J. (1999). Threat assessment: Defining an approach for evaluating risk of targeted violence. *Behavioral Sciences and the Law*, 17, 323-337.

34 Calhoun, F. (1998). Hunters and howlers: *Threats and violence against federal judicial officials in the United States, 1789-1993*. Arlington, VA: US Marshals Service.

35 Calhoun T. & Weston, S. (2003).

36 Dietz, P., Matthews, D., Martell, D., Stewart, T., Hrouda, D., & Warren, J. (1991a). Threatening and otherwise inappropriate letters to members of the United States Congress. *Journal of Forensic Sciences*, 36, 1445-1468.

37 Dietz, P., Matthews, D., Van Duyn, C., Martell, D., Parry, C., Stewart, T., et al. (1991b). Threatening and otherwise inappropriate letters to Hollywood celebrities. *Journal of Forensic Sciences*, 36, 185-209.

38 Meloy, J.R. (2000). *Violence risk and threat assessment*. San Diego: Specialized Training Services.

39 Simons A. & Tunkel, R. (2014)

Whether verbal or written, concerning communications are challenging as those on the receiving end must assess sometimes ominously vague or nebulous verbiage. Such confusion can create doubt in the listener's mind as to the communicator's true intent toward violence.⁴⁰ As law enforcement agencies continue to remind bystanders if they "see something, say something" it becomes relevant to use this data (particularly regarding leakage behaviors) to lower the internal threshold for reporting, even in the face of ambiguous language. It is troubling to note that no bystanders reported instances of leakage to law enforcement, perhaps out of a fear of overreacting or perhaps due to a lack of understanding as to what law enforcement's response would be. This suggests that more robust efforts need to be made to educate bystanders (especially students and adolescents) on the nature of leakage and its potential significance.

Limitations

The findings presented in this report reflect a thorough and careful review of the data derived almost exclusively from law enforcement records. Nevertheless, there are limitations to the study which should be kept in mind before drawing any conclusions based on the findings.

First, the Phase I study on which the present analysis is based included only a specific type of event. Shootings must have been (a) in progress in a public place and (b) law enforcement personnel and/or citizens had the potential to affect the outcome of the event based on their responses. The FBI acknowledges there is an inherent element of subjectivity in deciding whether a case meets the study criteria. Moreover, while every effort was made to find all cases between 2000 and 2013 which met the definition, it is possible that cases which should have been included in the study were not identified. Overall, as with the Phase I study, the incidents included in the Phase II study were not intended to and did not comprise all gun-related violence or mass or public shootings occurring between 2000 and 2013.

Second, although the FBI took a cautious approach in answering protocol questions and limited speculation by relying on identifiable data, there was some degree of subjectivity in evaluating which of the original 160 cases had sufficient data to warrant inclusion in the study.

Third, while reliance on official law enforcement investigative files was reasonable based on the study's objectives, the level of detail contained in these files was not uniform throughout and the FBI was not able to definitively answer all protocol questions for all subjects.

This is a purely descriptive study. With the exception of mental health and suicidal behaviors, the FBI did not make any comparisons to the general population or to criminals who were not active shooters. Therefore, we cannot postulate on the probability as to whether some of the behaviors and characteristics seen here would also have been seen in other populations. Furthermore, the FBI cautions readers to not treat the observed behaviors as having predictive value in determining if a person will become violent or not, as the findings and observations presented herein are not a "checklist" but instead are offered to promote awareness among potential bystanders and for consideration in the context of a thorough, holistic threat assessment by trained professionals. Future research may benefit from comparisons between those who completed active shooting attacks and those who planned to attack but were disrupted prior to the offense, and/or in comparison to those individuals who may have displayed concerning behaviors but had no true intent to commit an act of targeted violence.

⁴⁰ The FBI noted that there were four cases where threats were made and someone notified law enforcement (out of 22 cases where a threat was made, or 14%)

Conclusion

The ability to utilize case files (as compared to open-source documents) allowed the FBI to carefully examine both the internal issues experienced and the behaviors demonstrated by active shooters in the weeks and months preceding their attacks. What emerges is a complex and troubling picture of individuals who fail to successfully navigate multiple stressors in their lives while concurrently displaying four to five observable, concerning behaviors, engaging in planning and preparation, and frequently communicating threats or leaking indications of an intent to attack. As an active shooter progresses on a trajectory towards violence, these observable behaviors may represent critical opportunities for detection and disruption.

