

The Dangerous Lives of Teachers
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Spring 2004

It was like any other day for 58-year-old California high school tennis coach Bill Smith. Students get in fights all the time, and his job is to make sure that fights quickly end and do not escalate to a point where they cause more damage than they already have. On this day, two students were fighting and a third had decided to kick one of the other two fighters. Coach Smith grabbed the third student, a 16-year-old boy, who then fled to a nearby classroom. Coach Smith followed and, when he attempted to take the boy to the principal's office, he was beaten so badly that he had bone chips in one arm, a dislocated finger, and serious cuts and bruises on his face and body.²

More recently, in Pittsburgh, a 12-year-old boy was arrested; not for acting violently, but for expressing that he would do so.³ He posted this on the Internet: "I'm going to kill my teacher tomorrow and a lot of other people in my school...People look at me and think I'm weak. U know what? I'll show them how strong I am. I'll make them fear me."⁴

I. Introduction

When parents send their children to school, they want them to go to a safe place. Recent, highly publicized events such as the Columbine tragedy⁵ have raised questions about how safe schools really are. We know now that when children head off to school, they encounter

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² Daniel Yi, Teen Facing Felony Trial for Assault on Teacher, Los Angeles Times, Part B, Page One (April 8, 1999).

³ Jonathan D. Silver, Youth Arrested for Posting Threats, Pittsburgh Post-Gazette, B-8, (December 10, 2001).

⁴ Id.

⁵ Susannah Meadows, Ghosts of Columbine, Newsweek, page 54 (Nov 3, 2003).

situations that neither parents nor their children can control. Nevertheless, parents and educators want to create the safest possible environment in which children can learn.

When considering the safety of schools, the public does not typically focus on the professionals who make educating children their life's work. The public assumes they are safe. But often they are not. Nationally, it is estimated that teachers and other school personnel have to deal with 260 physical attacks every day.⁶ While we are used to children who talk back to teachers, what may be shocking is that there are 6,250 threats of physical violence towards teachers each day.⁷

The purpose of this paper is to examine the extent to which teachers and other school personnel are attacked through physical acts or are threatened with attacks. While the situation may not seem dire to most, I proffer that teachers do not feel that way. After exploring the literature on teachers' experiences with assaults and threats, I examine the extent to which there has been a judicial, legislative, and school-based response to this increasing problem.

II. Assaults

A. Teacher as Assailant

Corporal punishment is engrained in our national history. While recently it has fallen out of favor in many parts of the country, corporal punishment is left to the discretion of those at the local level in about half the states. Current estimates are that approximately 600,000 incidents of corporal punishment take place each year.⁸ Corporal punishment, however, is not an assault

⁶ In the interest of B.R., a Minor, 732 A.2d 633, 638 (1999) (citing 86 Journal of Criminal Law and Criminology 1493).

⁷ Id.

⁸ Andre R. Imbrogno, Corporal Punishment in America's Public Schools and the U.N. Convention on the Rights of the Child: A Case for Nonratification, 29 J.L. & Educ. 125 (April 2000).

unless it is taken beyond a reasonable level or violates some state statute.⁹

Teachers are not always charged with assault because of overzealous corporal punishment. Teachers have to be reasonable in their actions, no matter what the physical activity is with respect to the student. This does not mean that teachers do not have the right to physically defend themselves; it means that there must be some consideration of the reasonableness of their actions. There are a number of different factors to explore in determining whether or not an action is reasonable. They include necessity, past conduct of the student, and the seriousness of the threat, among others.¹⁰

Teachers sometimes act on the spur of the moment and cross that line, not by failing to consider the aforementioned factors, but by not taking into consideration factors that should be obvious to all. In Frank v Orleans Parish School Board¹¹ the teacher involved was a man outweighing a 14-year-old boy by 120 pounds. He picked the boy up and shook him against the bleachers, finally dropping the boy and breaking the boy's arm, after the boy had failed to comply with an instruction by the teacher.¹² The court said that circumstances have to define the limit of the degree of force exercised by the teacher to compel compliance.¹³ As the court has said, not all force that is used to compel compliance is actionable by a student seeking redress. In Simms v. School District¹⁴ a student had to be physically escorted from a room after refusing to leave when the teacher requested, because the student had been disruptive and shown

⁹ See e.g. Mont. Code Anno., §20-4-302 (2003), (stating that use of corporal punishment by someone employed or engaged by the school district is against the law).

¹⁰ See generally Donald H. Henderson, Eugene L. Golanda, and Nancy C. Johnson, *The Use of Force by Public School Teachers as a Defense Against Threatened Physical Harm*, 54 Ed. Law Rep. 773 (1989).

¹¹ 195 So.2d 451(La. App 1967).

¹² Id. at 453.

¹³ Id. at 454.

¹⁴ 13 Ore. App. 119 (1973 Oregon Ct Appeals).

disrespect to the teacher herself. In the course of escorting the student out, the student's arm was cut in a window. The court found that the conduct of the teacher was not wrongful and that a "teacher may use reasonable physical force upon a student when and to the extent the teacher reasonably believes it necessary to maintain order in the school or classroom."¹⁵

Teachers are also subject to a violation of the aggressor doctrine (which contemplates an altercation provoked by the aggressor against a party who defends himself¹⁶), and thus can turn what would be justifiable physical harm to a student into an actionable legal complaint by the student. Thomas v. Bedford¹⁷ illustrates such a situation. In this case, a teacher was struck in the back and had a rubber band shot into his face, to which he responded by throwing a board at (and thankfully missing) the student. Some fifteen minutes later, the teacher tracked down the 14-year-old attacker, pulled him into a vacant room, and shook and struck the boy, causing contusions on the chest, arms, and back.¹⁸ The court found that the lapse of time had caused the aggressor doctrine to be inapplicable as a defense to the child's suit.¹⁹ While such a response could at least be considered proper if the course of events been more rapid in unfolding, the issue here was the timing of the student's assault and the teacher's response.

Can teachers initiate altercations with students and still not be considered to be acting outside their own rights? Almost a half-century ago, when the country had a different view of the role of teachers in a student's upbringing, the ruling in Andreozzi v. Rubano was that it was all

¹⁵ Id. at 129.

¹⁶ Thomas v. Bedford, 389 So2d 405, at 407 (La. App. 1980).

¹⁷ Id.

¹⁸ Id. at 407.

