

# *In memory of:*

**Alyssa Alhadeff      Scott Beigel      Martin Duque      Nicholas Dworet**  
**Aaron Feis      Jaime Guttenberg      Chris Hixon      Luke Hoyer**  
**Cara Loughran      Gina Montalto      Joaquin Oliver      Alaina Petty**  
**Meadow Pollack      Helena Ramsay      Alex Schachter**  
**Carmen Schentrup      Peter Wang**

## *But for a Small Moment*

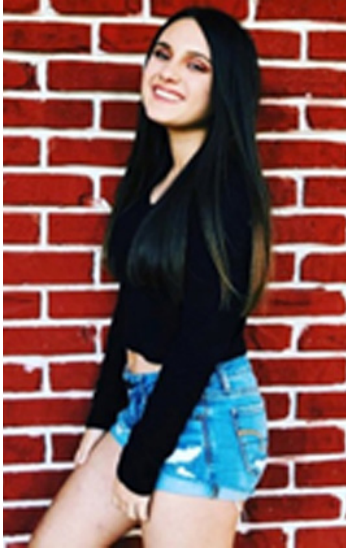
**Tragedy falls, and takes what cannot be replaced:  
Time, moments, milestones,  
Togetherness.**

**Darkest clouds of trouble, a peace destroyed.  
Suddenly, senselessly,  
Publicly.**

**Yet night briefly yields, and rays  
of love uncommon shine.  
Broken hearts together,  
United.**

**Not to supplant, but to illuminate  
a journey blessed by grace.  
Deeply etched, always  
Remembered.**

**Our truest promise, vitally renewed in her:  
To live and love and strive.  
Until joyfully reunited, a family  
Forever.**



Alyssa Alhadeff

It was only a week prior to February 14, 2018 that our daughter, Alyssa Alhadeff, had selected her course load for the upcoming academic Sophomore year. Honors English, Pre-Calc, Chemistry and Spanish 4 topped her list...had such a bright future ahead of her! Hard to imagine, though, that I now must write about our beautiful 14 year old in the past tense.

Not only an academic talent, Alyssa shone brightly athletically as well. Having begun to play soccer at the age of 3, she held the position as attacking mid-fielder wearing the number 8 with pride. Her unbelievable passing skills, coupled with her ability to communicate as a leader on the field, were paving her way to athletic prowess.

The light of all of our lives was dimmed forever on February 14, 2018. We will spend the rest of our lives trying to:

**#LiveforAlyssa**

**#PlayforAlyssa**

**#ShineforAlyssa**



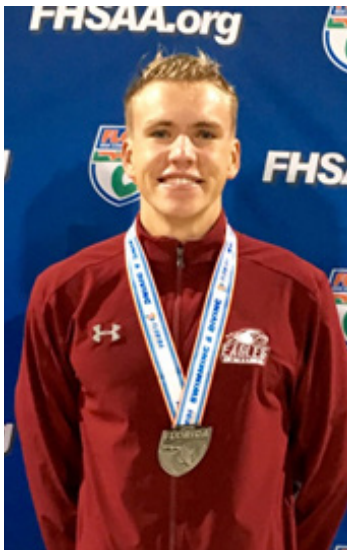
Scott J. Beigel

Scott J. Beigel was 35 years old. Scott was a teacher, a coach, a camp counselor, a son, a grandson, a brother, an uncle, a nephew, a cousin, a friend and a hero. Scott was a very humble young man who never knew how much of an impact he had on others, especially children. Scott loved working with children. Teaching afforded him the ability to continue with one of his life's passions, working at sleep away camp. Scott's ultimately wanted to have a positive impact on every child, no matter how young or old, no matter what the issues. Scott did volunteer work in South Africa with under privileged children. It is for this reason that we have combined his two life passions; his love of summer camp and his desire to teach and mentor children, that we started the Scott J. Beigel Memorial Fund. The Scott J. Beigel Memorial Fund is a 501(c)(3) not for profit whose mission statement and purpose is to help send under privileged children to summer camp. We would very much like Scott's legacy to live on.



Martin Duque  
Anguiano

**Martin Duque Anguiano, Jr. was a smart and driven young man who was taking honors classes and looked forward to taking AP classes and dual enrollment college classes. As committed as he was to his studies, Martin was equally devout in his faith - he prayed every day and regularly attended church. loved soccer, the FC Barcelona team and anything related to 'Star Wars.' He was a JROTC Cadet Corporal who'd received numerous honors. Martin was kind, compassionate, fun-loving, studious and generous with friends and strangers alike. He is greatly missed by his parents Daisy and Martin, Sr., his brothers Miguel, Alex, Andres and Santiago and everyone who knew him.**



Nicholas Dworet

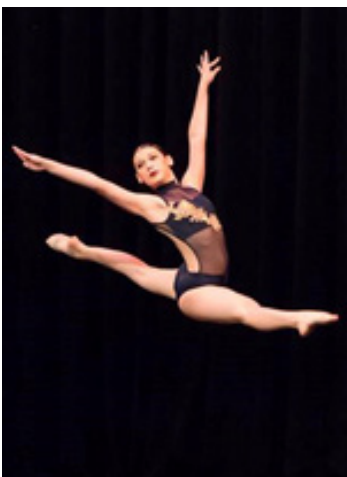
**Nicholas Dworet was Captain of the MSD swim team; he also loved to play water polo. He was a district, regional and state champion. He had a college scholarship in hand with the University of Indianapolis, and with aspirations to swim in the Tokyo 2020 summer Olympics. Nick was selected by faculty as one of twenty, First Class graduating Seniors who excelled in academic achievement, character, community service, and athletic achievement.**

**We honor Nick for his love of life, his true love Daria, his positive attitude and his respect for what he cherished most...his family and friends. Always on our mind, forever in our hearts, we miss you Nick.**



Aaron Louis Feis

Aaron Louis Feis was a loving husband, devoted father, coach and mentor on and off the field, confidante, and lifelong friend. Aaron always put his family first. Whether it was working an extra job, helping with homework, or cooking with his daughter. Aaron treasured the simple moments. His heart was full of kindness, love and humor. Aaron's greatest joy was to see others reach their potential and achieve their goals. He was a loyal and genuine friend. Aaron's unwavering selflessness was a steady constant. His demeanor put others at ease. Aaron's enveloping presence provided a sense of safeguard that allowed others to be themselves. He will always be remembered as a hero but to those who knew him, he was a hero each and every day.



Jaime Guttenberg

Jaime Guttenberg was a beautiful, smart, energetic, compassionate and funny 14 year old girl when her life was tragically cut short in the MSD shooting. She should have turned 15 on July 13th and she should be living her life now as a competitive dancer, volunteer to children with special needs, amazing daughter, sister and friend. We should be teaching Jaime to drive, not driving to a cemetery to visit Jaime. We miss our beautiful daughter. We miss her laughter, her voice, her beauty and the energy that she always brought into every room that she entered. And we will love her forever.



**Christopher Brent  
Hixon**

**Christopher Brent Hixon was a caring, passionate, adventurous and responsible man. He was a wonderful son and brother, incredible father to his two sons and a devoted husband. He was a sailor in the US Navy; both active duty and Reserves, where he served as a Machinist Mate and Military Police officer for 27 years. He was passionate about sports and became an athletic director for the BCPS where he was able to share that passion with his athletes. He was a great leader to his coaches and a true role model for the athletes. He always put others before himself and he had a way of making you feel like you were family. He lived his life helping others and trying to make the world a better and safer place. He will be forever remembered as a hero because he exemplified the motto “If not me, then who?” through his actions every single day.**



**Luke Hoyer**

**Luke Hoyer was a quiet soul with a big heart. His friendly face, sweet smile, laid back personality and low-key humor brought happiness to all those around him. He was known as “Lukey Bear” to his family, a nickname his Mom gave him at an early age. Luke loved his family, his friends, his dogs, basketball, Clemson Football, family trips to South Carolina, family trips to the Jersey Shore, Miami Heat, Dwayne Wade and Chicken Nuggets. He could often be found playing basketball at his neighborhood court with friends. He played for many years in the Parkland Basketball League and was a member of several travel basketball teams. He also played football in middle school and was looking forward to trying out for the MSD football team in the fall. Luke led a simple and beautiful life. He didn’t need to say much, just having him around made the room feel warm and welcoming. Luke’s contagious smile and good nature will be greatly missed by those that knew and loved him. He touched many lives and will be felt in many hearts forever. Luke’s parents, his older sister Abby and older brother Jake love and miss him so much everyday! He will always be our Lukey Bear!**



**Cara Loughran**

**Cara was an amazing child with a heart of gold. She loved life and her family and friends. She had a way of bringing joy to everyone in her life. Cara had a smile that was extremely contagious. You couldn't help but smile back at her. She was extremely supportive of her friends and always willing to help anyone who needed her. Cara brought light and joy to all who knew her. Cara was a wonderful student and took her studies very seriously, she worked hard and took pride in her academic accomplishments.**

**She was a wonderful daughter and an amazing sister. Cara's brother Liam was her best friend and she loved him dearly. She had many great friends who loved her very much. Her friends referred to her as the glue that bound them all together many times. She was a beach lover and completely happy whenever she was near the ocean. She loved surfing and Irish dance. Her favorite color was purple and she loved butterflies.**

**Cara was so much fun to be around. She would giggle and laugh at anything even remotely funny which amused everyone around her. Her kind and gentle nature was inspiring to all who loved her.**

**We were so proud of the wonderful young lady Cara was. Referring to her in the past tense is still too painful to bear.**

**Losing Cara left a gaping hole in the lives of all who loved her. Cara will be forever loved and missed.**



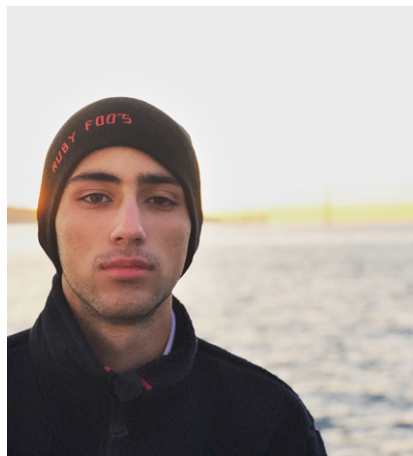
**Gina Rose  
Montalto**

Gina Rose Montalto, age 14, was a special girl who melted the heart of everyone she met. Her infectious smile was there from the start and brightened any room she entered. This was a quality she retained throughout her amazing life. Gina was instant friends with everyone she met. A caring and loving soul, she was often the first to reach out to the new kids in class and welcome them into the neighborhood. She also had a great sense of humor and a penchant for being silly - even goofy at times.

Always trying to make things better for others, Gina loved to do volunteer work, especially if it involved helping kids. She was a Girl Scout and active in a local church. Gina was known to all as an avid reader and a talented artist who illustrated for a local magazine. Once she told her mother that she loved books so much she wanted to live in a library. She loved to cook with her Father and her Grandmother, especially during the holiday season.

She enjoyed shopping days with her Mom, and NY Jets games with her Dad. In the local recreational leagues Gina played soccer and flag football. Gina was also a bit of a daredevil riding all the extreme roller coasters at the Orlando theme parks with her Mother. Gina loved to surf, snorkel and ski. She loved to do these activities with her best buddy; her brother Anthony. They got along well, and loved each other very much.

Gina joined the MSD Color Guard last winter. She competed through the spring and was a part of the Eagle Regiment as they won the FL state championship in the fall of 2017. She always earned the highest grades in school and had a bright future ahead of her. Gina will be missed not only by her family, but by everyone whose life she touched.



**Joaquin Oliver**

Joaquin Oliver was the most vibrant personality in every room. He was always the life of the party and he loved to love. Even now, I hear how his presence impacted so many people. He always did his best to be there for everyone and be the best friend and best boyfriend he could be. He was persistent, opinionated, and always stood up for what's right and what's fair. Everywhere he went he touched someone's heart and had a special bond with each and every one of them. Joaquin had a strong passion for writing and looking at everything he wrote now, the meaning behind his writings goes so much deeper than expected. As a son he was very kind, warm, spoiled and persistent in what he wanted to get and accomplish. He was always making fun of little things, making jokes and looking for company when he wanted to eat or watch a game. As a brother he adored his sister and he always looked after her. We miss him each and every day; everything we do is for him.



Alaina Petty

It is impossible to sum up in words all that Alaina was and all she meant to her family, friends & community. Alaina was a vibrant, determined & accomplished young woman, loved by all who knew her. She sought after the beauty in the world and others. Alaina was happiest while spending time with her family and friends, her dogs, working hard and making a difference.

To make a difference, Alaina found opportunities to serve others. She served her community through her participation in the Marjory Stoneman Douglas JROTC program and by giving of her time as a volunteer for the “Helping Hands” program of The Church of Jesus Christ of Latter-day Saints. As a first-year Cadet, Alaina achieved the highest rank possible for a Freshman. She was awarded ‘Cadet of the Month’ in only her second month, a rare honor for a 1st-year cadet.

While we will not have the opportunity to watch her grow to become the amazing woman we know she would be, we choose to take an eternal perspective. We are grateful for the knowledge that Alaina is a part of our eternal family and that we will be reunited with her. This knowledge and abiding faith in our Heavenly Father’s plan gives us the strength to endure this most difficult trial.

“Live every day as though it’s your last” was her advice to friends and so she lived her life in faith, not fear. Alaina was a light to all who encountered her. Alaina’s light lives on.

Ryan, Kelly, Ian, Meghan & Patrick Petty



Meadow Jade  
Pollack

Meadow Jade Pollack is forever loved and missed by her family and friends. As the youngest in a family with 10 grandchildren all growing up together in Parkland she was the princess of the family. While Meadow was small in stature, she had such strength and determination. She was a beautiful girl that loved everything pink and girly but also could get dirty outdoors. She aspired to be an attorney and have a family of her own. We will never see her vision of life come true. She will always be our beautiful princess.