The information contained in this Phase II report can be utilized by myriad safety stakeholders. The successful prevention of an active shooting frequently depends on the collective and collaborative engagement of varied community members: law enforcement officials, teachers, mental health care professionals, family members, threat assessment professionals, friends, social workers, school resource officers...and many others. A shared awareness of the common observable behaviors demonstrated by the active shooters in this study may help to prompt inquiries and focus assessments at every level of contact and every stage of intervention.

While many dedicated professionals work to thwart active shootings, the FBI suspects that future active shooters themselves are looking for ways to avoid detection and maximize damage as they plan and prepare for their acts of violence. The prevention of these future attacks will depend on our ability to remain agile and recognize evolving pre-attack behaviors. To that end, the FBI continues to study active shooters to better inform all safety stakeholders and to support the development of sound threat mitigation strategies.

As tragically seen from current events, active shootings continue to impact our nation. The FBI hopes that the information contained in this Phase II study will help in efforts to promote safety across all communities.

Appendix A:

STRESSORS

Abuse of illicit drugs or alcohol: difficulties caused by the effects of drugs/alcohol and/or frustrations related to obtaining these substances.

Civil legal problems: being party to a non-trivial lawsuit or administrative action.

Conflict with friends/peers: general tension in the relationship beyond what is typical for the active shooter's age or specific instances of serious and ongoing disagreement.

Conflict with other family members: general tension in the relationship beyond what is typical for the active shooter's age, or specific instances of serious and ongoing disagreement.

Conflict with parents: general tension in the relationship beyond what is typical for the active shooter's age, or specific instances of serious and ongoing disagreement.

Criminal legal problems: arrests, convictions, probation, parole.

Death of friend/relative: death that caused emotional or psychological distress.

Financial strain: related to job loss, debt collection, potential or actual eviction, inability to pay normal and usual daily bills.

Job-related problems: ongoing conflicts with co-workers or management, pervasive poor performance evaluations, or disputes over pay or leave.

Marital problems/conflict with intimate partner(s)/divorce or separation: difficulties in the relationship that were a consistent source of psychological distress and/or which did or were likely to lead to the end of the relationship or the desire to end the relationship.

Mental health problems: symptoms of anxiety, depression, paranoia, or other mental health concerns that have a negative effect on daily functioning and/or relationships.

Other: any other circumstance causing physical, psychological, or emotional difficulties that interfere in a non-trivial way with normal functioning in daily life.

Physical injury: physical condition/injury that significantly interfered with or restricted normal and usual activities.

School-related problems: conflicts with teachers and staff that go beyond single instances of minor discipline; pervasive frustration with academic work; inability to follow school rules.

Sexual stress/frustration: pronounced and ongoing inability to establish a desired sexual relationship.

Appendix B:

CONCERNING BEHAVIORS

Amount or quality of sleep: unusual sleep patterns or noticeable changes in sleep patterns.

Anger: inappropriate displays of aggressive attitude/temper.

Change, escalation, or contextually inappropriate firearms behavior: interest in or use of firearms that appears unusual given the active shooter's background and experience with firearms.

Changes in weight or eating habits: significant weight loss or gain related to eating habits.

Hygiene or personal appearance: noticeable and/or surprising changes in appearance or hygiene practices.

Impulsivity: actions that in context appear to have been taken without usual care or forethought.

Interpersonal interactions: more than the usual amount of discord in ongoing relationships with family, friends, or colleagues.

Leakage: communication to a third-party of the intent to harm another person.

Mental health: indications of depression, anxiety, paranoia or other mental health concerns.

Other: any behavior not otherwise captured in above categories that causes more than a minimal amount of worry in the observer.

Physical aggression: inappropriate use of force; use of force beyond what was usual in the circumstances.

Physical health: significant changes in physical well-being beyond minor injuries and ailments.

Quality of thinking or communication: indications of confused or irrational thought processes.

Risk-taking: actions that show more than a usual disregard for significant negative consequences.

School performance: appreciable decrease in academic performance; unexplained or unusual absences.

Sexual behavior: pronounced increases or decreases in sexual interest or practices.

Threats/Confrontations: direct communications to a target of intent to harm. May be delivered in person or by other means (e.g., text, email, telephone).