¹⁹ Id. (Though Goff's striking Bedford in the back and hitting him with a rubber band rendered him an aggressor, it is obvious that the subsequent altercation in the "project" room, some 10 or 15 minutes later after Bedford had admittedly calmed down, was in fact a separate incident and not a spontaneous reaction to the original provocation. At 407)

right for a teacher to preemptively strike a student who was an impending threat.²⁰ Today's litigious environment alters the circumstances and similar rulings would be questionable.

However, more than two decades after Andreozzi, teachers were still engaging in preemptive activity that seems to push the limits of a teacher's right to protect himself.²¹

B. Teacher as Victim

Any workplace can be dangerous: slips and falls, carpal tunnel syndrome, paper cuts. In their classrooms, teachers also have to deal with the added risks of student and parent assaults. While these cases are the less publicized than assaults on students, they are as important an issue, and usually more extreme in nature.

In Anello v. Savignac²² a teacher was leading a student to the office. In doing so the student stumbled and fell. Immediately, the student began to attack the teacher, hitting the teacher in the face three times and slamming the teacher's head into a corner. A crowd of students had gathered to watch the fight, delaying the arrival of another teacher to help.²³ In Pascucci v. Board of Education of the City of New York²⁴, a case from 2003, a teacher broke up a fight in a special education classroom. This school had security officers who had been called

²⁰ Andreozzi v Rubano, 145 Conn. 280 (1958) (Here, a teacher escorted a student out into a hall after the student had been disruptive during detention. The student took a very aggressive and threatening posture, and so the teacher preemptively slapped the 15-year-old. The court rejected an argument that this was corporal punishment and called it an act "to restore discipline." At 283. Due to the fear of humiliation of the teacher and the order of the school being disrupted, the court applied a reasonableness test and found the teacher not liable.)

²¹ See Owens v. Commonwealth of Kentucky, 473 S.W.2d 827 (Ky. 1971) (Teacher used something similar to pepper spray when two students physically blocked her entry to her classroom and bumped her). See also Clayton v. Board of Education of Central School District No. 1, 49 A.D.2d 343 (Ct. App. N.Y. 1975). (Teacher initiated the physical conduct in order to maintain discipline, student escalated and thus teacher's stronger response was warranted).

²² 116 Wis.2d 246 (Wis. App. 1983)

²³ Id. at 250.

²⁴ 758 NYS 2d 54 (NY 2003).

before the fight between the students began and again after the fight had been broken up. Ten or fifteen minutes later, one of the students who had been fighting tackled the teacher in the hall, slamming her into a heavy metal door. The student then proceeded to slam the door on the teacher's head, neck, and back.²⁵ These are just two of thousands of cases each year where a student violently attacks school personnel.²⁶ This does not include school shootings, such as Columbine, where teachers do not live to file suits against the perpetrators.

Teachers know when they are at a disadvantage when combating their students. Imagine a 5'4," 120-pound, 30-year-old female teacher defending herself against a 6'2," 200-pound, 17-year-old male student. In a vicious case in Chicago, a teacher was teaching economically disadvantaged students in an inner-city school. She heard a 14-year-old student behind her call her name. As she turned to face the student, he called her a "white bitch" and smashed her eye socket with the claws of a steel hammer.²⁷ As a result of the attack, she has five plates in her head and a surgical mesh holding her eye in place.²⁸

Other teachers will not let things go that far. In a Louisiana case, a teacher had an altercation with a student in the bathroom of the school. Shortly thereafter, the student returned with a two-by-four and wielded it against the teacher. The teacher fled, overturning chairs to impede his pursuer's path. He ran to his car and, as the student approached the teachers' parking lot, the teacher produced a gun that he had kept in his car.²⁹ The court found the force exerted by

²⁵ Id. at 103.

²⁶ See In the Interest of B.R., Supra at note 6, at 6.

²⁷ John Kass, Violent Kid Ends Teacher's Dream—But He Had Help, Chicago Tribune, Section 2, Page 1 (July 22, 1997).

²⁸ John Kass, Kids, System Beat Teacher Long Before Her Work Was Done, Chicago Tribune, Section 2, Page 1 (July 24, 1997).

²⁹ State v. Landry, 381 So.2d 462, at 463 (La. 1980).

the teacher in brandishing his weapon was reasonable in relation to the force that was being threatened.³⁰

In addition to concerns about threats from students, teachers also have to be wary of parents. In another 2003 case, a parent became *very* involved in the academic success of her child.³¹ The parent, Ms. Brown, entered her child's classroom while school was in session but when her child was not there and waived a paper in the face of the teacher. Ms. Brown said to the teacher: "You're not going to fail my son."³² The two went outside the classroom and the parent pushed the teacher in the chest, saying "I will kill you, you blue-eyed bitch."³³ Ms. Brown then threatened the lives of the children in the classroom as well. Although no one was injured, the parent left the teacher and the students terrified.³⁴ This is not a new phenomenon as there is case law about it from the beginning of last century.³⁵

In summary, there is the potential for violence against teachers to continue to increase. Many students do not take seriously the disciplinary consequences of their actions. They do not fear the penalties that can be imposed upon them and they do not respect those who are trying to help them. Some parents are not helping the situation, either through their own malfeasance, misguided direction of their youth, or a lack of involvement in their children's lives. This perpetuates a vicious cycle. Students see their peers resorting to violence as a way to resolve problems with school personnel, become accustomed to it, and accept it. This makes them more

³⁰ Id. at 467.

³¹ Commonwealth v. Brown, 822 A.2d 83 (Pa. Super. 2003).

³² Id. at 84.

³³ Id.

³⁴ Id.

³⁵ See e.g. New v. State, 137 S.W. 564 (Ark. 1911).

likely to engage in aggressive behavior themselves, and with some parents like Ms. Brown engaging our teachers in interactions that demean student's respect and appreciation for discipline, we should not be surprised.

III. Threats

Teachers are no strangers to student backtalk and snide comments. The teacher-student relationship has progressed from authoritarian, to *in loco parentis*, to the view that the students' rights equal or even surpass those of their teachers. Language and conduct that would not have been tolerated 50 years ago is now the frequent subject of court litigation. For students who threaten teachers to be punished, either by the school or by the state, a constitutional threshold must be met.

The Supreme Court's basic rulings on First Amendment speech protections as they apply to public school students are set out in Tinker v. Des Moines Community School District,³⁶ Bethel School District No. 403 v. Fraser,³⁷ and Hazelwood School District v. Kuhlmeier.³⁸ In the Tinker case, the Court found that "undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression."³⁹ In order to limit the speech of the student the court said that it would have to be shown that the conduct at issue would have to "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school."⁴⁰ In Fraser, the court did not go so far as to protect obscene language in school. The Court found that the First Amendment "does not prevent the school officials from

³⁶ Tinker v. Des Moines Community Sch. Dist., 393 U.S. 503 (1969).