Helena Ramsay

**Helena Ramsay was a bright and beautiful young lady who had friends of all cultures and creeds. She was very shy and private until you got to know her wonderful sense of humor and wicked wit. Helena was very aware of the challenges facing communities across the globe such as inequality and discrimination, as well as being passionate about environmental issues. Helena's dreams would have led her on an adventure around the world, traveling to Europe with the possibility of study, listening to the K-Pop bands in South Korea, and an expedition to find the exquisite Pink Dolphins of the Amazon Forest. On the day of the tragedy Helena like so many others who lost their lives acted selflessly and put her classmates first ultimately costing her, her life.**



Alex Schachter

**Alex Schachter was a special little boy. He was happy and always smiling. He loved sports. Whether it was playing basketball and football or watching his favorite teams the New England Patriots, Boston Red Sox and Boston Celtics he was always ready to talk smack with his friends. His tenacious defense led to several championships on the basketball court. He worshipped his big brother Ryan. He used to let his little sister Avery play with his hair and give him massages so she could hang out with him and his friends. He used to bond with his older sister Morgan over their love of Japanese TV shows. Alex's love of music was constant throughout middle and high school. He followed in his grandfather's footsteps and played the trombone in middle and high school. His hard work and dedication paid off when his band, the Marjory Stoneman Douglas Eagle Regiment Marching Band became state champions several months before his passing. His family founded SafeSchoolsForAlex.org in his honor to protect all children and teachers. Alex is loved and missed every day.**



Carmen Schentrup

Carmen was a beautiful, talented, caring, smart, and witty 16 year old Senior, just a week away from her 17th birthday. Carmen enjoyed spending time with her family and friends, reading, and making others laugh. While Carmen had a silly disposition by nature, she knew how to apply herself, excelling in school and music. Carmen was also involved in a number of clubs and was president of the a cappella club and her church youth group. Like many teenagers, she enjoyed watching TV and going to movies; watching a favorite new show wasn't uncommon. Always looking to explore the world, Carmen liked to travel, visit national parks, explore museums, and go to concerts. As a National Merit Scholar, with multiple scholarships, she was excited about graduating from Stoneman Douglas and was debating attending either the University of Florida or the University of Washington. We will never know which one Carmen would have picked. Her dream to become a medical researcher and cure ALS cut short before it began. For all of us that knew Carmen, we were sure she was going to change the world. We miss her more than you can know.



Peter Wang

Peter Wang was a much beloved and good son, and the adored older brother of Jason and Alex. He was kind, generous and smart and could always be counted on for a smile, a joke or to make others laugh. He was never sad. He embodied the values espoused in his JROTC- honor, duty, respect, loyalty, selfless service and courage- and on that horrific day, Peter held the door so his classmates and peers could safely escape. Peter had his sights set on attending West Point and becoming a pilot. West Point posthumously admitted him to the class of 2025 and granted him the Medal of Heroism. He was a hero and is greatly missed by all who knew and loved him.

## *Where I'm From*

I am from the sketchpad  
filled with drawings  
From Crayola and Macy's  
I am from the house  
with the basketball hoop in front  
and the green paint, brown door,  
with a pool and a lake in the back  
It feels cozy and cool I am  
from palm trees, the gardenias  
big beautiful white and green  
flowers that the smells so good  
I'm from the family vacations  
and the barbecues with the neighbors,  
from Tony, Jen, and Anthony  
I'm from the Ginabug and Pickelhead  
From I am so brave, strong, and  
beautiful and you can be anything  
I'm from Christmas trees,  
with shining light with glittering  
and dangling ornament  
I'm from Italy and Ireland,  
spaghetti and corned beef.  
From the knitting with Grandma  
and little purple needles  
and soft wool, the brave firefighter,  
I am from sunny, warm, rainy,  
humid, colorful, tropical.  
southern, and flavorful Florida

By Gina Rose Montalto

# *Life is like a roller coaster*

It has some ups and downs  
Sometimes you can take it slow  
Or very fast  
It may be hard to breathe at times  
But you just have to push yourself  
And keep going  
Your bar is your safety  
It's like your family and friends  
You hold on tight and don't let go  
But sometimes you might  
throw your hands up  
Because your friends and  
family will always be with you  
Just like that bar keeping you  
safe at all times  
It may be too much  
for you at times  
The twists,  
The turns,  
The upside downs,  
But you get back up  
And keep chugging along  
Eventually it all comes to a stop  
You won't know when  
Or how  
But you will know that it will be  
time to get off  
And start anew.  
Life is like a roller coaster.

By Alex Schachter

## COMMISSION APPOINTEES

**Commission Chair: Sheriff Bob Gualtieri** is the Sheriff of Pinellas County and has served with the Pinellas County Sheriff's Office for 35 years. Sheriff Gualtieri also serves on the board of directors for the Florida Sheriff's Association (FSA), the Major County Sheriff's Association (MCSA) and the Boys and Girls Clubs of the Suncoast.

**Vice Chair: Chief Kevin Lystad**, of Miami Shores, is the Chief of the Miami Shores Police Department. He is the President of the Florida Police Chiefs Association. Chief Lystad serves as Vice Chair of the Commission.

**Sheriff Larry Ashley**, of Okaloosa, is the Okaloosa County Sheriff. Sheriff Ashley has nearly 30 years of law enforcement experience and has earned numerous awards and commendations during his career. He participated in the Governor's emergency meetings to help develop the Marjory Stoneman Douglas High School Public Safety Act.

**Chief Asst. State Attorney Bruce Bartlett** – has served in the State Attorney's Office for over 39 years. He has prosecuted or taken part in the prosecutions of some of Pinellas County's most notorious criminals. He has practiced since 1979 and is a graduate of Stetson University's College of Law.

**Pam Stewart** recently retired as the Commissioner of the Florida Department of Education. She dedicated her life to serving the students, educators and families of Florida. She has almost 40 years of experience working in the education system, serving in various positions that include teacher, guidance counselor, assistant principal, principal, Deputy Chancellor, Chancellor of Public Schools and her most recent role as Commissioner.

**State Senator Lauren Book**, M.S. Ed, is an internationally respected and renowned child advocate, former classroom teacher and best-selling author. In 2016, she was elected to represent State Senate District 32, which includes portions of Broward County.

**Mike Carroll** of Pinellas County joined Lutheran Services of Florida in 2018 after retiring as the Secretary of the Florida Department of Children and Families ending a state career that spanned more than 25 years within the department. As the longest serving Secretary in the department's history, Mike led the development of a first-of-its-kind website to allow public review of abuse-related child deaths, giving communities the ability to identify and bridge gaps in local services.

**Douglas Dodd** is a member of the Citrus County School Board. He served in the Citrus County Sheriff's Office for more than 26 years, retiring as a captain. During his career in law enforcement, Mr. Dodd served as a school resource officer for 10 years.

**James Harpring** is the undersheriff for Indian River County and serves as general counsel to the Sheriff's Department. He also works as an adjunct professor at Indian River State College and as an instructor at the Treasure Coast Law Enforcement Academy.

**Sheriff Grady Judd** is the Sheriff of Polk County. Prior to becoming Sheriff in 2004, Sheriff Judd graduated from the FBI National Academy, as well as several other prestigious law enforcement academies, and taught for 23 years at both the University of South Florida and Florida Southern College.

**Melissa Larkin-Skinner**, MA, LMHC, is the Chief Executive Officer at Centerstone Florida. As a Licensed Mental Health Counselor, she has nearly 25 years of experience in mental health and addictions treatment programs, including hospital, outpatient, crisis, community-based, forensic and child welfare services.

**Chris Nelson** currently serves as the Executive Director at the State Attorney's Office for the 10<sup>th</sup> Circuit. He was former Chief of Police for the City of Auburndale. A graduate of Bartow High School, he started his law enforcement career as a patrol officer with the Bartow Police Department.

**Ryan Petty**, of Parkland, is the father of Alaina Petty, who was murdered at Marjory Stoneman Douglas High School. He played an integral role in ensuring the Marjory Stoneman Douglas High School Public Safety Act moved through the Florida Legislature.

**Marsha Powers** is a member of the Martin County School Board. She was elected to the School Board in 2012 and re-elected subsequently.

**Max Schachter** is the father of Alex Schachter, who was murdered at Marjory Stoneman Douglas High School. Following the shooting at Marjory Stoneman Douglas High School, Schachter advocated for school safety improvements and urged members of the Florida Legislature to enact effective legislation.

In addition, **Florida Department of Law Enforcement Commissioner Rick Swearingen** serves as a member of the commission, and the following individuals serve as ex officio members:

- **Florida Department of Education Commissioner Richard Corcoran**
- **Florida Department of Children and Families Secretary Chad Poppell**
- **Florida Department of Juvenile Justice Secretary Simone Marsteller**
- **Florida Agency for Health Care Administration Secretary Mary Mayhew**

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## **A MESSAGE FROM THE CHAIR**

School safety in Florida has improved in the 20 months since the shooting at Marjory Stoneman Douglas High School (MSDHS). The Commission recognizes the hard work and accomplishments by various stakeholders who have positioned Florida schools to better prevent and mitigate the harm caused by active assailant attacks at our schools.

Despite these many accomplishments, there is still much work that needs to be done. It was stunning as we started the 2019-2020 school year in August of 2019 that some Florida schools were non-compliant with school safety laws that took effect in March of 2018—seventeen months earlier.

The likely causes of non-compliance are complacency, resistance to the law, or both. Regardless of the reasons, it is unfathomable that twenty years after Columbine, seven years after Sandy Hook and seventeen months after the MSDHS shooting, any school in Florida would not be fully compliant with all school safety requirements.

Complacency is driven, at least in part, by the erroneous notion that a school shooting will not “happen here” and that these events happen “somewhere else.” This mentality was present in Parkland prior to the MSDHS shooting. Broward County Public Schools was certainly complacent in 2018, when it had no written active shooter policy, there had been no active assailant drill on the MSDHS campus during the year preceding the shooting, and school gates and doors were left unlocked, open, and unattended—including the gates and doors Cruz entered to kill seventeen people.

Some schools failed to implement the required school safety improvements required by Senate Bills 7026 and 7030 and resisted the laws because they did not like what the laws required. This is evidenced by the results of our school safety surveys in 2019 that revealed several schools were not conducting required monthly active assailant drills and some schools did not have a legally required Safe School Officer on campus at all times school was in session. Not everyone likes every law, but no one, and no school district has the right to “cherry pick” which laws they follow and which they disobey. When the law is disobeyed, there should be consequences for non-compliance. The safety of our children demands accountability.

## A MESSAGE FROM THE CHAIR

To eliminate complacency, the culture surrounding school safety needs to improve. Everyone needs to proceed with a sense of urgency to make Florida's schools as safe as possible because there will be another K-12 active assailant attack in this country—the only questions are when and where. Unfortunately, not everyone has acted as urgently as they should in making the necessary school safety improvements. It took the Broward County School Board until February 2019—one year after the MSDHS shooting—to pass its first ever written active assailant response policy, some charter schools in Broward County waited until the day before school started this past August to arrange for Safe School Officer coverage on their campuses, and Safe School Officer coverage was uncertain in Palm Beach County charter schools until a few days before school started this year. This lack of urgency in implementing legal requirements and best practices is unacceptable.

The Commission's work in 2019, subsequent to our initial report, followed-up on matters requiring further investigation and considered matters that we did not have time to investigate last year. The reader is encouraged to review each chapter in this report carefully regarding these topics to gain a full understanding of the complex event at MSDHS and the collateral issues the Commission investigated. We caution against forming opinions based only on summary information.

The Florida legislature included many recommendations from the Commission's initial report in Senate Bill 7030 during its 2019 session and the Commission once again looks forward to working with the legislature to implement recommendations contained in this report during the 2020 legislative session.

The Commission's goal is to ensure that Florida's children receive a premier education in the safest possible environment. The Commission is empaneled until 2023 and we will continue to work toward that goal as we meet again in 2020.



Sheriff Bob Gualtieri  
Commission Chair

## **COMMISSION BACKGROUND AND SCOPE**

### **INCIDENT SUMMARY**

On February 14, 2018, a lone gunman murdered 14 students and three staff members at Marjory Stoneman Douglas High School in Parkland, Florida. Seventeen other people were wounded, making it one of the deadliest school massacres in United States history.

Gunman Nikolas Cruz, age 19 at the time of the incident, was a former student at Marjory Stoneman Douglas High School. Cruz was a troubled child and young adult who displayed aggressive and violent tendencies as early as three years old. Cruz struggled in academics and attended several schools. There are reports of behavioral issues at all of the schools he attended. He was under the care of community and private mental health professionals from age 11 until he turned 18 and refused further services.

At 2:19 p.m. on February 14, 2018, Cruz exited an Uber ride-sharing vehicle at Marjory Stoneman Douglas High School armed with a rifle and several hundred rounds of ammunition concealed in a rifle bag. He entered the school through an unstaffed gate that had been opened for school dismissal and made his way toward Building 12 on the north side of campus. He entered the east side of Building 12 through an unlocked and unstaffed door. He proceeded through all three floors, firing into classrooms and hallways and killing or wounding 34 individuals. He exited Building 12 and ran across campus, blending in with students evacuating. A police officer apprehended Cruz approximately 1 hour and 16 minutes after the first shots and the state attorney charged Cruz with 17 counts of premeditated murder and 17 counts of attempted murder (Appendix A). Cruz is incarcerated in the Broward County Jail awaiting trial. The judge presiding over the case has set jury selection for January 2020.

### **MARJORY STONEMAN DOUGLAS PUBLIC SAFETY COMMISSION**

On March 9, 2018, Governor Rick Scott signed the Marjory Stoneman Douglas High School Public Safety Act (MSDHPSA) into law. This comprehensive legislation focused on identifying and addressing issues surrounding the tragedy that occurred at Marjory Stoneman Douglas High School. A key component of the legislation was the establishment

## COMMISSION BACKGROUND AND SCOPE

of the Marjory Stoneman Douglas High School Public Safety Commission (Commission), composed of 16 voting members and four non-voting members appointed by the Governor, Speaker of the House, Senate President or specified in legislation. The Commission was formed to specifically analyze information from the Marjory Stoneman Douglas High School shooting and other mass violence incidents, and provide recommendations and system improvements to help mitigate the impacts from and prevent future school shootings. Members of the Commission were appointed to provide a broad and diverse range of expertise and knowledge. Commission members represent state and local law enforcement, mental health professionals, state and local elected officials, educators, school officials and parents of victims.