Use of illicit drugs or illicit use of prescription drugs: sudden and/ recent use or change in use of drugs; use beyond social norms that interferes with the activities of daily life.

Use or abuse of alcohol: sudden and/or recent use or changes in use of alcohol; use beyond social norms that interferes with the activities of daily life.

Violent media usage: more than a usual age-appropriate interest in visual or aural depictions of violence.

Work performance: appreciable decrease in job performance; unexplained or unusual absences.



U.S. Department of Justice
Federal Bureau of Investigation

Bill as
Introduced

HB 1509 - AS INTRODUCED

2020 SESSION

20-2707

08/04

HOUSE BILL **1509**

AN ACT relative to emergency threat protection orders for individuals at post secondary educational institutions.

SPONSORS: Rep. Luneau, Merr. 10; Rep. Bordenet, Ches. 5; Rep. Welch, Rock. 13; Rep. Rodd, Merr. 6; Rep. Amanda Bouldin, Hills. 12

COMMITTEE: Education

ANALYSIS

This bill establishes a procedure for issuing an emergency threat protection order against an individual at a post secondary educational institution, who poses an immediate risk of harm to themselves or others.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

1 (b) "Leakage" which is the intentional or unintentional revealing of clues to a third-party
2 about feelings, thoughts, fantasies, attitudes, or intentions that may signal the intent to commit a
3 violent act. This may include indirect threats of harm that are less obvious, subtler threats like
4 innuendo about a desire to commit a violent attack, or boasts about the ability to harm others.

5 III. "Emergency threat protection order" means a temporary or final order issued pursuant
6 to this chapter.

7 IV. "Fame-seeking leakage" means a kind of leakage in which the respondent reveals clues
8 that signal an intent to commit a violent act for the specific purpose of seeking fame.

9 V. "Family member" means a spouse or person cohabiting with another person.

10 VI. "Firearm" means any weapon, including a starter gun, which will, is designed to, or may
11 be readily converted to expel a projectile by the action of an explosive.

12 VII. "Imminent" means likely to take place within the very near future.

13 VIII. "Individuals" means any person who is a student, former student, employee, or former
14 employee at a post secondary educational institution.

15 IX. "Licensed mental health professional" means a person licensed by the state of New
16 Hampshire or another state to provide mental health services and who has had suicide threat
17 training.

18 X. "Mental health" for purposes of RSA 135-G:2, or II(b)(1) means an individual who appears
19 to have depression, anxiety, or paranoia, in his or her daily life in the 6 months before the attack.
20 "Mental health" is not synonymous with a diagnosis of mental illness.

21 XI. "Other weapons" means any item capable of causing mass casualties such as, but not
22 limited to, an explosive device, a motor vehicle, or bio-hazardous materials.

23 XII. "Planning" means specific thoughts and actions involved in carrying out a shooting
24 attack as revealed in words and/or conduct. These actions may include the decision to engage in
25 violence, the selection of specific or random targets, the act of conducting surveillance, and other
26 practical issues such as obtaining victim schedules, transportation, and site access. A general intent
27 to act violently does not constitute planning.

28 XIII. "Post secondary educational institution" means any institution governed by the higher
29 education commission under RSA 21-N:8-a.

30 XIV. "Potential stressors" means physical, psychological, or social forces within the last year
31 that place real or perceived demands or pressures on an individual and which are causing
32 psychological and/or physical distress.

33 XV. "Preparation" means actions within the last year taken to procure the means for the
34 attack, such as a firearm, ammunition, special clothing, or body armor.

35 XVI. "Primary grievance" means the cause of the active shooter's distress or resentment; a
36 perception, not necessarily based in reality, of having been wronged or treated unfairly or
37 inappropriately. It is more than a typical feeling of resentment or passing anger, rather it is one

1 that results in a grossly distorted preoccupation with a sense of injustice, such as interpersonal,
2 employment, governmental, academic, or financial actions that were perceived as distinctly personal
3 to the respondent.

4 XVII. "Public mass casualty shooter" means an individual who plans to kill, attempts to kill,
5 or kills more than one person in any public space.

6 XVIII. "Respondent" means the individual against whom the petition in RSA 135-G:4 is
7 filed.

8 XIX. "Targeting" means a person or group of people who were identifiable before the
9 shooting occurred and whom the respondent intended to attack. It is not necessary that the
10 respondent knows the target by name; intending to attack a person holding a position at or affiliated
11 with a business, educational facility, or in a governmental agency shall be sufficient.