³⁷ Bethel School District No. 403 v. Fraser, 478 U.S. 675 (1986).

³⁸ Hazelwood School District v. Kuhlmeier, 484 U.S. 260 (1988).

³⁹ Tinker, supra note 36, at 508.

⁴⁰ Id. at 509.

determining that to permit a vulgar and lewd speech such as respondent's would undermine the school's basic educational mission.”⁴¹ Finally, Kuhlmeier showed us that educators don’t offend the First Amendment by exercising control over school sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concern.⁴²

Against this backdrop the courts decide whether or not the language or action communicated by the student is punishable. Courts have to balance the constitutional interests of the student against the interests of the successful operation of the school.

A. True Threat Analysis

In order to find that a student’s threat is not constitutionally protected, courts have to determine that there is a true threat. We are dealing with children who oftentimes tend to exaggerate. Determining whether or not a threat is constitutionally protected depends on a finding that it is or is not a true threat. How this determination should be made has been not been set out by the Supreme Court. Rather it has been left to the lower courts to “ascertain for themselves.”⁴³

The courts of appeals are divided in their interpretations, and use two tests to determine a “true threat,” both of which involve a question of whether a “reasonable person would interpret the purported threat as a serious expression of an intent to cause a present or future harm.”⁴⁴ The courts tend to differ in terms of the viewpoint to be used to analyze the communication. Should it be that a reasonable speaker would interpret it as a threat, or do you ask if a reasonable

⁴¹ Fraser, supra note 37, at 685.

⁴² Kuhlmeier, supra note 38.

⁴³ Doe v. Pulaski County Special Sch. Dist., 306 F.3d 616 (8th Circuit 2002) (See this case for a good overview of the ‘true threat’ cases up to that point).

⁴⁴ Id. at 622.

recipient would view it as such?⁴⁵ “Combining the attributes that the majority of courts have addressed would suggest a test based on the standard of ‘whether a reasonable person would foresee that the statement would be interpreted by those to whom the maker communicates the statement as a serious expression of intent to harm,’ when considered in light of the surrounding circumstances including the perception of the listener.”⁴⁶

In Doe v. Pulaski,⁴⁷ a male student who had broken up with his girlfriend wrote a rap song, expressing his desire to molest, rape, and murder her.⁴⁸ A friend of the male student’s took the letter containing the song and delivered it to the former girlfriend, who read it to some classmates at school. Needless to say, school personnel became involved. The student argued that the threat was never intended to be communicated, but the Eighth Circuit found that while the student needs to intentionally or knowingly communicate the threat to someone before he can be punished for it, this requirement can be satisfied even if the recipient of the communication is a third party.⁴⁹

The saving grace that allows the courts to not prosecute every 8-year-old who tells his teacher that he is “going to get her” is that the courts *do* look to surrounding circumstances. One of the most important considerations is the age of the child. Most courts are not impervious to the fact that young children do not always know the meaning of what they are saying.⁵⁰

⁴⁵ *Id.*

⁴⁶ Sarah E. Redfield, Threats Made, Threats Posed School and Judicial Analysis In Need of Redirection, 2003 B.Y.U. Educ & L.J. 663, 683 (2003). See also In re A.S., *infra* at note 49, for a suggestion of factors to take into account in determining the surrounding circumstances.

⁴⁷ Pulaski, *supra* note 43.

⁴⁸ *Id.* at 619.

⁴⁹ *Id.* at 624.

⁵⁰ In Re A.S., 626 N.W.2d 712 (Wis. 2001) (Court said that student’s age and immaturity weighed in his favor, but nevertheless found the severity of the statements to forego constitutional protection).

In sum, what we can expect from the true threat test is an objective reasonableness test, either from the viewpoint of the speaker or the recipient, that takes into account the surrounding circumstances and context factors.⁵¹

B. Verbal Threats

Threats come in many forms. From threatening body posture, to notes left in lockers, to more recent web page threats, verbal threats have the same effect. The most common verbal threats are the utterances of a student either to or about a teacher.

What is the potential constitutional coverage for comments that seem to be made casually or spontaneously? In Lovell v. Poway Unified School District,⁵² a student who was unhappy with her class schedule was suspended when she allegedly said to the guidance counselor: “if you don’t give me this schedule change, I’m going to shoot you.”⁵³ Using the objective test and examining the situation in the entire surrounding circumstances, the Ninth Circuit found that the statement made was “unequivocal enough to convey a true threat of physical violence.”⁵⁴ Near the end of its opinion, the court found the teacher to feel rightfully threatened partially because of “the level of violence pervasive in public schools today.”⁵⁵ This seems to give validity to what could be seen as overly harsh analysis of student’s statements but it likely to be echoed for many years to come.

⁵¹ Redfield, *supra* note 46, at 722.

⁵² 90 F.3d 367 (9th Cir. 1996).

⁵³ *Id.* at 369.

⁵⁴ *Id.* at 372.

⁵⁵ *Id.* at 373.

In In re A.S.,⁵⁶ a 13-year-old student made threats of violence against the school. The difference here was that the student was not on campus or in the presence of school personnel at the time of the statement. He was at a community center and another minor, who reported them, overheard his statements. Among other threats, the witness stated that the student said that he wanted to “hang” the school’s police officer and beat her knees; make the assistant principal lie down and count towards ten, but would be executed before the number ten was reached; and shoot his social studies teacher.⁵⁷ The student was charged, not under a school rule, but under a disorderly conduct statute and was convicted. The Supreme Court of Wisconsin affirmed the conviction, finding that the student’s remarks were not “jokes or hyperbole, but true threats.”⁵⁸ In the context of the post-Columbine atmosphere, this speech was the kind that “tends to cause or provoke a disturbance.”⁵⁹

In In the Interest of J.H.,⁶⁰ a teacher told a student that she was going to report him to the student’s probation officer if he did not stop using bad language. The student responded that if the teacher did that, “it would be the last thing [she] ever did.”⁶¹ The teacher asked if the student realized he was threatening her. The student replied that he wasn’t threatening her, he was

⁵⁶ 626 N.W.2d 712 (Wis. 2001).

⁵⁷ Id. at 183.

⁵⁸ Id. at 194.

⁵⁹ Id.