In 2018, the Commission held monthly public meetings between April and December to hear presentations and testimony on the shooting, school safety issues and many other related topics, and released an initial report on January 2, 2019. The initial report contained findings and recommendations on a variety of topics as specified in the MSDHSPSA. Because of the urgency of this issue, the Commission's initial report was completed within a relatively short timeframe in relation to the shooting at Marjory Stoneman Douglas. This follow-up report contains information not available at the time of the initial report's release and includes the results of ancillary investigations into the Marjory Stoneman Douglas massacre, as well as the status of various active legal proceedings regarding the incident. This report also provides a more in-depth look into some topic areas that required further Commission consideration through testimony at Commission meetings, which were held in April, June, August and October of 2019. Agendas for the meetings are provided in Appendix B.

### Methodology and Information Sources

Following the Commission's establishment, teams of investigators and analysts from the Florida Department of Law Enforcement and the Pinellas County Sheriff's Office were created to assist the Commission in conducting its research, analysis and investigation. The Commission used all available information resources to compile the findings and recommendations presented in this report.

## **CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE**

The following are updates and summaries on a variety of topics since the Commission submitted its initial report on January 2, 2019.

### **MSDHS COMMISSION INVESTIGATION**

#### Broward County Public Schools – Prior Knowledge of Cruz

Chapter Eight of the Commission’s initial report described an incident during the 2016-2017 school year in which two students approached MSDHS Assistant Principal Jeff Morford and expressed concerns about Nikolas Cruz being a threat to school safety. Commission investigators interviewed both students, the mother of one of the students, and school personnel during the initial investigation.

The students believed, based on their observations and statements Cruz made to them, that Cruz may hurt other students and may even shoot up the school. The Commission’s initial report explained how Morford dismissed the students’ concerns and, as a result, the mother stated she went to the school to confront Principal Ty Thompson. (Investigators have determined, based on a number of factors and statements made by the mother that she actually spoke with Morford and not Thompson.) The mother claims that she also informed MSDHS Counselor Veronica Ziccardi and former School Board Member Abby Freedman of their concerns about Cruz, and neither Ziccardi nor Freedman reacted appropriately to address the threat.

Since the initial report, investigators conducted a follow-up investigation. In sum, there is no evidence to support the mother’s claim that either Ziccardi or Freedman received information that Cruz was a threat to school safety and failed to act.

One of the students who made the report to Morford identified that incident taking place “in the middle of the (2016-2017) school year” and possibly before Christmas break. Investigators believe that the students reported their concerns to Morford in December 2016.

## CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE

The mother stated that she went to the school to confront the administrator (Morford) who had previously rebuffed her son and the other student when they reported their concerns about Cruz. The mother was unsure if her meeting with the administrator was the result of a spontaneous appearance at the school or if it was a scheduled meeting. The administrator allegedly told her that if she was not happy with the way that he ran his school then she should withdraw her son from the school. She was then handed forms to withdraw her son. According to the mother, the forms were already filled out with her son's information. The mother stated she had never had any prior discussions with school staff about withdrawing her son. It seems unusual that an administrator would present the mother with this "take it or leave it" option and that the administrator would have withdrawal forms already completed with her son's information despite there being no prior communication with the mother about her withdrawing her son.

The mother has alleged that she also expressed concern about Cruz and his threat to school safety with MSDHS Guidance Counselor Veronica Ziccardi and then-School Board Member Abby Freedman. Early in this investigation, the mother provided investigators with photographs of Ziccardi's business card, a handwritten note with Freedman's name and phone number, and a screenshot of Freedman's contact information from the mother's cell phone. This lent credibility to the mother's statement that she had prior contact with Ziccardi and Freedman; however, it neither proved nor disproved the mother's claim that she had discussions with them about Cruz. The Commission has further investigated this matter to try to determine the validity of the mother's claims. Investigators also obtained and reviewed the phone records for the mother to establish a timeline of relevant communication as noted in this chapter.

Investigators interviewed both Ziccardi and Freedman and conducted follow-up interviews with the mother and her son. Ziccardi had records which documented her contact with the mother and her son. She reviewed those contacts with investigators. Ziccardi stated that all conversations with the mother and son pertained to the son and his performance at school. Ziccardi's records revealed that the phone calls and meetings took place between October 21, 2016, and March 31, 2017. Her records also showed that on March 31, 2017, the son withdrew from MSDHS; this date was later confirmed with BCPS' District Office. The

## CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE

mother's phone records revealed 11 phone calls between Ziccardi's desk number and the mother's cell phone number between October 21, 2016, and April 6, 2017. Eight of these phone calls lasted two minutes or less and the other three calls lasted five, seven and ten minutes.

The mother also claimed that her son told Ziccardi several times about Cruz being a threat to school safety. When asked how the mother knew her son told Ziccardi that Cruz was a threat, she said it was because her son told her that he told Ziccardi. The mother said she was sure that on at least one occasion she also told Ziccardi that Cruz was a threat to school safety. Based on the call log within her cell phone (not phone company records), the mother stated the call with Ziccardi during which she told Ziccardi that Cruz was a threat occurred on December 16, 2016. According to phone company records for the mother's phone there is no record of a phone call from the mother to Ziccardi, the MSDHS Guidance Office line, or the MSDHS main phone number on December 16, 2016.

Ziccardi's records did not reflect anything about Cruz. Ziccardi had no recollection about conversations involving Cruz. She stated she had no contact with, and did not know, Cruz. Ziccardi said if she were informed of an individual being a threat to school safety then she would have documented that information and immediately reported it to school administration or security personnel as she had done in the past with other issues.

Abby Freedman served as a school board member in Broward County from 2012 to 2018. She represented District 4, which included MSDHS. Freedman told investigators that she had no knowledge of Cruz and had not even heard his name prior to the shooting. Freedman stated she did not recall any conversations with the mother but pointed out that she spoke with parents about various issues on a daily basis. Freedman repeatedly encouraged investigators to access her call logs to determine whether any calls took place between her and the mother. Freedman said she never received information about Cruz being a threat to school safety, but, if she had, she would have immediately called Superintendent Runcie or other BCPS senior staff members.

The mother stated that she had known Freedman for a few years due to Freedman previously being a customer at the insurance office where the mother worked. The mother

## CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE

stated that as a result of this contact, Freedman gave the mother her cell phone number. The mother stated that she had many professional conversations with Freedman and some personal conversations. Freedman confirmed that she was a customer of the insurance company which the mother referenced but maintained she did not recall the mother or any conversations with her. Freedman did not dispute the fact that the calls or conversations took place but stated she did not remember them. Freedman stated that it was not uncommon for her to share with parents that BCPS has many options available if students are having difficulties at any given schools; specifically, Freedman stated that she possibly mentioned their reassignment process.

The mother's phone records revealed only four instances of communication between the mother's cell phone and Freedman's cell phone and all took place on March 30, 2017. All communications originated from the mother's cell phone. They included two text messages at 4:28 pm, a 21-minute phone call at 6:31 pm and a one-minute phone call at 6:51 pm. The phone carrier no longer has the content of those text messages. The mother stated that her conversations with Freedman occurred prior to her son withdrawing because she was dissatisfied with how Ziccardi and MSDHS administration were addressing her son's issues. The mother was trying to avoid having to withdraw her son and hoped that Freedman might be able to intervene. The mother then equivocated and said she was not certain whether she specifically identified Cruz to Freedman as a threat to school safety but that she expressed a general concern about her son feeling unsafe on campus.

The mother stated that at most a month lapsed from the time her son notified MSDHS administration of Cruz being a threat to school safety until the time that she withdrew her son from school. BCPS records indicate that her son withdrew on March 31, 2017, so, based on the mother's recollection, the timeframe when her son and the other student would have approached MSDHS administration would have been sometime in March 2017. This is inconsistent with other investigative findings that the boys went to Morford in December 2016 and, most notably, that Cruz left MSDHS in February 2017. The mother and her son were asked about this discrepancy, and the son responded that, even though Cruz was no longer a student, he was fearful about what Cruz might do. Additionally, this student stated that he was going through his own struggles and was not attending school as frequently.

## CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE

The mother could not remember if they discussed Cruz by name in the meeting that took place when she withdrew her son from MSDHS in March 2017.

The mother stated that each visit she had to MSDHS she was required to sign in. The Commission obtained records from MSDHS which showed the mother visited MSDHS four times between November 10, 2016 and March 31, 2017. Her visit on November 10, 2016 was for “Child Pickup” and the other three visits simply identified her as a “Visitor.” None of the records indicated that she was there specifically to visit Ziccardi.

In summary, the mother had occasional contact with Ziccardi from October 21, 2016, through April 06, 2017, as evidenced by the mother’s statements, Ziccardi’s records, and the mother’s cell phone records. According to Ziccardi’s records and recollection, these contacts were to address issues specific to the mother’s son. Ziccardi appeared to be diligent in maintaining thorough records that reflected the contents of her communications, and she appears passionate about her job. There is no evidence to support a claim that Ziccardi received information that Cruz was a threat to school safety and that she failed to react appropriately.

Freedman’s documented contact with the mother was isolated to the late afternoon/evening on March 30, 2017, the day prior to her son withdrawing from MSDHS. Freedman’s inability to remember her brief contact with the mother on March 30, 2017, is not unusual given the amount of time that passed from the phone calls to the interview with investigators (approximately 18 months). There is no evidence that Freedman received an allegation from the mother that Cruz was a threat to school safety and failed to react appropriately.

Based on the inconsistencies in the mother’s sequence and version of events, her equivocation on the content of her alleged communications conveying that Cruz was a threat, and the statements and records of Ziccardi and Freedman, the mother’s allegations are unsubstantiated.

## CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE

### Information Known to Lauren Rubenstein

Chapter Eight of the Commission's initial report briefly discussed MSDHS staff member Lauren Rubenstein and indicated that investigators were setting an interview with Rubenstein. Rubenstein had been identified as a MSDHS staff member who had been given information from a student that Cruz was a threat to himself and possibly others.

During the 2016–2017 school year, a student brought information to Rubenstein's attention about Cruz. The student was serving as a peer counselor, and Rubenstein was a peer counselor coordinator. The student had a class with Cruz, and she had several conversations with him inside and outside of school (there is no indication this was a formal peer counseling relationship). The student recalled Cruz saying that he was depressed and that he made comments about wanting to "shoot up the school." The student cautioned Cruz against doing so and Cruz stated he was only joking. The student also learned that Cruz was suicidal. Interviews with both the student and Rubenstein confirmed that the student reported this information to Rubenstein.

The student recalled hearing Rubenstein call the front office to make them aware of issues involving Cruz. In the interviews with Rubenstein she had difficulty recalling the order in which the following events took place. To aid in establishing a timeline, in her notes, Rubenstein wrote that Cruz's concerning behavior had been brought to her attention "this morning;" this would indicate that Rubenstein reported the concerning behavior about Cruz on the same day she was notified of such behavior. Additionally, Rubenstein stated in her interview that she was given this information about Cruz, reported it and was brought into a meeting about Cruz all on the same day.

Rubenstein said she reported this information to the suicide liaison, but she could not recall this individual's name. She said that after reporting this information she was brought into a meeting which was "already taking place for (Cruz)." She did not know what other information led to this meeting taking place, but it began prior to her being brought in (this presumably would have been a result of other concerning behavior exhibited by Cruz of which the Commission learned through other interviews and documents: writing "KILL" on a piece of paper in class, having profane and racial slurs on his backpack, and a fight

during the prior week). Based on other interviews and school records, this meeting was the beginning of the September 28, 2016, Jeff Morford-led behavioral threat assessment.

Rubenstein stated she wrote a note documenting her concerns about Cruz so she could provide them to MSDHS administration. Within the records provided to the Commission by BCPS, there was a copy of a handwritten note which read, "This morning a student brought a concern for Nick Cruz's safety after he has spoken about depression and suicidal thoughts. She stated he has a gun in his room and has used statements 'I don't want to be here anymore' 'What's the point of trying' He told her he drank gasoline trying to kill himself, and that he is cutting." Rubenstein reviewed this note with investigators and confirmed that this handwriting was hers. Written at the top Rubenstein's note, in another handwriting style, was the phrase "from – Rubenstein." Rubenstein could not identify whose handwriting that was and initially could not recall to whom she gave this note. Later in her interview, when asked about the individual to whom she gave the note, Rubenstein stated "I guess to (Deputy) Peterson...because I remember him being very adamant of wanting to know who the student was giving me the information."

Rubenstein said that she brought this information and note to the meeting. Rubenstein could not recall everyone who was present in this meeting, but she knew that Cruz was not present. Rubenstein remembered the following individuals being present: Assistant Principal Denise Reed, Marianne Dubin (school social worker at MSDHS), Jessica DeCarlo (ESE specialist), Deputy Scot Peterson, the school psychologist (not identified by name), and individuals Rubenstein did not recognize. She speculated that these unknown individuals were from Henderson Behavioral Health. Rubenstein denied that Assistant Principals Jeff Morford or Winfred Porter were present. In fact, Rubenstein stated that Deputy Peterson was the only male in the room. Morford's absence is perplexing since Morford was the assistant principal who initiated the threat assessment, yet he was not present. Morford confirmed to investigators that he was not present for this meeting, despite leading the Cruz threat assessment, but he was unable to provide any explanation for his absence. Rubenstein recalled members of the meeting addressing whether Cruz should have been taken into protective custody under the Baker Act.

## CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE

In an interview with Marianne Dubin (school social worker) she also confirmed that she was in attendance at this meeting and confirmed that it took place on September 28, 2016. She recalled learning of Cruz using hateful racial language, having a swastika on his backpack and drinking gasoline. Dubin recalled being invited to this meeting by Denise Reed and remembered learning of information about Cruz from Rubenstein. Dubin also said that Jessica DeCarlo (ESE specialist) and Sharon Ehrlich (ESE family therapist) were present. Dubin remembered that she and Ehrlich approached Deputy Peterson, and all agreed that Cruz's residence needed to be searched for weapons. They also discussed concerns that Cruz was soon turning 18 and that he then would be able to obtain an identification card and purchase firearms.

Sharon Ehrlich also confirmed that she was present at the September 28, 2016, threat assessment meeting. She recalled Rubenstein coming into the meeting and sharing information about Cruz that Rubenstein learned from a peer counselor. Ehrlich was also aware that Cruz had been cutting himself but was hiding it with his sleeves. Ehrlich recalled Henderson's Youth Emergency Services (YES) team being present during this meeting. Ehrlich stated it was determined that Cruz would not be taken into custody under the Baker Act, but that Cruz was told he could no longer carry a backpack at school.

The student recalled after she reported this information to Rubenstein that Cruz had to go to the office and was told that he could no longer carry a backpack. She remembered Cruz telling her – after the fact – that law enforcement officers had searched his residence for firearms. This is consistent with witness statements and records reflecting Henderson Behavioral Health's YES team's and the Broward Sheriff's Office's visit to Cruz's residence later on September 28, 2016, following the behavioral threat assessment meeting.

The circumstances surrounding this student and Rubenstein are an excellent example of the concept of "see something, say something." The student observed threatening statements by Cruz, and she promptly shared that information with a trusted staff member. Rubenstein promptly reported this information to individuals within the MSDHS administration. However, due to BCPS' flawed behavioral threat assessment process, insufficient record-keeping and incomplete recollection by MSDHS administration officials,

it is not exactly clear what followed Rubenstein's report. See the Commission's initial report for detailed information about the September 28, 2016, threat assessment and an explanation regarding how the process was flawed.

#### **FDLE OFFICE OF EXECUTIVE INVESTIGATIONS CRIMINAL INVESTIGATION**

On February 25, 2018, then-Florida Governor Rick Scott directed the Florida Department of Law Enforcement (FDLE) Office of Executive Investigations (OEI) to conduct an investigation into the law enforcement response to the shooting at Marjory Stoneman Douglas High School (MSDHS).

OEI inspectors obtained and reviewed existing statements and evidence related to the Broward County Sheriff's Office response in order to determine the appropriate scope and nature of OEI's investigation. OEI also obtained information from other law enforcement and first responder agencies that participated in the response to MSDHS. On March 9, 2018, the Marjory Stoneman Douglas High School Public Safety Commission was established to investigate system failures leading up to and in response to the MSDHS shooting, specifically including the law enforcement response. With the formation of the MSD Commission, OEI limited its investigative scope to minimize any overlap with the Commission's investigation, and OEI focused its efforts on determining whether any crimes occurred regarding the law enforcement response. During its investigation, OEI conducted multiple sworn interviews and reviewed the BSO/CSPD radio transmissions, BSO body camera footage, and MSD security video footage associated with the response and actions of all first responders during the MSD incident, including Deputy Scot Peterson.

Upon conclusion of OEI's investigative activities, it was determined that the only responding deputy or officer in a position to engage Cruz prior to him fleeing the scene was Deputy Scot Peterson. In summary, Deputy Peterson, upon being alerted to the shooting incident and upon his arrival at the incident location (Building 12, also known as the 1200 building), remained, in large part, between the nearby 700 and 800 buildings, while Cruz continued to actively shoot inside the 1200 building. Upon Deputy Peterson's arrival at the 1200 building, at least 21 people had already been shot. The facts established that Deputy Peterson knew that Cruz was inside the 1200 building, while he (Peterson) was positioned

between the nearby 700 and 800 buildings. During the time Deputy Peterson arrived at the 1200 building and then remained between the 700 and 800 buildings, Cruz continued to actively shoot inside the 1200 building, firing approximately 75 shots and fatally shooting one teacher and five students, four of whom were under the age of 18. In addition, Cruz shot and injured one teacher and three students under the age of 18 while Deputy Peterson remained outside the 1200 building.

From witness testimony and an examination of all evidence obtained, it was determined that Deputy Peterson, while in his role as a School Resource Officer (SRO), failed to mitigate the situation pursuant to his delineated duties, responsibilities and training. OEI presented its findings (Appendices C and D) to the State Attorney's Office for the Seventeenth Judicial Circuit, in and for Broward County, Florida. Subsequently, Scot Peterson was formerly charged with seven counts of Neglect of a Child, a 3<sup>rd</sup> degree Felony, F.S. 827.03,(1)(e)1., (1)(e)2., (2)(d), and 827.01 and three counts of Culpable Negligence, a 2<sup>nd</sup> Degree Misdemeanor, F.S. 784.05(1) and one count of Perjury When Not in an Official Proceeding a 1<sup>st</sup> Degree Misdemeanor, F.S. 837.012 (Appendix E).

Scot Peterson was arrested on June 4, 2019, and his bond was originally set at \$102,000. A judge later reduced Peterson's bond to \$39,500 and he was allowed to return to his home in North Carolina pending further court proceedings. The case is still pending in Broward County Circuit Court.

#### **GOVERNOR'S SUSPENSION OF SHERIFF SCOTT ISRAEL**

On January 11, 2019, Governor Ron DeSantis issued an executive order (Appendix F) that suspended Sheriff Scott Israel from his elected position of Broward County Sheriff pending removal from office by the Florida Senate. Governor DeSantis' executive order cited "a pattern of poor leadership" that "failed to protect" the victims of the Ft. Lauderdale Airport shooting in 2017 and stated that Sheriff Israel "failed in his duties to keep our families and children safe" during the shooting at Marjory Stoneman Douglas High School. Governor DeSantis immediately appointed Gregory Tony as Sheriff of Broward County.

Sheriff Israel challenged his suspension and removal from office. The Florida Senate voted on October 23, 2019 to affirm the Governor's position and permanently remove Israel from office.

#### **BROWARD COUNTY SHERIFF'S OFFICE - INTERNAL AFFAIRS INVESTIGATION**

The Commission recommended that then-Sheriff Israel review the conduct of seven Broward Sheriff's Office deputies (Deputies Michael Kratz, Edward Eason, Josh Stambaugh, Art Perry, Richard Seward, Brian Goolsby, and Sergeant Brian Miller) and initiate an internal affairs investigation to determine if there was cause to believe that they violated agency policy. Then-Sheriff Israel initiated this review and opened internal affairs investigations in December 2018 on only Miller, Eason, and Stambaugh. On February 14, 2019, following his appointment, Broward County Sheriff Gregory Tony commenced internal affairs investigations regarding Goolsby, Perry and Kratz. Sheriff Tony continued the existing internal investigations, and, in June 2019, he terminated the employment of Sergeant Miller, Deputy Eason and Deputy Stambaugh for violations of BSO policy due their actions and inaction on February 14, 2018, at MSDHS.

#### **BROWARD COUNTY PUBLIC SCHOOLS – INTERNAL INVESTIGATION**

The Commission recommended Broward County Public Schools (BCPS) conduct a similar review with regards to the actions of MSDHS Assistant Principal Jeff Morford and Principal Ty Thompson. In November 2018, BCPS transferred Morford, as well as fellow MSDHS Assistant Principals Winfred Porter and Denise Reed, and School Security Specialist Kelvin Greenleaf from MSDHS and assigned them to administrative roles at the BCPS District Office. Thompson remained the principal at MSDHS. BCPS hired law firm Cole, Scott & Kissane, P.A. to conduct investigations into the actions of Greenleaf, Morford, Porter, Reed and Thompson. Attorney Jennifer Ruiz is conducting this investigation.

The investigation is examining the actions of these employees leading up to and on the day of the shooting at MSDHS. The Commission has provided records to Ms. Ruiz at her request. At the end of the 2018-2019 school year, Thompson elected to leave MSDHS and take an administrative job at the BCPS District Office. Despite the ongoing investigation, in August

## CHAPTER 1. MARJORY STONEMAN DOUGLAS INVESTIGATIONS UPDATE

2018 Superintendent Runcie returned Morford, Porter and Reed as assistant principals at three separate high schools in Broward County. Morford recently announced his retirement, and it was approved by the School Board. BCPS completed its administrative investigation regarding Greenleaf, and he was found to have not violated any policies. The investigations regarding Porter, Reed and Thompson are ongoing. The investigation regarding Morford will continue despite his retirement.

### **STATEWIDE GRAND JURY**

On February 13, 2019, Governor DeSantis petitioned the Florida Supreme Court to empanel a statewide grand jury to examine school safety issues in Broward County and throughout the state of Florida. The Florida Supreme Court granted Governor DeSantis' request. The grand jury is sitting in Broward County and is made up of jurors from Miami-Dade, Broward and Palm Beach counties.

The legal advisor to the grand jury is Statewide Prosecutor Nick Cox. According to the Supreme Court's order, the grand jury will investigate noncompliance with state laws addressing school safety, fraudulent acceptance of state funds for school safety measures while failing to act, and fraudulent use of funds that had been obtained for school safety initiatives. Grand jury proceedings are strictly confidential. However, on July 19, 2019, the grand jury issued a forceful three-page interim report that stated in part: "In the short time since this statewide grand jury has convened, we have heard and seen evidence of noncompliance with the Marjory Stoneman Douglas High School Safety Act, Senate Bill 7026 (2018), and the Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission, Senate Bill 7030 (2019), in numerous school districts in the State of Florida. We have heard days of testimony from Department of Education, school district and law enforcement officials regarding administrative hurdles, increased costs to their districts, and shortages of the qualified employees necessary to bring these districts into compliance with these important safety measures. Without discussing the specifics of their explanations, suffice it to say we find this testimony wholly unpersuasive." The grand jury report is included as an appendix to this report (Appendix G).

## **CHAPTER 2. FLORIDA SCHOOL SAFETY DEVELOPMENT AND IMPLEMENTATION**

On January 2, 2019, the Commission released its 439-page initial report. The report provided a comprehensive overview of the MSDHS shooting, made specific findings and recommendations on a variety of topics, and included over 90 recommendations for improving school safety. The Florida legislature used the Commission's recommendations to craft Senate Bill 7030, which is titled Implementation of Legislative Recommendations of the Marjory Stoneman Douglas High School Public Safety Commission. Governor Ron DeSantis signed Senate Bill 7030 into law on May 8, 2019. This legislation builds on the 2018 school safety and security requirements established in Senate Bill 7026, which is known as the Marjory Stoneman Douglas High School Public Safety Act (MSDHPSA), by enhancing communication and reporting of threats to student safety, expanding resources available for mental health services, expediting implementation of school hardening requirements and providing school districts with new options to maximize school safety.

In addition to Senate Bills 7026 and 7030, the legislature passed several other bills during the 2019 legislative session that were based on recommendations presented in the Commission's initial report. Additionally, Governor Ron DeSantis issued Executive Order 19-45 in February 2019 (Appendix H), which further focused on improving the safety of Florida schools.

The following is a summary of major school safety enhancements in Florida since the MSDHS shooting and the status of their implementation.

### **DEPARTMENT OF EDUCATION AND OFFICE OF SAFE SCHOOLS**

Senate Bill 7026 created the Office of Safe Schools (OSS) within the Florida Department of Education (FDOE) as the central repository for the best practices, training standards and compliance regarding school safety and security. Its mission is to support school districts in providing a safe learning environment for students and educators. The primary goals of the office include prevention, intervention and emergency preparedness planning.

The Commission's initial report recommended that FDOE and OSS be provided additional oversight authority to monitor school district and charter school compliance with school safety requirements and the ability to sanction non-compliance.

Senate Bill 7030 added specific authority and responsibilities for FDOE and OSS, which are detailed under the specific topics in this chapter. Senate Bill 7030 also provides the Commissioner of the Department of Education with authority to oversee compliance with the safety and security requirements by school districts, district school superintendents, and public schools, including charter schools. The Commissioner is required to facilitate compliance to the maximum extent provided under law, identify incidents of noncompliance, and impose or recommend to the State Board of Education, the Governor or the Legislature enforcement and sanctioning actions.

The Office of Safe Schools is in the process of expanding. Ten new positions were added in 2019, bringing the total staff to 16. Six of the new 10 positions will be located regionally throughout the state and responsible for overseeing compliance, technical assistance and training as it pertains to the safety and security requirements of the Marjory Stoneman Douglas High School Public Safety Act. The remaining four positions will be stationed within the Florida Department of Education's Turlington Building, providing general support to the office at large, as well as content- and technology-specific support for School Environmental Safety Incident Reporting (SESIR) and the Florida Safe Schools Assessment Tool (FSSAT).

### **SCHOOL SAFETY SPECIALISTS**

Senate Bill 7026 required each district school board to designate a district school safety specialist (SSS) to serve as the district's primary point of public contact for public school safety functions. The SSS is responsible for tasks such as assessing security risks, overseeing safety policies and providing training for mental health and active shooter situations. The OSS coordinates directly with school safety specialists statewide, and OSS was directed to develop and implement a school safety specialist training program.

Senate Bill 7030 recognized the organizational flexibility school districts need in designating the appropriate district school safety specialist, so the legislature authorized school districts to designate a law enforcement officer employed by the sheriff's office to fill the OSS position.

### **SCHOOL HARDENING AND HARM MITIGATION**

#### FSSAT

Senate Bill 7026 required an annual physical site security assessment of every school in the state and that every school report its results to FDOE using the Florida Safe School Assessment Tool (FSSAT). In addition to the school-specific assessment and report, a separate districtwide report is also required annually. The bill established minimum required elements of the FSSAT and directed FDOE to contract for the development of an updated Florida Safe Schools Assessment Tool. The new districtwide and school specific FSSATs were provided to the school districts in the spring of 2019 for use in completing their 2019 assessments.