12 135-G: 2 Involuntary Relinquishment.

13 I. If the court finds by clear and convincing evidence at the hearing that the respondent
14 poses a serious and imminent danger of personal injury to self or others, the court shall issue an
15 extreme threat protection order.

16 II. In determining whether a danger exists, the court shall determine if the following
17 conditions are met:

18 (a) A threat of suicide using a firearm exists based on:

19 (1) The presence of both of the following:

20 (A) Verbal suicide threats; and

21 (B) Firearms acquisition, possession, or access; and

22 (2) The presence of at least 4 of the following:

23 (A) Expressions of hopelessness and helplessness; and

24 (B) Previous suicide attempts;

25 (C) Daring or risk-taking behavior;

26 (D) Personality changes;

27 (E) Depression;

28 (F) Giving away prized possessions;

29 (G) Lack of interest in future plans; or

30 (3) The testimony of a licensed mental health professional that there is a threat of
31 suicide by firearm given the possession of or access to a firearm by the respondent; or

32 (b) A threat that the respondent may become a public mass casualty shooter exists based
33 on either:

34 (1) Evidence of 5 or more of the following:

35 (A) Planning;

36 (B) Preparation;

37 (C) Firearms acquisition, possession, or access;

1 (D) Possession, acquisition, or access to other weapons explicitly articulated by
2 the respondent as the weapon of choice;

3 (E) Potential stressors;

4 (F) Mental health;

5 (G) Leakage;

6 (H) Concerning behaviors;

7 (I) Primary grievance;

8 (J) Targeting;

9 (K) Suicidal ideations and/or attempts;

10 (L) Concerning communications; or

11 (2) Evidence of either (A), (B) and (C) or (A), (B), and (D) below:

12 (A) Fame-seeking leakage.

13 (B) Planning and/or preparation.

14 (C) Acquisition or possession of or access to a firearm.

15 (D) Possession of other weapons explicitly articulated by the respondent as the
16 weapon of choice.

17 135-G:3 Petition.

18 I. A law enforcement official may petition for a hearing in a circuit court to remove one or
19 more firearms or other weapons on an involuntary basis from an individual under the standard in
20 this section.

21 II. Any person may report their concerns to a law enforcement official regarding an
22 individual who may meet one or more of the standards in this section. That official shall conduct an
23 investigation, including outreach to the individual in question.

24 III. The petition for removal of firearms or other weapons shall include:

25 (a) The name of the respondent and their last known address.

26 (b) The specific actions and words that the petitioner alleges will satisfy RSA 135-G:2.

27 (c)(1) If proceeding under RSA 135-G:2, II(a)(2) an affidavit from a licensed mental
28 health professional, who has examined the respondent within the 7 days prior to the date the
29 petition is filed and who states that, based on this examination, the respondent satisfies the
30 standard for removal of the individual's firearms set forth RSA 135-G:2, II; or

31 (2) If proceeding under RSA 135-G:2, II(a)(1), or RSA 135-G:2, II(b), an affidavit from
32 a family member or other responsible person that describes the specific actions, conduct, and words
33 of the respondent that will satisfy RSA 135-G:2, II(a)(1) or RSA 135-G:2, II(b).

34 (d) A statement as to whether the respondent has been the subject of a petition under
35 RSA 135-C and the result of that petition and, if no petition has been filed in the last 30 days, a
36 statement as to why not.

1 (e) A statement from the local law enforcement agency that they have requested that the
2 respondent voluntarily relinquish firearms or other weapons in the respondent's possession and that
3 the respondent has declined to do so.

4 (f) A statement that the local law enforcement agency has requested that the person or
5 persons in possession of firearms or other weapons to which the respondent has access take
6 appropriate measures to prevent such access and those person or persons have declined to take such
7 measures.

8 (g) The names and addresses of witnesses who can testify as to the occurrence of the
9 specific actions and words that the petitioner alleges will satisfy RSA 135-G:2.

10 II. Anyone reporting false information to a law enforcement agency to induce such agency to
11 file a petition under this section shall be guilty of a misdemeanor under RSA 641:4. The law
12 enforcement agency shall warn any person providing it with information to induce the filing of a
13 petition under this section that they shall be prosecuted under RSA 641:4 if they provide false
14 information.