⁶⁰ 797 A.2d 260 (Super. Pa. 2002). See also In the Interest of B.R., a Minor, 732 A.2d 633 (Pa. Super. 1999) (Student talked about lining up the teachers at the end of the school year and shooting them. Court found that a statement by a student in the presence of a teacher that he would bring a gun to school must be regarded seriously as an attempt to create fear and apprehension of a future violent act, or at least a reckless disregard of the potential to create such fear and apprehension.).

⁶¹ Id. at 261.

“promising.”⁶² The Pennsylvania court found that just because the child was angry and the comment seemed spur of the moment, the circumstances did not preclude the child from forming the requisite intent.⁶³ He was deemed guilty of making terroristic threats.⁶⁴ The court cited the “strong public interest in reducing the level of violence within our schools and in the community in general, that it is of paramount importance that our schools must be kept as centers of learning free of fear for personal safety. This concept of safety encompasses the notion of teachers and students being secure and free from the fear of becoming victims of senseless violence.”⁶⁵

These cases provide examples of the kinds of exchanges between students and teachers that are going on in schools. Compared to what has been written by some students, these verbal threats *seem* to be relatively minor and of little consequence.

C. Written Threats

In attempting to exemplify some written threats, I preface this with the statement that now that we have the Internet; much of what in the past was done through conventional written means is now on the web and will be discussed later.

Students always have complained to and about their teachers, but these cases detail what students have written. Through “kill-lists”⁶⁶, poems⁶⁷, stories⁶⁸, or newspapers⁶⁹, students are

⁶² Id.

⁶³ Id. at 262.

⁶⁴ Id. at 263.

⁶⁵ Id.

⁶⁶ Conley v. Doe, 14 Mass. L. Rep. 59 (Super. Ma. 2001).

⁶⁷ D.G. v. Independent School District 11, 2000 U.S. Dist. Lexis 12197 (ND Okla. 2000).

⁶⁸ In re Douglas D., 626 N.W.2d 725 (Wis. 2001).

⁶⁹ Bystrom v Fridley High School, 686 F. Supp. 1387 (D. Minn. 1987).

venting their frustrations or expressing their desire to actually harm those who teach them.

Perhaps one of the more legally confusing cases involving a kill list is Conley v. Doe⁷⁰. A sixth-grade teacher found a list entitled “People I Want to Kill,” written by the student. This list was blank, but a second list found at a later time had nine names on it, including that of the teacher.⁷¹ The teacher sued for a civil remedy but the court denied her recovery on any of her suits. While to this point it looks like the court is protecting the list from punishment, it isn’t. They wrote: “[W]hen a student privately writes down such a death wish but does not act to communicate that wish to the teacher he may hate, the teacher's remedies rest with the school administration, not a court of law.”⁷² That the student had not given the list to anyone seems to be the deciding factor. Since he was writing at his desk in the school when a teacher was walking around observing, I find it difficult to square this ruling with verbally communicative threats that were overheard.⁷³

In D.G. v. Independent School District 11⁷⁴, the teacher asked the student to move because she was talking and being disruptive. The student thought she was being accused wrongly and wrote a poem entitled “Killing Mrs. [Teacher].” The poem threatened the life of the teacher. The court found that it was obvious that the poem was not meant as a threat, and thus was not disciplinable, being protected by the First Amendment. The court found that the

⁷⁰ Conley, supra note 66.

⁷¹ *Id.* at 1.

⁷² *Id.* at 13.

⁷³ See also State v. Kardonsky, 2002 Wash. App. LEXIS 1400 (Wa. App. 2002) (There a student had created a document on a computer in a school lab stating basically the following. “One day I am going to kill all of the teachers in this school...I will rape Mrs. Krieder...I will put a gun up to some teacher’s head and force them to get high...It will be the best time of my life[.]” at 2. The court found that the threat was knowingly communicated because it was saved on a computer in the study hall, and in the easily accessible ‘My Documents’ folder. The court also found this a true threat, using the reasonableness test from the recipient’s perspective.).

⁷⁴ 2000 U.S. Dist. Lexis 12197 (N.D. Okla. 2000).

student's bad judgment was unfortunate, but "such lack of judgment is commonplace among the teenage student population."⁷⁵

In In re Douglas D.⁷⁶, a student became disruptive during a creative writing assignment and was moved into the hall by the teacher. When the student handed in his assignment, teacher felt that she was being threatened by the paper, as it said for example: "One day she kick a student out of her class & he didn't like it...The next morning [he] came into class... and cut her head off[.]"⁷⁷ Again the court found that this did not rise to the level of criminal punishment, but that the disciplinary procedures for such activity should remain with the school district.⁷⁸

Newspapers are the source of an entire exacting line of analysis, usually with respect to right of students to write and publish controversial topics. In some cases, such as Bystrom v Fridley High School,⁷⁹ the controversial topic was advocating activities that would result in harm to school property and personnel. The students published an off-campus newspaper but distributed it on campus. The paper gave kudos to those responsible for the vandalism of a teacher's home. Despite the fact that the distribution of the paper was not intended to cause disruption, the court found it to be the cause of the material disruption of the school.⁸⁰ The court found that such threats could be limited and disciplined by the school, despite the fact that the

⁷⁵ Id. at 17.

⁷⁶ 626 N.W.2d 725 (Wis. 2001). See also Matthew B. Stannard, Threats in Creative School Work Taken Seriously, *San Francisco Chron.*, A21 (Mar. 9, 2001) (Student wrote a horror story about killing someone that had broken into his house that he thought was a criminal but was actually his teacher. After being arrested, the charges were dropped).

⁷⁷ Id. at 731.

⁷⁸ Id. at 743.

⁷⁹ 686 F. Supp. 1387 (D. Minn. 1987).

⁸⁰ Id. at 1392.

creation of the paper was off campus, despite the constitutional protections claimed.⁸¹

The first amendment protections seem to be stronger for that which is written in the form of artistic expression, than the utterances by students about teachers in passing. While artistic expression seems to put some validity behind what is being said, it seems that teachers, schools, and courts all struggle to find what the greater point is: art (or the freedom of a student's speech as protected by the First Amendment) or threat. In finding one or the other, schools and courts run the risk of erring to one side, either resulting in an infringement of rights of expression of the student, or, in my opinion more worrisome, physical or mental harm to the teacher.

D. Internet Threats

Despite its newness, the Internet has made a huge impact on almost all parts of life, and has brought a new line of cases to courts across the United States. The ability to use the Internet to reach people worldwide has made it a source of praise and worry. "With the ability to post and access speech from on and off school premises, schools are now faced with students' technological ability both to torment other students and to interfere with school activities."⁸² Students also have the ability to torment their teachers.