Senate Bill 7030 requires that the FSSAT be the primary physical site security assessment tool used by Florida schools. The law also requires that each school district report to FDOE by October 15 of each year that all schools within the district have completed the school security risk assessment using the FSSAT.

Going forward, OSS must make the FSSAT available annually, no later than May 1 of each year, and provide annual training to each district's school safety specialist and other appropriate personnel on the assessment of physical site security and completing the FSSAT.

#### Hardening

The Commission's initial report included a number of tiered options for school hardening and harm mitigation. Additionally, the Commission recommended a specific set of harm mitigation strategies that should be implemented immediately by all schools to include identification of safe spaces in classrooms and locked gates and doors. Compliance with these basic harm mitigation strategies is detailed at the end of this chapter.

The Governor's Executive Order 19-45 required the Department of Education to develop best practices for school hardening and harm mitigation that, at minimum, incorporate a tiered approach to school hardening, ranging from basic harm mitigation strategies to more advanced security measures, as identified in the Marjory Stoneman Douglas High School Public Safety Commission's Initial Report. FDOE submitted the required report to the Executive Office of the Governor and the Legislature on July 1, 2019.

Senate Bill 7030 also required that OSS convene a School Hardening and Harm Mitigation Workgroup comprised of individuals with subject matter expertise on school campus hardening best practices. The workgroup is required to review school hardening and harm mitigation policies and submit a report to OSS by August 1, 2020, that includes a prioritized implementation list of school campus-hardening and harm-mitigation strategies and related estimated costs and timeframes.

### Active Assailant Response

Senate Bill 7026 required that school districts develop emergency response plans along with public safety agencies and that schools conduct monthly active assailant response drills. The Commission's initial report identified a number of issues surrounding active assailant policies, drills and training at the school and district level and recommended a number of improvements.

Senate Bill 7030 requires each district school board and charter school governing board to adopt an active assailant response plan and that all required active assailant drills be conducted in accordance with developmentally and age-appropriate procedures. The legislation also requires that by October 1, 2019, and annually thereafter, each district school superintendent and charter school principal certify that all school personnel have received annual training on the procedures contained in the plan.

### **SAFE SCHOOL OFFICERS**

Senate Bill 7026 required that each school district cooperate with law enforcement agencies to assign one or more safe-school officers (SSO) at each public school.

Senate Bill 7030 enhanced options for providing SSOs by delineating four safe-school officer options, which include a police officer or deputy sheriff, a school guardian or a school security guard who has received guardian training.

Senate Bill 7030 requires district school boards to collaborate with charter school governing boards to facilitate charter school access to all safe-school officer options. If a district school board denies a charter school access to any of the safe-school officer options, the school district must assign a school resource officer or school safety officer to the charter school and retain the charter school's share of the costs from the safe schools allocation.

Senate Bill 7030 requires OSS to annually publish a list identifying the number of safe-school officers in the state and information related to disciplinary incidents involving such officers.

### Coach Aaron Feis Guardian Program

Senate Bill 7026 permitted a sheriff and school district to establish a Coach Aaron Feis Guardian Program to help fulfill the requirement to have a Safe School Officer in every school. The Guardian Program allows non-law enforcement officers to fulfill the role of SSO.

Senate Bill 7030 implemented several recommendations from the Commission regarding the Guardian Program. The legislation removes the prohibition on an individual who exclusively performs classroom duties as a classroom teacher from participating in the Guardian Program.

The bill requires a sheriff to establish a guardian program if the local school board votes by majority to implement the program, or to contract with another sheriff's office that has established a program, in order to provide training to school district or charter school employees. A sheriff who has established a guardian program may contract to provide training to a school district or charter school employee employed in a county whose sheriff has not established a guardian program. The bill also requires the employee to complete the required training to the sheriff's satisfaction and then be appointed by the superintendent or charter school principal, as applicable.

### School Resource Officer Training

The Florida Department of Law Enforcement (FDLE) conducted an SRO job task analysis (JTA) and as a result revised its 40-hour SRO training course and created a new 24-hour crisis intervention team (CIT) class specifically for SROs, as required by Senate Bill 7026. FDLE also created a 16-hour single-officer response to active threat and shooter incidents program. All three have been approved by the Criminal Justice Standards and Training Commission (CJSTC).

The results of the JTA allowed FDLE to modify the SRO course to remove some curricula and place much more emphasis on security and emergency management. Over 250 SROs have been trained under this new course since May. The new CIT course is based on the Memphis model and developed in consultation with the Department of Education, University of South Florida School of Psychology, and the Officer of the Attorney General. It is specific to SROs with a focus on dealing with juveniles, but is not intended to replace the standard 40-hour CIT course. So far the feedback on the course has been positive. This is the most aggressive high-liability training that the CJSTC has adopted so far and 14 train-the-trainer courses have been held since June with over 150 instructors certified. The three courses can be taught separately or packaged as an 80-hour course. The SRO course does not include training on behavioral threat assessments, which will be included in a separate course.

### **INFORMATION SHARING**

#### Centralized Integrated Data Repository

Senate Bill 7026 directed that the Office of Safe Schools work with the Florida Department of Law Enforcement to create a centralized “data repository” and analytics resources to improve access to information from sources including social media, the Department of Children and Families (DCF), the Department of Law Enforcement (FDLE), the Department of Juvenile Justice (DJJ) and local law enforcement agencies.

In May 2018, FDOE established three workgroups (User and Data Governance, Technology and Legal) that consist of members from the Department of Children and Families, the

## CHAPTER 2. FLORIDA SCHOOL SAFETY DEVELOPMENT AND IMPLEMENTATION

Department of Law Enforcement, the Department of Juvenile Justice and the Agency for Health Care Administration.

Senate Bill 7030 specified some additional data that must be included in the centralized integrated data repository in coordination with FDLE. The Governor's Executive Order 19-45 required FDOE to immediately take any and all steps necessary to provide a centralized, integrated data repository and data analytics resources to include access to timely school safety information by August 1, 2019. The system, now renamed the Florida School Safety Portal, went live on August 1, 2019, at [www.flsafetyportal.org](http://www.flsafetyportal.org). A review of the system and its practical uses and limitations is provided in Chapter 10.

### Fortify Florida

Senate Bill 7026 required the Florida Department of Law Enforcement to collaborate with the Department of Legal Affairs to procure a mobile suspicious activity-reporting application. The "Fortify Florida" app, officially known as "FortifyFL," allows students and others to anonymously report unsafe, potentially harmful, dangerous, violent or criminal activities, or the threat of these activities, to the appropriate law enforcement agencies and school officials, using any electronic smart device.

The FortifyFL mobile application went live in October 2018. There are 6,934 public and private schools identified in the app that are assigned for response to 227 law enforcement agencies.

In order to further encourage the app's use throughout the state, Senate Bill 7030 requires district school boards and charter schools to promote the use of the mobile suspicious activity reporting tool (FortifyFL) by advertising the tool on its website, school campuses and newsletters, to install the application on all mobile devices and to bookmark the website on all computer devices issued to students.

### Sharing of Confidential Information and Student Records

Senate Bill 7026 required all state and local agencies that provide services to students "experiencing or at risk of an emotional disturbance or mental illness" to share confidential

information and records if the information is “reasonably necessary to ensure access to appropriate services for the student or to ensure the safety of the student or others.”

Senate Bill 7030 modifies requirements relating to new student registration and transfer of student records by clarifying the mental health services-related reporting requirements at the time of initial registration and specifying the information that must be transferred from one public school to another upon a student’s transfer.

Senate Bill 1418, which was also passed in the 2019 legislative session, requires a mental health service provider to release information from the clinical record of the patient when a patient communicates a specific threat against an identifiable individual to the provider. The information must be sufficient to inform law enforcement of the potential threat.

### **THREAT ASSESSMENTS**

Senate Bill 7026 required each school district to designate a threat assessment team at each school and requires the team to operate under the district school safety specialist’s direction.

Senate Bill 7030 required the Office of Safe Schools to develop, no later than August 1, 2019, a standardized, statewide behavioral threat assessment instrument for use by all K-12 public schools and evaluate, by August 1, 2020, each school district’s and charter school governing board’s behavioral threat assessment procedures for compliance with the law.

The legislation also requires OSS to establish a Statewide Threat Assessment Database Workgroup to complement the work of FDOE and FDLE associated with the centralized integrated data repository and data analytics resources initiative. The workgroup must make recommendations regarding the development of a statewide threat assessment database to provide access to information about any school threat assessment to authorized personnel in each school district. The workgroup must provide a report to OSS no later than December 31, 2019.

The concept of threat assessments has emerged as a way to identify and manage all threats of targeted violence, not just those in schools. On February 13, 2019, Governor Ron

DeSantis directed the Florida Department of Law Enforcement (FDLE) to develop a statewide strategy for identifying and managing threats of targeted violence. Florida will be the first state in the nation to take such a comprehensive approach to this problem. While a few states have Behavioral Threat Assessment and Management (BTAM) programs in schools, none have attempted to implement a statewide strategy to address all forms of targeted violence.

Based on the Governor's directive, FDLE is coordinating with state and local law enforcement partners through the Florida Office of the Attorney General, the Florida Police Chiefs Association (FPCA) and the Florida Sheriffs Association (FSA) to enlist their input and participation on a Threat Assessment Strategy Steering Group.

With the increase in both number and lethality of mass targeted violence incidents, Governor DeSantis also directed FDLE to begin developing Criminal Justice Standards and Training Commission (CJSTC) training on Behavioral Threat Assessment and Management.

### **DISCIPLINE AND DIVERSION**

#### Juvenile Diversion Programs

While not addressed in Senate Bills 7026 and 7030, the Commission's initial report included a recommendation for establishing guidelines for Juvenile Diversion Programs. Recognizing the importance of this issue, Governor DeSantis issued Executive Order 19-45 on February 13, 2019, which required the Florida Department of Juvenile Justice (DJJ) to complete and submit a report to the Executive Office of the Governor and the Legislature by July 1, 2019, with information on school-based discipline diversion programs in place in all 67 county school districts. The report was to include requirements for eligibility and operation, costs and impact on school and public safety programs to determine whether there is adequate information or evidence available to draw an informed conclusion about the efficacy of these programs and their impact on school and public safety and to further work together to develop best practices and consistent criteria for school-based discipline diversion programs.

The report was completed and the Commission has adopted their recommendations as detailed in Chapter 11.

### Reports to Law Enforcement and SESIR

Senate Bill 7030 enhances oversight and enforcement as it relates to School Environmental and Safety Incident Reporting (SESIR) by requiring school districts and charter schools to report specified incidents and requires OSS to collect, review and evaluate data regarding the reports to ensure compliance with the reporting requirements.

The law also requires each district school board to define criteria for reporting to a law enforcement agency any act that poses a threat to school safety as well as acts of misconduct which are not a threat to school safety and do not require consultation with law enforcement.

### **MENTAL HEALTH**

Since the Marjory Stoneman Douglas High School shooting in 2018, there has been increased focus on improving the mental health of students and training educators in signs and symptoms through youth mental health first aid.

Senate Bill 7026 created the mental health assistance allocation to assist school districts in establishing or expanding school-based mental health care. Schools must develop mental health plans focused on evidence-based mental health treatment. School districts shall submit approved plans, including approved plans of each charter school in the district, to the Commissioner of FDOE by August 1<sup>st</sup> of each fiscal year. Beginning with the 2018-2019 school year, the Department of Education was required to establish an evidence-based youth mental health awareness and assistance training program to help school personnel identify and understand the signs of emotional disturbance, mental illness and substance abuse and provide such personnel with the skills to help a person who is developing or experiencing an emotional disturbance, mental health or substance use problem. As of December 2018, FDOE facilitated training for nationally certified Youth Mental Health First Aid trainers representing school districts in all 19 Multiagency Service Network for Students with Severe Emotional Disturbance (SEDNET) regions throughout the state. FDOE

collaborated with the National Council and established a six-hour training option for school district personnel as “first-aiders.”

Senate Bill 7026 also directed school boards to require student disclosure of mental health referrals at registration, to allow an expelled student who is admitted to another district to be referred for mental health services, to require the student code of conduct to include policies for referring violent or disruptive students for mental health services, to require students expelled for firearms or certain threats to be referred for mental health services and to require student crime watch programs to allow anonymous reporting.

Senate Bill 7030 requires school districts to develop a multi-tiered system of support to deliver evidence-based mental health care. At a minimum the plans must include:

- The direct employment of certified school counselors or other mental health professionals;
- Strategies to increase the amount of time that school-based student services personnel spend providing direct services to students;
- Contracts with local community behavioral health providers or providers of Community Action Team services to provide a behavioral health staff presence and services at district schools;
- Policies and procedures that allow for students to receive services within 15 days of referral;
- Strategies or programs to reduce the likelihood of at-risk students developing social, emotional or behavioral health problems; and
- Strategies to improve the provision of early intervention services, and to assist students in dealing with trauma and violence.

### **SCHOOL SAFETY FUNDING**

Senate Bill 7026 included more than \$69 million to the Department of Education to fund the mental health assistance allocation, \$67 million in training money for sheriff’s offices and school districts that decide to establish a school guardian program, \$97 million to increase the safe school allocation paid by the State to school districts, \$98 million to fund a

school hardening and enhanced campus security grant program and \$18.3 million to the Department of Children and Families for additional mobile crisis teams to ensure reasonable access among all counties.

Senate Bill 7030 provided additional flexibility in funding to enhance school safety and security and it provides additional mental health services to students. Some examples of the funding changes include retroactively providing school districts with authority to spend Fiscal Year 2018-19 safe schools allocation funds on current SROs, providing school districts with greater flexibility to improve school safety by authorizing the transfer of categorical funds within the Florida Education Finance Program towards school safety expenditures and expanding authorized uses of the overall safe schools allocation.

### **E911 AND RADIO SYSTEMS**

While not exclusively a school safety issue, the Commission's initial report found that issues related to 911 and communications systems played a significant factor in the delayed response times to the Marjory Stoneman Douglas incident. Consequently, the Commission recommended a number of improvements in this area.