15 135-G:4 Hearing Date. Upon receipt of a petition under RSA 135-G:3, the circuit court shall set
16 a hearing date which shall be within 5 days, excluding Saturdays, Sundays, and legal holidays, from
17 the date of receipt of the petition.

18 135-G:5 Copies of Petition. Subsequent to receipt of the petition for involuntary removal of
19 firearms or other weapons, the clerk shall, within one day of receipt of the petition, forward 2 copies
20 to the respondent.

21 135-G:6 Involuntary Removal of Firearms or Other Weapons Prior to Hearing.

22 I. The respondent shall not have the firearms removed prior to the hearing unless upon
23 filing of the petition as described in RSA 135-G:3, the circuit court concludes, by a preponderance of
24 the evidence, that an imminent risk of serious harm exists prior to the scheduled hearing pursuant
25 to RSA 135-G:4 to the respondent or to other people pursuant to the standard in RSA 135-G:2.

26 II. Law enforcement shall comply with the provisions of RSA 135-G:12 in the execution of
27 any order under paragraph I.

28 135-G:7 Appointment of Counsel. The respondent has a right to counsel for all proceedings
29 under RSA 135-G. The respondent shall be notified at the time they are served with the petition of
30 the right to counsel for all proceedings under RSA 135-G and, if he or she cannot afford one, the
31 court will appoint counsel. The respondent shall be provided with a financial statement for the
32 appointment of counsel at the time he or she is served with the petition.

33 135-G:8 Examination by an Independent Licensed Mental Health Professional. Upon receipt of
34 the petition under RSA 135-G:3, the court may order the respondent to submit to an examination by
35 a licensed mental health professional designated by the court prior to the date of the hearing. A
36 written report prepared by such professional shall be filed with the court on or before the date of the
37 hearing. The report shall include both of the following:

1 I. In the opinion of the examining mental health professional:

2 (A) Whether the respondent is a suicide threat based on a formal suicide threat
3 assessment; and

4 (B) What are the available treatment options for the respondent.

5 II. Whether a less intrusive alternative exists to protect the respondent's safety and the
6 safety of the public other than the involuntary removal of firearms or other weapons from the
7 respondent.

8 135-G:9 Recommendations; Copy to Person.

9 I. No later than the day before the hearing, 2 copies of the report prepared pursuant to RSA
10 135-G:8 shall be made available to the respondent and to his or her counsel.

11 II. Either party may apply to the court for a continuance of the hearing on a petition for
12 involuntary removal which the court may grant for good cause shown and in light of the risks at
13 issue.

14 135-G:10 Conduct of Hearing.

15 I. At a hearing held under this chapter, the respondent shall have the right to:

16 (a) Legal counsel;

17 (b) Present evidence on his or her own behalf or through counsel;

18 (c) Have a closed hearing and a closed file unless they request otherwise,

19 (d) Cross-examine witnesses themselves or through counsel; and

20 (e) Summon as a witness the licensed mental health professional who filed the report
21 pursuant to RSA 135-G:8 and to cross-examine him or her.

22 II. At the hearing, the court shall:

23 (a) Admit only reliable evidence using the New Hampshire rules of evidence as a guide.

24 A rebuttable presumption shall exist that hearsay evidence is inadmissible.

25 (b) At the court's discretion, a transcript, which may consist only of any audio recording
26 of the proceedings, may be made of the entire proceeding. The transcript may serve as the basis for
27 an appeal and the costs of the transcript shall be apportioned, within the judge's discretion, between
28 the state and the respondent. The transcript or recording shall be retained by the court for 2 years
29 or until, if firearms are ordered to be involuntarily removed, official notice is received of the return of
30 firearms to the respondent.

31 135-G:11 Order of Court.

32 I. The court shall issue an order which requires the respondent to relinquish voluntarily all
33 firearms or other weapons in their possession upon receipt of the order and to continue to not
34 acquire or possess firearms if the court finds that:

35 (a) The evidence presented at the hearing meets the standard described in either RSA
36 135-G:2, I, (a) or (b); and

1 (b) No other reasonably available alternatives exist to protect the respondent's safety
2 and the safety of the public other than the involuntary removal of the firearms or other weapons
3 described in the petition, such as, but not limited to, voluntary relinquishment, mental health
4 counseling, and/or treatment, or gun safety training.