One of the first cases to question whether a student could be disciplined for his writings posted on the Internet was Beussink By and Through Beussink v. Woodland R-IV Sch. Dist.⁸³ The student created a website that was highly critical of the school, used vulgar language to criticize teachers and the principal, and invited others to contact the school with criticism.⁸⁴ The court determined that the student was not punished because of fear of disruption, but because the

⁸¹ Id.

⁸² Redfield, supra note 46, at 687.

⁸³ 30 F.Supp.2d 1175 (E.D. Mo 1998).

⁸⁴ Id. at 1177.

opinion he expressed on the Internet was one that upset the school administration.⁸⁵ To punish the student for content with which the principal disagreed with would violate the protections of the Constitution.⁸⁶

Students have utilized the Internet to test the limits of what they can do. While criticism isn't going to be punishable since it is protected by the Constitution, schools are still going to try to do so.⁸⁷ Organizations have been created on the Internet to help student speech that is otherwise suppressed or censored get published. A former web page, the Bolt Reporter, aimed to help those attempting to address controversial topics such as “drugs going on in school, teachers who aren't satisfying their needs, the stress of going to college. It's not always appropriate for a public forum like a high school paper[.]”⁸⁸

An Internet case in Pennsylvania in 2000 found that a student had gone too far in speaking against his teacher. In J.S. v. Bethlehem Area School District⁸⁹, a student posted a web page that, again, criticized school personnel. What differentiates this case from Beussink is that the student exceeded reasonable limits. The student called the teacher fat, a bitch, and stupid. He then asked “Why Should She Die” and requested twenty-dollar donations to help hire a hit

⁸⁵ See also Killion v. Franklin Reg'l Sch. Dist., 136 F. Supp. 2d 446 (W.D. Penn. 2001) (Top ten list created about the school athletic director, containing critical remarks about appearance and other things was found unpunishable); Coy v Bd. of Educ., 205 F.Supp.2d 791 (N.D. Ohio 2002) (student can't be punished for offensive web site if school just disagrees with the web site).

⁸⁶ Id. at 1182.

⁸⁷ Terry McManus, Internet Raises New Rights Issues for Students, Chi. Trib., at 1 (Apr 21, 1998) (Circumstances similar to Beussink, where a band teacher was poked fun at. Student recovered \$30,000 in a settlement, but removed the critical language from his site.).

⁸⁸ Janelle Brown, Banned High School Journalism Embraced on the Web, (Since the publish date of this article, the Bolt Reporter has been taken down) (Nov. 26, 1997). (available at <<http://www.wired.com/news/culture/0,1284,8799,00.html> >

⁸⁹ 757 A.2d 412 (Comm. Pa. 2000).

man.⁹⁰ The web site had an immediate impact on the teacher, causing her to fear for her life, causing stress, creating anxiety, and resulting in loss of sleep, weight, appetite, and a general sense of well being. The teacher was medicated and unable to return to the classroom that year or the following year. Taking into account the web site's contents and effects on the teacher and community, the court found that the school discipline did not violate the First Amendment.⁹¹

The Internet continues to grow, and will facilitate more activity like that touched on above. Based on the somewhat sparse cases that directly address speech (and thus threats) on the Internet we know this: school officials cannot discipline a student for publishing a web page on the Internet that is critical of some aspect or individual of the school simply because they disagree with the content, without a reasonably foreseeable material disruption.⁹² If however, there is a material disruption and effect on the community, a teacher, or the operation of the school itself, the court can find that the First Amendment does not protect the web page and the disciplinary decision will stand.⁹³

Threats, in whatever form, are counterproductive to the school environment, and in many cases cause actual harm not only to the recipients, but to those that make them. While the court provides ample protection to the speech of students, we all have to work within the parameters that have been provided. The next section addresses the work that has been completed.

⁹⁰ Id. at 416.

⁹¹ Id. at 422.

⁹² Beussink at 1181. See also Tinker, supra note 35; Killion, supra note 84; Mahaffey v. Aldrich, 236 F.Supp.2d 779 (E.D. Mich. 2002) (The regulation of a student's website without proof of disruption to the school or on campus activity in creation of the site violates the First Amendment).

⁹³ J.S., supra note 89. See also United States v. Morales, 272 F.3d 284 (5th Cir. 2001) (Student sent internet communication to stranger stating that he was going to kill people at student's school, not protected).

IV. Judicial, Legislative, and School Response

Real protection for teachers must come from those who have decision making power; those who have the ability in courts to punish those who threaten or assault teachers or provide post-action remedies for teachers who are victims. Those with decision making power can initiate programs and laws that can preempt such conduct towards teachers, can provide better localized control over the schools, and thus can either control or prevent incidents like those discussed above from happening. The next sections look to what each group (the judiciary, the legislature, and schools) have done remedy the dangerous situations created by some students.

A. Judicial Response

As has been discussed, the power of the court to help the situation is limited by the constitutions (the Federal and the ones of the states) and statutory law.⁹⁴ Courts have taken some steps to allow schools to control some areas not generally thought to be within their power. Courts have allowed, in some cases, the schools to reach out beyond activities on their campuses and discipline students. In Donovan v. Ritchie,⁹⁵ a student was punished for photocopying a list of derogatory remarks about people at school. This action was done off campus and was not connected with any school-sponsored activity. The court said that despite these facts, the school could punish off-premises conduct that led to the distribution of the list on school premises, because the student had notice of what the disruptive result of his actions would be.⁹⁶

Some courts allow a school to discipline students for activity that does not amount to threats but do involve disrespect of a teacher. In Fenton v. Stear,⁹⁷ a student called a teacher a

⁹⁴ See e.g. Tinker supra note 36, Fraser supra note 37, and Kuhlmeier, supra note 38.

⁹⁵ 68 F.3d 14 (1st Cir. 1995).

⁹⁶ Id. at 17.

⁹⁷ 423 F.Supp. 767 (W.D. Penn. 1976).

“prick” while at a shopping center, off school property and outside of school hours. The court found that there is no constitutional protection for speech such as this, and likened it to fighting words, because their very utterance tends to incite a breach of the peace.⁹⁸ The court upheld the suspension given by school personnel. Further, they found that when a student, even in a public place, insults a teacher in a loud voice, it may be deemed a matter for discipline at the discretion of school authorities.⁹⁹ *A fortiori* student activity that involved threats would also seem to be appropriate for a school’s disciplinary process.