House Bill 441, passed during the 2019 Legislative session and approved by the Governor on June 26, 2019, requires the Florida Department of Management Services to develop a plan by February 1, 2020, to upgrade 911 public safety answering points (PSAP) within the state to allow the transfer of an emergency call from one local, multijurisdictional or regional E911 system to another local, multijurisdictional or regional E911 system in the state. The bill specifies that this transfer capability should include voice, text message, image, video, caller identification information, location information and additional standards-based 911 call information.

The bill also requires the development and implementation of communications systems that allow direct radio communication between each PSAP and first responders. Each sheriff must facilitate the development and execution of written interlocal agreements between all primary first responder agencies within their county. By January 1, 2020, every

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sheriff must provide to FDLE a copy of each interlocal agreement and written certification that all PSAPs in his or her county are in compliance.

### IMPLEMENTATION AND COMPLIANCE

The Office of Safe Schools (OSS), with input from the Commission, sent surveys to the 67 school districts in Florida in order to evaluate progress and compliance with best practices and school safety legal requirements. These survey responses were self-reported by each school district's School Safety Specialist (SSS). Some of the questions varied slightly over a six-month period, but the below survey results clearly show that school safety in Florida is improving.

<b>Is a safe-school officer present at all times when school is in session at every school in the district?</b>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	<b>54</b>	<b>57</b>	<b>67</b>
<b>No</b>	<b>13</b>	<b>10</b>	<b>0</b>

<b>Have both your school district and the sheriff authorized the Guardian Program?</b>			
<i><b>Note: This was split into separate questions for the June and August surveys</b></i>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	<b>31</b>	<b>N/A</b>	<b>N/A</b>
<b>No</b>	<b>36</b>	<b>N/A</b>	<b>N/A</b>

<b>Has your school district authorized the Guardian Program?</b>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	<b>N/A</b>	<b>38</b>	<b>44</b>
<b>No</b>	<b>N/A</b>	<b>29</b>	<b>23</b>

<b>Has the sheriff in your county authorized the Guardian Program?</b>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	N/A	39	45
<b>No</b>	N/A	28	22

<b>Does your district authorize school employees (principals, coaches, counselors, etc.) to perform Guardian duties in addition to their regular duties?</b>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	18	21	21
<b>No</b>	49	46	46

<b>Has Guardian training taken place in your district?</b>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	25	28	36
<b>No</b>	42	39	31

<b>Does your district have a written active assailant response policy or procedure?</b>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	63	65	67
<b>No</b>	4	2	0

<b>If so, has that policy or procedure been distributed to all district employees?</b>			
	<b>April 2019</b>	<b>June 2019</b>	<b>August 2019</b>
<b>Yes</b>	58	59	67
<b>No</b>	9	8	0

**If so, does the policy or procedure clearly state that any and all school employees are authorized to initiate an active shooter response?**

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>53</b>	<b>61</b>	<b>67</b>
<b>No</b>	<b>14</b>	<b>6</b>	<b>0</b>

**Does your district have a policy or procedure requiring that all classroom doors be locked when occupied by students?**

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>53</b>	<b>60</b>	<b>67</b>
<b>No</b>	<b>14</b>	<b>7</b>	<b>0</b>

**Does each classroom door with a window have a teacher-accessible opaque covering that may be quickly applied in response to an active assailant?**

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>31</b>	<b>40</b>	<b>59</b>
<b>No</b>	<b>36</b>	<b>27</b>	<b>8</b>

**Does your district have a policy or procedure requiring the establishment and identification of a “hard corner” or other “safest area” in each classroom?**

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>53</b>	<b>54</b>	<b>67</b>
<b>No</b>	<b>14</b>	<b>13</b>	<b>0</b>

**Does every school in your district conduct an active assailant drill at least one time per month?**

*Note: This practice was required by law effective April 2018, a year prior to the first*

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>43</b>	<b>46</b>	<b>66</b>
<b>No</b>	<b>24</b>	<b>21</b>	<b>1</b>

**Are there schools in your district that conduct active assailant drills where the students do not physically move or react during the drill?**

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>10</b>	<b>12</b>	<b>6</b>
<b>No</b>	<b>57</b>	<b>55</b>	<b>61</b>

**Do you conduct active shooter drills that require the students to run in addition to “locking down” (hiding)?**

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>41</b>	<b>47</b>	<b>65</b>
<b>No</b>	<b>26</b>	<b>20</b>	<b>2</b>

**Does each school each school employee have a communication device on their person and/or a device that is immediately accessible at all times where he/she may immediately communicate an observed threat and activate an active assailant response?**

	April 2019	June 2019	August 2019
<b>Yes</b>	<b>33</b>	<b>44</b>	<b>56</b>
<b>No</b>	<b>34</b>	<b>23</b>	<b>11</b>

**Does each school employee have a communication device on their person and/or a device that is immediately accessible at all times where he/she may immediately receive communications about an observed threat and any directive to initiate an active assailant response?**

	April 2019	June 2019	August 2019
<b>Yes</b>	33	45	58
<b>No</b>	34	22	9

**Does every school in your district have a requirement that gates to fences surrounding the school be closed and locked when not being used for active ingress and egress?**

	April 2019	June 2019	August 2019
<b>Yes</b>	57	61	67
<b>No</b>	10	6	0

**Is there a requirement that gates opened for ingress and egress be staffed at all times when open?**

	April 2019	June 2019	August 2019
<b>Yes</b>	29	38	67
<b>No</b>	38	29	0

**For schools that are only served by a Guardian (no law enforcement officer assigned), do at least one Guardian on every campus have a law enforcement radio?**

	April 2019	June 2019	August 2019
<b>Yes</b>	N/A	10	25
<b>No</b>	N/A	15	0

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The survey results establish that every measure listed has improved throughout Florida schools. However, this does not mean that all Florida schools are in compliance and this should not mean Florida has achieved overall school safety success. Schools have much work yet to be done and they must continue their efforts to ensure that all schools are as safe as possible at all times. The OSS and the Commission will both continue to monitor compliance and the Commission strongly encourages the Department of Education to use all means necessary to compel compliance.

## CHAPTER 3. REUNIFICATION AND MASS CASUALTY DEATH NOTIFICATION POLICIES AND PROCEDURES

### **CHAPTER 3. REUNIFICATION AND MASS CASUALTY DEATH NOTIFICATION POLICIES AND PROCEDURES**

On February 14, 2018, 3,090 of the 3,318 enrolled students and approximately 210 staff members were present at Marjory Stoneman Douglas High School (MSDHS). As noted in the Commission's Initial Report, Broward County Public Schools and Marjory Stoneman Douglas High School did not have an established active assailant response policy. There were no written and trained-on policies regarding Code Red and lockdown procedures.

There were two documents available to school staff related to school safety at the time of the shooting. The first document was the "Emergency Preparedness Manual," which was a 151-page document published on the district's website. The manual outlined emergency procedures for various incidents such as: medical and weather emergencies; air-quality alerts; bees, wasps and hornets; chemical spills; elevator emergencies; fire emergencies; flooding; mail-handling guidelines; lightning alerts; tornado emergencies; and utility failures. The second document was the "School Safety Plan," and it contained generic information relating specifically to MSDHS. Each school in the district had a similar document with information pertaining to the specific school. Neither document included information related to active shooter or assailant procedures or protocol. In the event of an incident, such as the mass shooting that occurred at MSDHS, there was not a Broward County School District plan that instructed students, teachers, staff, administrators or parents on where to go or what to do for family reunification.

Similarly, there has been very limited evidence indicating that other school districts across the state or that many across the nation were equipped with family reunification policies and procedures in the aftermath of a major event such as an active shooter. BCPS, like many other districts, had no plans to reunite students with their families, to provide appropriate information for those who were transported to hospitals or to assist with death notifications in a mass casualty incident.

The same can also be said regarding most law enforcement agencies. The Commission conducted a sample survey of both sheriff and police agencies within Florida, which

## CHAPTER 3. REUNIFICATION AND MASS CASUALTY DEATH NOTIFICATION POLICIES AND PROCEDURES

indicated that most agencies' policies addressed death notification in homicide cases with smaller numbers of casualties. Only a few agencies had recently begun to address the mass casualty scenarios that unfortunately have become more prevalent across the country.

In recognizing that gaps exist in policy and procedure for these types of tragic incidents, the Commission heard testimony during its April and June 2019 meetings to identify and address those gaps and provide recommendations for schools, law enforcement and community agencies moving forward. Specifically, the Commission heard how reunification and death notification was addressed from the perspective of family members who lost loved ones at MSDHS as well as the law enforcement officers who worked tirelessly that day in what was one of the most difficult crime scenes a detective could have to investigate.

To provide some perspective regarding reunification, FDLE Orlando Special Agent Supervisor Jason Cook presented to the Commission on reunification and death notifications following the Pulse Nightclub shooting. Captain Rick Francis of the Seminole County Sheriff's Office also shared Seminole County School District's policy addressing mass casualty reunification when incidents occur at a school facility.

### **MSDHS MASS CASUALTY INCIDENT REUNIFICATION/NOTIFICATION—FAMILY PERSPECTIVE**

Many people raised concerns about the process used to reunite parents with their children after the MSDHS shooting. Many students left cell phones, backpacks and belongings behind as they fled the buildings, and were unable to make contact with their families. There was confusion as to where to go, with some parents scrambling to multiple locations and hospitals in an effort to gain information and find their children. The Commission heard from four families who provided a synopsis of their experiences the afternoon and evening of February 14, 2018.

#### Tom and Gena Hoyer: Parents of Luke Hoyer

Gena was at home when she was contacted by a friend and told to turn on the television because there had been a shooting at MSDHS. The news showed fire/rescue working on

### CHAPTER 3. REUNIFICATION AND MASS CASUALTY DEATH NOTIFICATION POLICIES AND PROCEDURES

what appeared to be a student who was outside of the school. Gena then contacted her husband, Tom.

Gena tried to call Luke, but he did not answer. She thought that Luke may have left his phone behind while trying to evacuate. After not hearing anything she thought he might have been injured and decided that she and Tom would go to local hospitals to try and locate Luke. Tom called the hospital, Broward Health North, and was told by the charge nurse that she could not provide any information or confirm whether Luke was in their facility. Tom then drove to the hospital in an attempt to locate his son but was denied entry because the hospital was on lockdown. Tom had to enter through the emergency room and finally spoke to staff. Gena went to Broward Health North and was told upon arrival to go to a nearby Marriott hotel (reunification site) for information.

Upon arrival at the Marriott, Tom and Gena checked in with BSO personnel who took their names and asked for Luke's information. Several times while waiting in the ballroom, law enforcement personnel asked them and other families to provide pictures of their children. Although there were many law enforcement employees from multiple agencies present, none were providing any information. Gena had no idea who was in charge.

At approximately 1:00 a.m., Tom and Gena were called to a separate room and were advised that Luke had been shot and killed. Gena was told that Luke was alone when he was killed on the third floor of Building 12. She found out several days later that she had been provided incorrect information. Luke had actually been shot on the first floor of Building 12 while next to Gina Montalto and Martin Duque. Immediately after being told of her son's death, Gena was provided with victim's assistance paperwork to sign.

#### Fred and Jennifer Guttenberg; Parents of Jaime Guttenberg

Fred received a call from his son who attended Marjory Stoneman Douglas High School that there had been a shooting at MSDHS. He could not find his sister and was running because he heard gunfire. Fred instructed his son to keep running. Fred and Jennifer continued to text and call Jaime's phone with no response. At approximately 3:00 p.m., Fred posted on Facebook that he was trying to locate Jaime. Between 3:30 and 4:00 p.m., he received a

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message to go to the Marriott. Fred and Jennifer sent some of Jaime's friends and their families to the hotel so Fred and Jennifer could attempt to locate Jaime at the hospital. Jaime was not there. The hospital checked other databases as well, but could not locate her. At approximately 5:00 p.m., Fred and Jennifer received information via Jaime's friends that Jaime was not at the Marriott. Fred then reached out to a detective who is a personal friend and who was also at the shooting scene. Fred received confirmation from the detective while en route to the Marriott Hotel that Jaime was deceased. Fred pulled over on the side of the road to tell his wife Jaime had been murdered. The Guttenbergs did not go to the Marriott but instead drove back to their residence to be with friends and family. The media was there almost immediately. At approximately 9:30 p.m., Fred and Jennifer left their home to be with the other families at the Marriott. Fred and Jennifer were at the Marriott until approximately 2:30 a.m. While at the hotel, they received the official death notification from BSO around 1:30 a.m. They had been in a room full of people and not provided any information prior to that time. Fred described a parent of one of the victims as having a "meltdown" due to the lack of information. Fred did not recall seeing any victim advocates present. He described the lack of information from officials as a "seven-hour vacuum."

#### Tony and Jennifer Montalto; Parents of Gina Montalto

Tony Montalto found out about the shooting along with his wife, Jennifer, who immediately responded to MSDHS. The students were coming out of the school, but Jennifer could not locate Gina. She called her cell phone but did not get an answer. Jennifer thought Gina may have left her phone behind while trying to escape from the shooting.

At some point Jennifer was told to go to the Marriott. She saw the chaos there and did not go inside. Tony and Jennifer received information that a female matching Gina's description was possibly at the hospital, so Jennifer headed there and Tony went to the hotel. Tony was told that if he went inside the hotel he would not be allowed to leave. He decided not to enter and left to meet Jennifer at the hospital.

While at the hospital, Jennifer was not given any information and asked what Gina was wearing that day. BSO separated Jennifer from her family and friends who were there to

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support her. Jennifer was instructed to sit in a room by herself while waiting for Tony to arrive. A priest and some other religious officials were present when a BSO detective and possibly a “counselor” eventually notified Tony and Jennifer that Gina was deceased. They were not given any other information. They asked to see Gina and were told no. Tony and Jennifer were visibly shaken but were not offered a ride home or any other assistance. Tony and Jennifer drove back to their residence which was so close to MSDHS that the road had been shut down by law enforcement. Despite having just learned their daughter was murdered, and relaying that to the officer working the detail, they were notified by a law enforcement officer that they would not be able to return to their residence via that route.