5 II. If the court has granted a petition under this section, and finds, based on clear and
6 convincing evidence provided on the record, that the respondent has access to firearms or other
7 weapons in the possession of other person or persons in the same household, the court shall inform
8 such persons that they have a legal duty to secure such firearms or other weapons in an appropriate
9 manner to prevent the respondent from having access during the pendency of any order under RSA
10 135-G:12.

11 III. The order shall set a time limit of up to 6 months during which the respondent shall not
12 acquire or possess firearms or other weapons.

13 IV. The order shall also grant law enforcement an anticipatory search warrant which shall
14 authorize law enforcement to search the location identified in the warrant for firearms or other
15 weapons if and only if the respondent refuses to voluntarily relinquish the firearms in their
16 possession.

17 V. It shall constitute contempt of court for the respondent to purchase or possess those items
18 covered by the court's emergency threat protection order.

19 VI. The respondent shall have a de novo right to appeal the court's order to the superior
20 court of the county in which the circuit court issuing the order is situated. The superior court shall
21 schedule such appeal within 5 days of receipt of the notice of appeal. Unless an order has been
22 issued pursuant to RSA 135-G:6, the circuit court's order under this provision shall be stayed.

23 135-G:12 Execution of Order.

24 I. The local law enforcement agency shall execute the emergency threat protection order by:

25 (a) Serving the respondent with the order; and

26 (b) Requesting that the respondent voluntarily relinquish any firearms or other weapons
27 in his or her possession.

28 II. A refusal by the respondent to relinquish all firearms or other weapons in his or her
29 possession may be prosecuted as criminal contempt of court. If a law enforcement agency
30 successfully recovers the firearms sought, the court shall dismiss the contempt order.

31 III. Upon recovery of the firearms or other weapons, the law enforcement agency shall store
32 the firearms at a secure location for the duration of the emergency threat protection order and with
33 due care at no cost to the respondent. The firearms shall not leave the secure location unless
34 ordered by the court.

35 135-G:13 Notification.

36 I. The clerk of the court shall forward a copy of any order issued under this chapter the same
37 day such order is issued to the department of safety, which in turn shall forward a copy to the

1 Federal Bureau of Investigation, or its successor agency, for inclusion in the National Instant
2 Criminal Background Check database.

3 II. The order forwarded to the agencies described in paragraph I shall include:

4 (a) The duration of the order, including its beginning date and ending date as well as a
5 statement that the order is temporary and expires permanently on the ending date; and

6 (b) A statement that the court's order makes no finding as to the mental health status of
7 the respondent; and

8 (c) A statement that the court's order is a civil, not criminal, order and the respondent
9 has not been charged or found guilty of any crime as a part of the proceedings under RSA 135-G.

10 III. If the court finds under RSA 135-G:14 that the emergency threat protection order shall
11 be renewed, the clerk of court shall forward the new order to the agencies described in paragraph I.

12 IV. If the court finds under RSA 135-G:14 that the emergency threat protection order shall
13 not be renewed and the firearms shall be returned, the clerk of court shall forward the order to the
14 agencies described in paragraph I. The order shall include:

15 (a) A statement the order previously forwarded in the matter has permanently expired
16 as of the ending date, and

17 (b) A statement that the previous order in the matter shall be deleted from the National
18 Instant Criminal Background Check database and any other database in which the order has been
19 entered.

20 135-G:14 Return of Firearms or Other Weapons.

21 I. For the duration of the emergency protective order, the law enforcement agency shall
22 retain possession of the respondent's firearms or other weapons at no expense to the respondent.

23 II. No later than 14 days before the expiration of the emergency threat protection order,
24 either the law enforcement agency or the petitioner may file a renewal petition seeking to extend the
25 emergency threat protection order beyond the time period set in RSA 135-G:12, III.

26 III. The issuing court shall set a date for a hearing no later than 2 days before the expiration
27 of the emergency threat protection order.

28 IV. The respondent shall be served with a copy of the petition and notified of the hearing
29 date.

30 V. At the hearing, if the petitioner shows by clear and convincing evidence that the return of
31 the firearms or other weapons to the respondent would create serious and imminent danger of
32 personal injury to self or others, the court shall renew the order for no more than 6 months.

33 VI. If the petitioner fails to make the showing, the law enforcement agency shall return the
34 firearms or other weapons to the respondent within 24 hours of the expiration of the original
35 emergency threat protection order.

36 2 Effective Date. This act shall take effect January 1, 2021.