When the off-campus activity does rise to the level of a threat, courts will punish those that are making them, no matter their age so long as the threats are true threats.¹⁰⁰ On campus threats have many times been called into question, whether or not a student is guilty of making terrorist threats. In In the Interest of B.R.,¹⁰¹ the court found that a student was attempting to create a situation of fear or apprehension, and thus was guilty of such a charge. In In re J.H.,¹⁰² we also saw that courts might not be so quick to forgive a student based of the student's excuse of being angry and acting in the spur of the moment.

Cases like those from California, where courts are lenient to children because of their age and situation as students, occur too often.¹⁰³ The court in In re Ricky T found that because of

⁹⁸ Id. at 771.

⁹⁹ Id. at 772. But see Klein v. Smith, 635 F.Supp. 1440 (D.Me. 1986) (Student in similar circumstances to those in Fenton made a lewd gesture at a teacher. The court found that the student “giving the finger” to the teacher did not constitute fighting words, and thus did not strip him of the protections of the First Amendment, which was thus violated by the student’s ten-day suspension).

¹⁰⁰ See In Re A.S., supra note 49.

¹⁰¹ Supra note 60.

¹⁰² Supra note 60.

¹⁰³ In re Ricky T., 87 Cal. App. 4th 1132 (2001); see also In re Ingmar C., 91 Cal. App. 4th 112 (2001).

the lack of immediacy of the threat, there was no validity to it.¹⁰⁴ In finding so, the court seems to have put too much weight into what occurred after the threat was made, and not enough weight on the fact that the student pounded on the door and threatened “I’m going to get you” to the teacher through a locked door.¹⁰⁵ Such a threat should not be taken so lightly. Fortunately, as we have seen earlier, this is not always, nor necessarily often, the case.¹⁰⁶

Teachers have sometimes sought redress through legal remedies of the court, and have frequently been granted them.¹⁰⁷ In J.S. v. Bethlehem Area School District,¹⁰⁸ both the teacher and the principal who were targeted on the student’s website filed civil suit against the student. In Spielmann v. Hayes ex rel. Hayes,¹⁰⁹ a court granted a protective order to a teacher seeking one under the state’s Protection from Domestic Abuse Act, extending the coverage to harassment from a student.¹¹⁰ Even beyond the students who inflict harm, some scholars recommend employer suits against schools districts that place dangerous students back into classrooms.¹¹¹

Courts have the power to enforce the laws against students and thus wield a great weapon in combating crimes against teachers. What happens often is that the court is overly concerned with age and/or immaturity of the student as one component of the overall circumstances of a

¹⁰⁴ Id. at 1137.

¹⁰⁵ Id. at 1135.

¹⁰⁶ See Lovell, supra at note 52.

¹⁰⁷ See Stephen Goode, Teachers Strike Back at Disruptive Students, Insight on the News, at 15 (December 4, 1995).

¹⁰⁸ Supra note 89.

¹⁰⁹ 3 P.3d 711 (Ok. App. 2000) (Student left death threats on the teacher’s home voice mail regarding her husband, and imminent physical harm to herself, set to happen if any of the kids in her class got in trouble).

¹¹⁰ Id. at 714.

¹¹¹ Noel M. Johnston, The Chicago Public Schools and its Violent Students: How Can the Law Protect Teachers?, 48 DePaul L. Rev. 907, at 914 (Summer 1999) (Approaches the issue through a traditional “foreseeable third party assault” framework).

threat analysis, and thus limits the importance of the evidence concerning the impact on the teacher. The courts should enforce the laws to protect the teachers, should interpret the laws to best guide the students away from the criminal actions by example, and should provide legal remedies to teachers when they are sought. We may feel sorry for the students who do not understand what they are doing; however, by not enforcing the law, we are providing these same students with excuses for not understanding or bearing responsibility for their actions.

B. Legislative Response

Changes that will affect everyone with a sense of uniformity generally begin by making or amending federal and state laws. Both the federal government and the legislature of many states have enacted or have considered statutes that would directly address the issues of school violence and student threats. These statutes, especially on the federal level, tend to be heavily weighted towards the violence that students themselves may be victims of. While this is unfortunate, any initiative against violence is a step in the right direction.

In 1994, Congress adopted the Safe Schools Act¹¹² to initiate a process that would progressively eliminate what were believed to be two of the key problems in elementary and secondary schools: drugs and violence. Its primary goal was that “by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning, by ensuring that all schools are safe and free of violence.”¹¹³ While this date has come and gone, the Act has been reauthorized and continues to be in affect. The Act

¹¹² 20 U.S.C. 5961 – 5968.

¹¹³ 20 U.S.C. 5961. See also Alexander Volokh, A Brief Guide to School-Violence Prevention, *Journal of Law and Family Studies*, 2 J.L. & Fam. Stud. 99 (2000) (Citing other acts aimed at preventing school violence enacted in 1994, including the Safe and Drug-Free Schools and Communities Act, the Family and Community Endeavor Schools Act, and the Community Schools Youth Services and Supervision Grant Program).

establishes a series of two-year grants, up to \$3,000,000, to local education agencies.¹¹⁴ To be eligible, a school district must experience a high rate of criminal or disciplinary problems, and the schools within the district must have a high level of community interaction (and thus support) with the schools and the school programs.¹¹⁵ This Act goes beyond giving funds for the discretionary use of school districts to combat the ills specific to their systems: it actually requires the schools to develop long term plans to combat the problems.¹¹⁶ The Act also defines the activities for which funds could be used. Uses include assessment, training, parent and community education, counseling, hiring security guards, and installing metal detectors.¹¹⁷ This Act intends to create programs and situations that will help combat violent acts in schools. Although the Act was reauthorized in 2004, we must make note of the fact that the initial goal was to have such safe schools, free of drugs and violence by the year 2000. The fact that the goal was not achieved by the pre-set date may be a telling indicator of how serious the problem is.

Congress has also enacted the Gun Free School Zones Act¹¹⁸ recognizing that “the occurrence of violent crime in our school zones has resulted in a decline in the quality of education in our country.”¹¹⁹ While this is not an act aimed directly at in-school occurrences of violence, it represents recognition of the need for the federal government to be more involved in

¹¹⁴ 20 U.S.C. 5962

¹¹⁵ 20 U.S.C. 5963.

¹¹⁶ 20 U.S.C. 5964.

¹¹⁷ 20 U.S.C. 5965.

¹¹⁸ 18 U.S.C. 922. See also Erin Downey, *Federal Child Access Prevention Laws: An Exercise in Futility or a Feasible Means of Curbing Juvenile Violence?*, 2 J.L. Soc’y 148 (Wayne State Winter, 2001) (Discussed congressional initiatives like the Children’s Gun Violence Prevention Act of 1999, which sought to hold parents criminally responsible for allowing their child to access a gun).

