

NPBA FOUNDATION

ESSAY TOPIC FOR 2020 SCHOLARSHIP COMPETITION

Incidents of school violence – threatened and actual – have become almost commonplace. And the perpetrators’ pre-event conduct (some of it on and around school property) and post-event searches of their computers and phones have revealed a propensity or plans to engage in violent acts, as have examinations of their medical, psychological, psychiatric and other records.

Both the incidents themselves and the “red flags” that might have alerted school and law enforcement authorities to the possibility or likelihood the incidents would occur have prompted public concern, outcry, and demands for “solutions”.

Among such incidents with which you may be familiar are (1) 12 students killed and 21 injured at Columbine High School in 1999; (2) 32 killed and 17 wounded in shootings at Virginia Tech in 2007; (3) 20 children killed at a Connecticut elementary school in 2012 – after the shooter murdered his mother in their home; and (4) 17 killed and 17 wounded in shootings at a Parkland, Florida, high school in 2018.

Among the “red flags” were a perpetrator’s (1) blog post detailing murderous fantasies with “All I want to do is kill and injure as many of you as I can . . .”; early diagnoses of a severe anxiety disorder and his receipt of therapy and special psychological support of which the school was unaware; (3) ongoing diagnoses of severe and deteriorating internalized mental health problems that, combined with an atypical preoccupation with violence and access to deadly weapons, “proved a recipe for mass murder”; and (4) known threats to carry out a school shooting, plus a YouTube posting declaring his wish to become a school shooter.

EXCLUDING GUN-CONTROL MEASURES AND ARMING SCHOOL PERSONNEL, AMONG THE SOLUTIONS THAT HAVE BEEN ADVANCED TO PREVENT OR AT LEAST TO LIMIT THE NUMBER OF SUCH INCIDENTS (INCLUDING STUDENT SUICIDE) IS TO ALLOW – OR TO REQUIRE – SCHOOL AND LAW ENFORCEMENT AUTHORITIES ACCESS TO THE CONTENT OF STUDENTS’ SOCIAL MEDIA ACCOUNTS AND OTHER PERSONAL INFORMATION.

In that connection, various sources report that (1) the surveillance of students’ social media and their private digital content on school-issued devices is yielding huge quantities of data that school administrators must sift through to determine if there are potential threats – much such information is found to be personal and of no relevance to such threats; (2) most schools have rules for their own computers and devices that students are obliged to follow, and schools also may install software on its own devices that monitors student activity, including browsing history; (3) proposed federal legislation calls for numerous policies aimed at increasing school security, including a “Children’s Internet Protection” amendment that encourages districts to invest in

programs that detect "online activities of minors who are at risk of committing self-harm or extreme violence against others;" (4) some school districts are implementing services to monitor the social media accounts of everyone living in the immediate vicinity, including unrelated adults; (5) one company watches over all local posts for key phrases that could foretell a school shooting and claims it found 577 imminent threats of attacks or plans of violence between June and December 2018; (6) some technology companies also are offering services that monitor all of a student's school messages and emails for potential threats; and (7) a number of companies, many of which have sprung up in the last five years, are selling software that allegedly can identify signs of violence or other concerning behavior by trawling children's social media posts and other online activity.

Even though concerns about these incidents are very real and the proposed remedies may be offered with the best of intentions, our Constitution imposes limits on the powers of the Congress, federal agencies, state and local legislatures, authorities, and those acting on their behalf.

For instance:

The First Amendment: "Congress shall make no law . . . abridging the freedom of speech"

The Fourth Amendment: ". . . the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

The Fifth Amendment: "No person . . . shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law"

Against that background, we'd value your thoughts about the following:

Whether, for what purposes and to what extent (including limitations) you believe law enforcement, school officials and others acting on their behalf should have access to:

- 1. the content of your and other students' e-mail and social media accounts; and**
- 2. the content of your and other students' medical, psychological, psychiatric, and other personal (including "sealed criminal) records.**