#### Debbie Hixon; Wife of Chris Hixon

Debbie Hixon was at another BCPS school when she saw the news of the shooting at MSDHS. She called Chris’ phone at 2:42 p.m. Chris’ phone was answered by Security Specialist Kelvin Greenleaf who passed the phone to Assistant Principal Jeff Morford. Debbie was not provided with any information by Morford.

Debbie left her school at 3:30 p.m. and went home. Debbie was contacted by a supervisor for high school principals, Alan Strauss, who advised her that Chris had been shot and told her to go to the Marriott.

Debbie arrived at the Marriott around 7:30 p.m. She met with someone from the FBI who seemed ready to tell her something but instead directed her to another room where she felt forgotten.

The Red Cross was present at the hotel and Debbie had the impression that the FBI was in charge. She was asked to provide pictures of Chris. The FBI and BSO repeatedly gave instructions to parents at the reunification site but since she was not a parent of a missing student she was confused about what she should do and where she should be.

Debbie received several messages on her cell phone offering condolences but had not yet been notified by law enforcement of Chris’ death. Around 10 p.m., she showed the text messages to BSO Major Osgood and told him she needed answers. He informed her she

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would need to go to the hospital in order to get any new information and she would be able to meet with someone from BSO there.

Around 11 p.m., she arrived at the hospital, but she did not find anyone from BSO. The hospital staff said that at 3:00 p.m. they knew Chris was deceased and that BSO was supposed to notify her. At 2:00 a.m., BSO called Debbie to notify her that Chris was deceased. At this point Debbie was already home and knew of Chris' death. In the following days, a detective came by to apologize for the notification process taking so long.

### **BROWARD COUNTY SHERIFF'S OFFICE PERSPECTIVE**

After the families testified, representatives from the Broward County Sheriff's Office provided the Commission with their perspective regarding family reunification and death notifications following the MSDHS shooting. Detective Zack Scott and Captain Scott Champagne addressed the challenges that they faced that day when they tried to identify victims and notify families in a timely manner.

Detective Scott stressed that identifying the victims and notifying their families was of paramount importance to BSO. However, equally important was ensuring that BSO followed all proper investigative procedures to protect the integrity of the investigation and prosecution. Simultaneously, BSO had to balance many tasks which included ensuring accurate victim identification, collection of evidence, witness interviews, suspect apprehension and crime scene integrity. The number of victims and large crime scene led to a very time-intensive process.

The deputies and officers who initially cleared Building 12 evacuated the last person at approximately 3:21 p.m. However, there were still several rooms that had to be breached and searched to ensure there were no other victims or suspects. The size of the area was also a consideration since there were ten classrooms on each of the three floors plus closets, bathrooms and stairwells. At the time it was not known there was only one suspect.

At approximately 5:10 p.m., while victims' families were waiting for information, law enforcement was finally able to begin a "deep clear" of Building 12. That is when the

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building was again searched to ensure that there were no improvised explosive devices, a tactic that has been used in other attacks to draw first responders to a scene and create further casualties. This task was very time consuming. There were 743 students on the roster for that building that day, with bags, purses and other personal effects left behind. The bomb squad had to clear each floor room by room.

After clearing the building, numerous photographs, videos and digital scans had to be taken. Evidence had to be collected along with specific descriptions of each item and its location.

Investigators used a team, including medical examiner personnel, in their effort to expedite victim identification to look for any identification on each victim's person. Only two victims had identification, including the adult victims. This meant that 13 victims inside and around Building 12 had not be identified by well into the evening.

Another challenge was that some injured victims at the hospital were unable to communicate their identities, while two victims passed away at the hospital. Communication between the hospital, command post, and the reunification center was challenging due to the magnitude of the situation. Another challenge was that as parents arrived at the reunification center to look for their children, they provided names, ages and descriptions that unfortunately matched several of the victims, both deceased and injured.

At one point there were over 800 people at the reunification center. Many were families unable to contact their child because some students had left their cell phones behind, and even those who had phones were often blocked by an overloaded cell network. Additionally, witnesses were also transported to the reunification site which meant their families congregated there as well.

BSO worked diligently to identify the victims but were hindered due to the lack of identification on the victims. It was not until late in the evening that the school district provided BSO a book that contained pictures of some students, but seniors' photographs were not included in the book. BSO made some tentative identifications but could not make

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conclusive identification of all victims. Detectives asked parents to provide photographs of their children, but the volume of incoming emails paralyzed the system and emails were rejected.

Two decisions further delayed death notifications. First, BSO homicide detectives told others that they wanted to personally handle all notifications as they normally do in homicide cases. Detectives do this so they are able to provide the most accurate information to victims' families. However, due to the number of victims and voluminous evidence being collected in this case, homicide investigators later found it impossible to personally make the notifications. The absence of homicide detectives at the reunification center left a void of personnel trained and experienced in the death notification process. The victim advocates from various agencies, including the Attorney General's office and the FBI, did not have the necessary information to make the notifications. The reunification center lacked command and control, and there was coordination void among all the stakeholders.

Secondly, a decision was made to delay death notifications until all victims were identified so the notifications could be made as simultaneously as possible. BSO recognized in hindsight this was not attainable and added more confusion and angst to the waiting families. With 17 deceased victims, there were not enough teams to assist with the notifications, not enough resources and inadequate private or semi-private areas, all of which created even more delays.

The Marriott was a fairly large, central location but was still inadequate due to the number of people present at the reunification site. The hotel's conference center walls were not soundproof, and people outside the rooms could hear families' reactions when they learned of the death of their loved ones. All death notifications were completed within approximately 12 hours of the shooting, but some families waited until after 3:00 a.m. before they were notified.

The hospitals, where families were sent in hopes of finding their loved ones, were experiencing the same miscommunication issues and lack of coordination. Hospital

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personnel were not able to or refused to provide any information, and the officers assigned to the hospitals were unable to assist those who went there looking for answers.

Family members expressed to the Commission a preference that death notifications be made even if they are tentative identifications so that families don't have to wait for so long before getting any information. Detective Scott addressed this idea and stated that, from BSO's perspective, the possibility of misidentifying a deceased child is worse than actually waiting until confirmation. Both perspectives have merit; one's perspective is largely driven by the desire to get it right, while the other's is driven by the desire for information.

Captain Scott Champagne told the Commission that BSO has hired an Emergency Management Director and is in the process of developing its Death Notification and Reunification Policy for Mass Casualty Incidents to address concerns raised during the MSDHS shooting.

### **MASS CASUALTY INCIDENT SURVEY**

The Commission surveyed 25 sheriffs and 25 police chiefs from agencies of various sizes in Florida. The purpose of the survey was to capture a snapshot of agencies with mass casualty notification policies. There were two questions asked in the survey. First, "Do you have a policy which governs the manner in which death notification will be handled in the event of a mass casualty incident?" And second, "Do you have a policy which governs the reunification process following a mass casualty incident?"

The survey determined that most of the agencies, regardless of the agency size, did not have policies dealing with death notifications and family reunification in a mass casualty incident. Thirty-six agencies responded; 18 sheriffs and 18 chiefs. Three sheriffs and three chiefs advised they were in the draft process for both of these policies. Eighty-three percent of respondents did not have a policy for either topic.

One agency surveyed did have a very comprehensive plan addressing family reunification and included topics such as opening a family assistance center, incorporating the health department for mental health assistance, incorporating victim advocates, counseling for

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survivors and using an automated tool to aid in reunification, patient tracking and transportation from hospitals. One agency had a plan that was exercised and found how quickly resources can be exhausted with even one hundred persons as part of their exercise.

There have been agencies that have built their policies following significant events such as the shooting at the Pulse nightclub. Agencies that had the foresight to learn from those events, like Seminole County, have already established and exercised their plans. However, the survey clearly indicates that BSO was not alone in not having a policy on death notification and reunification as it relates to mass casualty incidents, and there is room for improvement in this area.

### **FAMILY REUNIFICATION / NOTIFICATION SCHOOL POLICIES**

The Commission inquired of many Florida school districts and largely found a void in robust emergency situation family reunification policies. The exception is the Seminole County School District.

#### Seminole County School District

The Seminole County School District, in conjunction with the Seminole County Sheriff's Office School Resource Officer Program, has developed a school district-specific family reunification plan that encompass several types of large-scale reunification procedures for numerous incident types. The Seminole County plan is a model plan that other agencies should consider emulating.

The Seminole County School District has also purchased a software system to manage the reunification process and trained district personnel who would deploy to the impacted school site. This product is part of an overall visitor management process that maintains real-time data on who is currently on campus from visitors to students. Rosters can be sent to teachers through an app to account for students and to identify those injured or missing. The app also has a messaging capability for communication with parents. The school district conducts various reunification drills during the school year.

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### **FINDINGS:**

#### Family Perspective:

1. There was ineffective communication between law enforcement officials and MSDHS victims' families during the death notification process. Law enforcement officials provided some victims' families confusing and wrong information.
2. The MSDHS family-student reunification process was ineffective because neither the Broward County School District nor the Broward County Sheriff's Office had plans or policies in place to affect an orderly reunification.
3. The Marriott hotel was eventually identified as the reunification and gathering point for victims' families; however, there was no clear line of authority at the hotel and victims were confused as to who was in command and making decisions.
4. Families were separated from their personal support groups, not provided a single point of contact and many families were not aware of any victim advocates or available assistance in the days after the shooting.
5. The Broward County Sheriff's Office did not control the scene at the Marriott hotel and that resulted in inappropriate media access to victims' families.
6. The Broward County Sheriff's Office did not provide grieving families private areas at the hotel and they could hear each other crying and screaming.

#### Broward Sheriff's Office:

7. The BSO-established reunification center at the Marriott hotel lacked effective command and control.
8. BSO's lack of an effective mass casualty reunification and death notification policy resulted in an ineffective process.
9. Line-level BSO personnel were well-intended and acted in good faith during their reunification and death notification efforts.

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10. Broward County Public Schools was not adequately prepared to assist the Broward County Sheriff's Office with student identification by providing student rosters with photographs.

### Reunification Policies and Procedures:

11. Most Florida law enforcement agencies also lack mass casualty reunification and death notification policies.
12. The Seminole County Sheriff's Office mass casualty reunification policy (Appendix I) is an exemplary policy and a model for others to follow.
13. The Seminole County School District's reunification policy (Appendix J) is an exemplary policy and a model for others to follow.
14. Technology is available to facilitate and automate the reunification process.

### **RECOMMENDATIONS:**

1. Every law enforcement agency should have a mass casualty death notification and reunification policy. Seminole County Sheriff's Office's policy and practices should be considered as a model for law enforcement agencies to adopt.
2. Every policy must have an effective command-and-control structure that identifies an on-site individual to supervise the reunification and reporting process.
3. Agencies should consider the parents' recommendation that families be provided with tentative decedent identifications to provide more timely notifications. There are differing views on this recommendation, and the decision whether to provide families with tentative decedent identification or wait for final identity confirmation must be made on an individual agency and case-by-case basis.
4. Family members should be provided with regular updates on the status of victim identification.

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5. Agency policies should include the pre-identification of the various victim advocate services available and detail how to activate those services immediately upon the incident occurring. Victim advocate services are available through local, state and federal agencies, and services at all levels should be engaged.
6. School districts, law enforcement agencies and hospitals should collaborate and develop coordinated best practices for effective death notification and family reunification. Sheriff's offices and police departments should consider a single countywide policy for consistency across each county.
7. Critical incident stress debriefing should be mandatory for officers and all personnel, including school personnel, who respond to a mass casualty event and/or who participate in the family reunification efforts.
8. Every school district should have a plan, set forth in policy, which addresses reunifying students and staff with their families in an emergency situation. Because each school is unique, each individual school should also have a school-based reunification plan that is consistent with district policy. The district's policy should minimally address: identification of potential reunification sites; training for employees; multiple methods to effectively communicate with family members of students/staff; and methods to aid law enforcement in student/staff identification. School districts must coordinate with law enforcement, fire rescue, and emergency medical service agencies in the creation of their policies to ensure there is a unified command at the reunification site. Seminole County Public Schools' policy and practices should be considered as a model for all school districts to adopt. Technology-based programs are available to facilitate reunification. However, school districts should also maintain written back-up documents that will facilitate reunification.
9. Every district plan should identify potential reunification sites, training for employees, equipment, signage and student/parent information to facilitate the process.

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10. A unified command structure should be incorporated in the plan, particularly in a mass casualty incident where multiple agencies are involved.
11. Training and practical exercises are important components of effective plans. The reunification plan should also include required after-action reports and where appropriate, updating protocols based on the critique contained in the after-action report. Training and practical exercises should be conducted with partner agencies, such as police, fire, emergency management, victim advocates, mental health counselors and other team members who would be included in the response.

## **CHAPTER 4. BROWARD REGIONAL 911 AND LAW ENFORCEMENT RADIO SYSTEM**

The City of Parkland does not have its own police or fire department, and on February 14, 2018, the City of Parkland's public safety services were provided through contracts with two separate agencies: the Broward County Sheriff's Office for law enforcement and Coral Springs/Parkland Fire Rescue for fire and EMS.

The Commission's first report addressed the emergency communications system in Broward County, including the 911 and law enforcement radio systems used by BSO and CSPD, and determined that it had a negative effect on the law enforcement response to the shooting at Marjory Stoneman Douglas High School. Among the specific issues identified were a complicated call transfer process for 911 calls originating within Parkland, lack of radio interoperability between the BSO and CSPD emergency communications systems and officers and deputies using an antiquated radio infrastructure maintained by Broward County's Office of Regional Communications and Technology (ORCAT). All of these intertwined issues hindered and delayed the law enforcement response to the MSDHS shooting and added unnecessary, increased risks for all persons on the MSDHS campus during the shooting and response.

To gain a better understanding of this communications failure since submitting its initial report in January 2019, the Commission continued its investigation into why this fragmented system exists. Between March and September 2019, the Commission examined various documents, met with local officials from city and county government and heard testimony from some of those same individuals at Commission meetings. The following summarizes the results of the continued investigation.