¹¹⁹ *Id* at (q)(1)(F).

protecting those who live and work in our schools.¹²⁰ The Act's specific purpose is to "address the devastating tide of firearm violence in our Nation's schools" and to provide "an important step toward fighting gun violence and keeping our teachers and children safe."¹²¹ Some recognize the effect that such activity can have on the school systems, not just from point of view of victimization, but as a factor negatively influencing educational achievement. "Violence may affect the labor supply to schools. Numerous teachers may be unwilling to risk personal harm to provide their services to violent schools. Thus, school violence may create a shortage of qualified instructors, and affect the national market for such individuals...."¹²²

Federal statutes exist to combat school violence and states have enacted an even more concentrated approach to the effect that threats and violence have on teachers in schools. South Carolina's Safe Schools Act is one such statute. The statute makes it a crime for "any person," including students, to convey threats to school personnel or member's of their immediate family.¹²³ The statute details the form of these threats to include a "letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication."¹²⁴ Punishments can range up to a \$5,000.00 fine, or up to five years in jail.¹²⁵

¹²⁰ Id at (q)(1)(H). (States, localities, and school systems find it almost impossible to handle gun-related crime by themselves--even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures).

¹²¹ 86 Journal of Law and Criminology at 1509.

¹²² Id at 1532 (justifying the act as a valid use of the Commerce Clause).

¹²³ S.C. Code Ann. §16-3-1040 (2003). See also Cal Penal Code §71 (Threats directly communicated to the school personnel and recipient has reasonable fear of the threat being carried out, are punishable by up to \$10,000.00 and one year for a first offence). And see S.C. Code Ann §16-3-612 (Amendment S131 2004) (Very recently (June 3, 2004) the South Carolina Legislature passed the South Carolina Teacher Protection Act of 2004 which adds harsher and more serious penalties for students that attack school personnel, up to ten years in jail).

¹²⁴ Id. at (A).

¹²⁵ Id. at (C).

An example of the stringency with which this statute is enforced is seen in In the Interest of Steven S.,¹²⁶ where a student was discussing with a classmate that if the teachers continued to bother him, he was “going to kill them.”¹²⁷ The threat was not made directly to a teacher, but was loud enough so that one overheard the comment. The court found this circumstance a threat “toward” a teacher.¹²⁸

States have to be careful not to go overboard with what they are allowing their employees to do. In 1998, a Georgia representative proposed legislation that would deter school violence by allowing teachers to carry arms.¹²⁹ The Representative’s proposal may not even be necessary, as there exists a law now that could be read to allow for teachers to carry weapons.¹³⁰ While groups of course vehemently oppose such an amendment, such a reading of the current statute along with some disbelief that it exists in the first place, was also voiced.¹³¹

Some states have “softer” statutes that apply to what should or should not be permitted in schools.¹³² They attempt to dictate that students should be taught the following responsibilities: respect for school personnel; creating a school environment free from threats and violent behavior; and acting with good citizenship in mind.¹³³ While courses of instruction in character education are good faith efforts towards combating a bad situation, we must not fool ourselves.

¹²⁶ 434 S.E.2d 312 (SC App. 1993).

¹²⁷ Id. at 313.

¹²⁸ Id.

¹²⁹ Jennifer Frederick, Do As I Say, Not As I Do: Why Teachers Should Not Be Allowed To Carry Guns On School Property, 28 J.L. & Educ. 139 (January, 1999).

¹³⁰ Ga. Code Ann. § 16-11-127.1(c)(6) (1996).

¹³¹ Frederick, supra note 129, at 140.

¹³² See e.g. N.C. Gen. Stat. §115C-81 (2003).

¹³³ Id.

Teaching what students should do falls short of changing behavior. Furthermore, student behavior is influenced at least as much by their experiences out of school as what they are taught during formal schooling.

Legislation may be the most effective way to respond to the increasing threats and violence that goes on in today's schools. As long as the rules and regulations are clearly defined and sufficient money is provided to implement the rules and regulations as intended, legislation has a realistic chance of causing a change in schools. At the same time, however, the high level of control often exerted by the legislature and the unfamiliarity of many legislators with the world of educators and schools makes it more likely that compliance, rather than meaningful change, will be the reaction of school personnel to newly enacted legislation.

C. School Response

Schools are the front line of these issues, acting with authority and direction from the school districts they serve. One way to make progress is to prepare school personnel to identify the warning signs of students who could become violent. The Center for Disease Control has reported that this is one of the key things that schools can do to increase the safety of their institutions.¹³⁴ Over half of the violent incidents that were studied followed a danger signal, usually in some of the written forms discussed in this paper.¹³⁵ In cases where the warning signals are ignored, there can be dire consequences, including shooting deaths of teachers and students.¹³⁶

Schools have a variety of ways that they approach threatening activities, most of them

¹³⁴ Redfield, *supra* note 46, at 666.

¹³⁵ *Id.*

¹³⁶ Cincinnati Post, Youth's Poems, Web Ed. (Nov. 10, 1998) (Student wrote a poem portraying how he would feel after his first murder. English teacher reported nothing about it, and later the student shot two students and a teacher at the school). (available at <<http://www.cincypost.com/news/1998/write111098.html> >).

traditional. Students can be suspended, expelled, required to take psychological evaluations, or held or detained in other ways before they are allowed to get back to school.¹³⁷ However, we may be doing more harm than good with some of the punishments being administered to students. Some experts proffer that when you single out a child and discipline him or her, you may just be furthering the process of alienation and anger he or she feels towards the situation, other students, and the school.¹³⁸ This may actually be more harmful than any intended benefit that the school has in mind. While the schools obviously act as they do to protect their campuses, their teachers, and their students, cases illustrate that students who are punished and ejected from the school premises do not become incapable of committing crimes against those still at the school.¹³⁹

Some schools are increasing the security that they provide at their schools. I remember the first time I ever saw security guards in a school setting was in the movie *Lean on Me*.¹⁴⁰ I was about 13 years old and was in awe that such a high level of security would be needed at any school, even if it were in New Jersey. In today's world, the presence of security guards in schools seems to be commonplace. Many schools have attempted to increase security by using technology such as metal detectors, by hiring security guards, by banning students from carrying book bags, or by not allowing students to have lockers.¹⁴¹ However, students are able to

¹³⁷ Redfield, *supra* note 46, at 720.

¹³⁸ See James Alan Fox and Jack Levin, *The Hard (But Doable) Job of Making Schools Safe*, *The Boston Globe*, at F1 (August 22, 1999).

¹³⁹ See Michael D. Simpson, *Taking Threats Seriously*, *NEA Today*, Vol. 17, No. 1 (September 1, 1998) (One example shows that the student that did the shooting had been suspended the prior day).

¹⁴⁰ Warner Home Video, Ltd. (copyright 1989).

¹⁴¹ See Deborah Austern Colson, *Safe Enough to Learn: Placing an Affirmative Duty of Protection on Public Schools Under 41 U.S.C. Section 1983*, 30 *Harv. C.R.-C.L. L. Rev.* 169 (Winter 1995).

outsmart the system and get around increases in security. Sometimes they are aided in their attempts by school personnel who look the other way. Weapons make their way into schools at an alarming rate of 135,000 per day.¹⁴²

If schools are to become safer places and school personnel are empowered to better protect the students they serve and the teachers they employ, substantive changes must be made. Security systems must be revamped to maximize their effectiveness. Teachers and other school personnel must work in concert to anticipate and identify signs that signal they need to do something to defuse a situation before it comes to a head.¹⁴³ Most importantly, though, schools must realize that students are maturing; growing as individuals, growing in their responsibilities, and growing in their understanding of their role in society. “Instead of just focusing on the value of individual freedoms, as courts seem inherently to do, schools can and must provide the socially valuable service of encouraging and developing society’s shared values.”¹⁴⁴

V. Conclusion

In a perfect world we would have no violence or threatening behavior in schools, and thus no need to worry about the safety and well being of our teachers. Historically we have thought of teachers as the ones who could victimize the students. We can no longer disregard the threat that teachers face every day they go to school. Whether it is because of this country’s penchant for and glorification of violent activities (through every form of media) or because of a breakdown in family values, we must acknowledge that teachers are increasingly being victimized by their students.

¹⁴² Id. at 170.

¹⁴³ See NH Rev Stat §193-F:1 to F:4 (Pupil Safety and Violence Prevention Act of 2000) (Requires the reporting of bullying by those that witness it, or know of situations like taunts and threats).

¹⁴⁴ Lisa M. Piscotta, *Beyond Sticks & Stones: A First Amendment Framework for Educators Who Seek to Punish Student Threats*, 30 Seton Hall L. Rev. 635, at 669 (2000).

Teachers are subject to the same protection that everyone is; that is, the ability to reasonably defend oneself. Increasingly, case law and general experience affirm that defending oneself is something teachers must be prepared to do. Teachers may be brutalized or intimidated; they often are at a disadvantage, especially when female teachers must deal with older students, or even worse, enraged parents. And while I haven't addressed this in the paper, school districts that fail to support their teachers in situations where they have acted do nothing for the teachers' confidence that the system cares about them.

Teachers also have to deal with changes in the school culture, changes to which they cannot realistically personally respond. Threats towards teachers are a result of a diminution of respect for schools and their personnel. The court has provided a shield for free expression, extending to many instances of a student's threatening behavior the protections of the first amendment. The reasonableness test that incorporates all of the surrounding circumstances in determining whether or not the threat could be punishable is the current favored examination, though the court has in the past given too much weight to the fact the actor is a child. In the wake of the nationally publicized school shootings, however, the court now seems to be willing to take threats more seriously. Court decision after court decision emphasizes the need to look at the circumstances in light of the tide of violence sweeping through public schools. The expansive reach of the Internet extends these concerns.

Once we could blindly expect that the repercussions a student would face following violent or aggressive behavior would be deterrent enough. Today, that is not true. Violent students need more than school suspensions. They need more than expulsions. They need consequences that they fear. The current consequences do not deter students who have little respect for school authority. Students need to fear the law in order to respect it. They need to

understand that their actions will be subject not only to school discipline, but also to long-term consequences. They must learn that they are making decisions they are going to be shape the rest of their lives. While some argue that we are dealing with children and that we should give deference to their immaturity and lack of development, I would argue that the greater function of schooling and educators must be protected. In no way to I advocate the complete elimination of an understanding that children will be children. However, we as a society have gotten to a point where some actions of children are not child-like actions.

Dealing with unruly and disruptive students may be a part of an educator's job description, but we should not expect educators to fear for their safety. Through prosecution of the crimes that students perpetrate and vigorous affirmative measures to prevent violence, we could make schools, which are already relatively free from unintentional harm, much safer places. Courts need to recognize their duty to the protection of the student's rights, but also to the rights of teachers. By stripping the law of the concept of *in loco parentis*, courts have eliminated much of the school's ability to regulate itself, due to fear of litigated repercussions. Giving greater deference, strength, and support to the school's decisions would be an effective way to have problems solved at their source. With the highest court in the land recognizing that students do hold many of the Constitutional rights that adults do, they have in effect subjected every precautionary measure that a school makes to at least a local or personal review of constitutionality. I have always thought that schools are where you learn the responsibility and the extent of one's rights, not where you test limits. Without knowledge and respect for what comes with an individual's rights, the validity of the exercise seems to lose some of its bravado. When a child does exercise his "rights" in some of the ways mentioned in this paper, he or she is showing that the proper understanding of rights and responsibilities has not been inculcated into

the child. I feel the court has eliminated, or at least sharply curtailed, the ability of a school to regulate its students. I fear that the current disrespect for authority, if unchecked, will continue into adulthood.

Although there may be no direct way to instill the respect, we must take action when we see instances of disrespect, particularly violent instances. States that enact statutes specifically directed towards the problem of student on teacher threats and violence are taking steps towards eradication of the issue. Federal programs such as the Safe Schools Act that provide funding for programs to educate parents and the community about developing good relationships with their children are *imperative*. Laws that create liability for parents of certain acts their children participate in could result in even greater prevention. Statutes with criminal penalties or at least swift and meaningful ones should be enacted to act as either a deterrent or punishment (whatever side of the penal fence you sit on). However, I do NOT advocate statutes that take the power out of the hands of the school as an entity. Georgia's gun-carrying-teacher legislation is just more fuel for the already blazing fire.

Perhaps the best way to solve the problem is from the ground up. Increasing the consistency of the punishment that follows offenses that are relatively minor in the educator's eye could ultimately result in a greater understanding of the seriousness of rules and laws. Although these actions would involve greater time spent by the school administration, it would most likely pay great dividends. At the same time, we must recognize that there is a limit to what schools, courts, and legislatures can do. Real progress must begin with a solid family background and teaching children the values that could eradicate the problem at the source.

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