### **REGIONAL 911 SYSTEM REVIEW**

There are 31 municipalities in Broward County, and those municipalities receive public safety services through various means. Some municipalities have their own police and fire services, some contract with neighboring municipalities for police and/or fire services, and others contract with the Broward Sheriff's Office for police and/or fire services (BSO also

operates a fire/rescue service). The government of each municipality makes the determination how it wants to provide public safety services for its citizens. The variety of public safety service delivery models in Broward County results in different agencies operating in close proximity to each other using separate communications systems. This delivery model and agencies using varied and separate communications systems means that agencies in the same service delivery area cannot effectively communicate with each other when responding to the same calls. This also means that 911 calls are received by 911 call centers that do not dispatch for the first responder agency responsible for emergency services in the caller's area. This inherently requires that the caller seeking emergency help be transferred from the initial 911 center (primary public safety answering point or PSAP) to another 911 center where they have to make their request for help a second time before their call for help is actually dispatched to police or fire/EMS personnel.

The issue in 2002 was greater than the issue that exists today, and there were then at least 11 different 911 primary and secondary PSAPs in Broward County. To address some of these issues, in 2002, the voters of Broward County chose to amend the County Charter and consolidate some aspects of emergency communications into a regional system. This process is sometimes referred to as "regionalization." Regionalization of emergency communications is increasingly common and considered a best practice. The objective of regional communications systems is to avoid unnecessary call transfers so the individuals seeking emergency assistance are able to speak directly – the first time their call is answered – with the person who can provide them with emergency assistance. The issue of call transfers is most common in densely populated regions with multiple public safety agencies, Broward County being a prime example of such an environment.

The 2002 County Charter amendment focused on the regionalization of fire and emergency medical services and it stated "The County Commission with cooperation from Municipalities shall establish a countywide communications infrastructure for fire and emergency medical services. The County shall provide funding for the communications infrastructure and all service providers will utilize the elements of the communications infrastructure. The communications infrastructure shall facilitate closest unit response for

life-threatening emergencies and support for regional specialty teams.” Additionally, the Charter amendment created the Broward County Fire-Rescue Council to “facilitate the coordination between the County and the Municipalities” in establishing the countywide communications infrastructure.

Nine years after the charter amendment passed, in November 2011, the county formed the Broward County Consolidated Communications Committee (BCCCC) to evaluate the feasibility of a regional communications system. The goal was to enhance regionalization for law enforcement similar to the 2002 effort for fire/rescue services. The BCCCC was comprised of 22 individuals including representatives from county and city governments, police and fire chiefs and the Broward County Sheriff’s Office. On March 07, 2012, the BCCCC presented its final 35-page report to the Broward County Commission. The report documented the BCCCC’s consideration of governance, operations, funding and other issues associated with the regionalization process.

The BCCCC’s report specified one of the problems it sought to resolve by stating “a major challenge for Broward County E-911 communications centers are ‘misdirected’ calls. ‘Misdirected’ calls are those cell phone 911 calls routed by cell phone towers to a dispatch center other than one that can actually dispatch emergency units.” The BCCCC explored four governing models and determined that only two were viable options: “1) A consolidated dispatch system run by Broward County Government. 2) A consolidated dispatch system run by the Broward Sheriff’s Office with the Governing Board having hire/fire authority over the executive director.” The BCCCC recommended that the County Commission terminate the BCCCC and form an Implementation Board to begin the process of regionalization.

In March 2012, the County Commission created the Broward County Consolidated Communications Implementation Board which is often referred to as the “I-Board.” The I-Board was comprised of 32 members from city and county governments, the police and fire chiefs’ associations and the Broward County Sheriff’s Office. On February 1, 2013, the I-Board presented its final 11-page report to the Broward County Commission. The I-Board report included seven specific recommendations. Among those recommendations was that

## CHAPTER 4. BROWARD REGIONAL 911 AND LAW ENFORCEMENT RADIO SYSTEM

Broward County government – not the Sheriff's Office – oversee the regional communications system. The I-Board's goal was to have regional communications active by October 1, 2013.

The I-Board's report stated that the cities of Coral Springs and Plantation had decided to not join in the regional communications system. The report stated, "The City of Coral Springs has also raised a concern that the level of service that will be provided by the Countywide E-911 system will be lower than currently provided by the City of Coral Springs." Both cities wrote letters to the County Commission providing explanations for their choice. Both cities expressed concerns about taxation associated with the regional system and that the County's system and performance would be inferior to their current communications systems. On the day of the shooting at Marjory Stoneman Douglas High School and as of the publication of this report, both Coral Springs and Plantation still operate their own independent 911 communications centers and police radio systems. The radio system concerns expressed by Coral Springs and Plantation in 2013 were validated and unfortunately came to fruition on the day of this shooting as their systems operated flawlessly while the County's outdated system failed to meet the users' needs.

### The Current 911 Regional Communications Governance Structure

In September 2013, an operator agreement for the regional communications system was signed by County Administrator Bertha Henry, Sheriff Scott Israel and County Mayor Kristin Jacobs. Municipalities joined the regional system through inter-local agreements. The regional system was, and is, currently funded by the County. The cities saved a tremendous amount of money because they closed their communications centers when they joined the county-funded regional system. The 167-page agreement addressed many issues, but, most relevant to this discussion, it outlined the division of responsibilities among the stakeholders.

Under the agreement, County staff was to "provide for the management, administration, and oversight" of the regional system (and) work for the Broward County Office of Regional Communications and Technology (ORCAT). The ORCAT director reports to the County Administrator who was and is Bertha Henry. ORCAT is also responsible for maintaining the

equipment and infrastructure for the regional system. However, the personnel working within the regional communications centers (i.e., call-takers, dispatchers, managers) are employees of the Broward County Sheriff's Office. As explained in the operator agreement, BSO is responsible for "day-to-day operations of the Consolidated Regional E-911 Communication System's PSAP location(s), and the hiring, training, supervision, direction and discipline" of their personnel. This chapter will later explain how this bifurcation of duties and responsibilities between ORCAT (the County) and BSO has led to a tremendous amount of discord and ineffectiveness within the regional communications system. In fact, the discord threatens the regional communication system's continued viability as at least two current participant cities have decided to withdraw from the system.

Within the regional communications system there are also three governance boards: Computer Aided Dispatch, Law Enforcement Records and Fire/Rescue Records. Each of these boards is chaired by ORCAT staff; however, they are non-voting members. Each agency which participates in the regional system receives a single vote in the decision-making process.

There currently also exists an Operational Review Team (ORT) which is "responsible for vetting all operational issues that could impact the Regional 911 system, and for issue resolution, analysis and reporting," according to ORCAT. The ORT is currently chaired by Chief Anthony Rosa of the Sunrise Police Department, and the membership includes three law enforcement representatives, three fire rescue representatives and a city manager. As will be explained later in this chapter, there is a strong belief among public safety professionals that decisions made by the ORT are disregarded by ORCAT staff and leadership, and this is a significant source of frustration and discord among the members.

### 2016 Fitch Report on 911 Regional Communications

Because of the operational issues, in January 2016 the County hired a consultant, Fitch & Associates (Fitch), to perform an assessment of Broward County's Regional Communications System. Fitch issued two reports in 2016 and a third in 2018. The December 2016 report included Fitch's findings about operations within the regional

system and recommendations on how to improve. The assessment included evaluations of personnel, training, facilities, performance metrics, funding, technology and management.

Fitch conducted a survey of employees within the regional system and conducted interviews with some employees. They also conducted interviews with senior-level stakeholders who included representatives from Broward County, the Broward County Sheriff's Office, municipal leaders and police and fire chiefs.

Fitch reported favorably on some performance metrics. The three phases of call-taking were analyzed: 1) from the time a call rings until it is answered; 2) the time from when the call taker puts the call information into the computer (CAD); and 3) the time from the call being entered into the CAD until it is actually dispatched. Fitch stated that from the time a 911 call rings until it is answered "the Broward System actually exhibits some of the best performance seen in large 911 centers across the nation." Fitch pointed out that from the time call information is entered into the CAD until it is dispatched that they "perform well." Due to limited technology and data available to Fitch they were cautious in offering an opinion regarding the time between the call being answered until the data is entered into the CAD.

Fitch's findings from the interviews of the senior-level stakeholders (Broward County, the Broward County Sheriff's Office, municipal leaders and police and fire chiefs) portrayed the regional communications system as suffering high levels of distrust and dysfunction. Below are excerpts from the Fitch report:

"It is clear that the majority of stakeholders believe the System has improved its overall performance...nonetheless, there remain concerns that existing processes and governance structures keep the system from achieving significant additional improvements."

"County staff is essentially attempting to 'run operations' of the law enforcement and fire rescue agencies. These stakeholders cite examples of the County defining and managing processes for system changes."

"FITCH has identified examples of the County's work intruding into areas that are clearly operational in nature."

## CHAPTER 4. BROWARD REGIONAL 911 AND LAW ENFORCEMENT RADIO SYSTEM

“...law enforcement and fire rescue agencies, have in many ways acquiesced control to the County by agreeing to a somewhat limited and ambiguous role for input into the system’s operations. Most, if not all, protocol changes and guidance of the system occurs after fire and police chief associations have approved of these changes.”

“...there is a consensus among the parties that ‘something is broken.’ Every group indicated that ‘there is a lack of trust’ between system participants.”

“One of the major concerns shared by all stakeholders is the state of relations among the various parties.”

“Stakeholders other than Broward County attribute much of this to the County’s role in system oversight.”

“Stakeholders have expressed concern with the quality of services being provided by the Broward Sheriff’s Office as the System Operator. Some concerns revolve around dispatcher competency (largely seen as an outcome of the current training received by Regional E911 personnel) and the application of policies and procedures currently used by call taker and radio operator personnel.”

“...concern by many communities was that too much emphasis is placed on performance metrics in lieu of ensuring the quality of services.”

“...BSO and the participating cities, believe that the County’s application of these performance measures has, in some ways, been unreasonable and punitive.”

“This issue of relevant and meaningful performance measures is an area of significant friction between the parties. FITCH has identified a number of problems in the current assessment of System performance.”

The report found that the County’s focus on metrics and managing change processes “has led to the Sheriff’s Office expending extraordinary effort to address process issues rather than dealing with more substantive issues of staffing, training, and stronger Regional E911 oversight.”

Fitch also wrote about their interviews with the mid-level and supervisory personnel from the County, Broward Sheriff's Office and end-users:

"Positive attributes noted consistently throughout the interviews, were that Regional E911 personnel are dedicated, want to succeed, want to do a good job, and they feel that failure is not an option."

However, "[c]oncerns were repeatedly expressed about the following:

- Teamwork
- Personnel integration
- Inefficient procedures/processes
- Ongoing training and accountability
- Quality improvement/assurance
- Equipment failures and emergency procedures
- Staffing and work schedules
- Work environment/respect"

The interviews also revealed similar levels of distrust and dysfunction among and between the employees in the regional communications centers. Below are some excerpts from findings of those interviews:

"One theme that emerged throughout the Level 2 and 3 interviews can easily be described as silos or the lack of teamwork."

"The expression, 'I don't look at that,' or 'someone else deals with that,' was a common response."

"Policies affecting fire, law, and EMS agencies are not communicated to field personnel in a timely manner causing conflicts between the field and BSO dispatchers."

"Duty Officers (supervisors) are mired down in administrative duties and are not focused on supervising dispatch personnel or maintaining situational awareness."

"Personnel perceive excessive involvement by the County in operational issues."

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“CAD operational issues, lock-ups, slow downs, and reboots are a daily part of BSO operations.”

“...end-users admit they don’t report problems based on their experience of ‘no response’ to prior efforts.”

“Dispatch personnel expressed limited knowledge or training on manual mode procedures in the event of a CAD failure for an extended duration.”

“Dispatchers report that mandatory overtime is assigned multiple times each week. Personnel voiced that the current work schedule compounded with the frequency of mandatory overtime is creating burnout and high stress levels.”

### 2016 and 2019 911 Regional Communications Employee Survey Results

Fitch provided responses to the survey that was propounded to the personnel in the regional communications centers (all of these individuals are BSO employees as BSO runs the day-to-day operations of the 911 centers). To gauge any changes since the 2016 Fitch survey, the Commission presented the same questions to regional communications personnel in June 2019. As evidenced by the responses and reported below, there has been marginal improvement in few of the categories, but the situation in the regional communications centers has deteriorated in most categories.

Response Rates		
Survey	2016 - Fitch	2019 - MSDPSC
Total Personnel	377	378
Operator Responses	130	95
Management Responses	24	15
Total Responses	154	110

**"I believe we provide a good level of service to citizens who call 911."**

Survey	2016 – Fitch		2019 – MSDPSC
	Dispatchers	Managers	
Agreed/Strongly Agreed	64%	69%	42%
Neutral	13%	17%	38%
Disagreed/Strongly	23%	14%	20%

**"When I began my current job, the initial training I received prepared me well for the**

Survey	2016 – Fitch		2019 – MSDPSC
	Dispatchers	Managers	
Agreed/Strongly Agreed	54%	61%	55%
Neutral	18%	3%	22%
Disagreed/Strongly	28%	36%	23%

**"The ongoing training I receive continues to enhance my skills."**

Survey	2016 – Fitch		2019 – MSDPSC
	Dispatchers	Managers	
Agreed/Strongly Agreed	39%	46%	34%
Neutral	24%	25%	36%
Disagreed/Strongly	37%	29%	30%

**"The Regional Communications System is equipped and prepared to handle large**

Survey	2016 – Fitch		2019 – MSDPSC
	Dispatchers	Managers	
Agreed/Strongly Agreed	31%	69%	14%
Neutral	28%	7%	29%
Disagreed/Strongly	41%	24%	57%

<b>"The work methods we utilize help improve the efficiency in our work."</b>			
<b>Survey</b>	<b>2016 - Fitch</b>		<b>2019 - MSDPSC</b>
	Dispatchers	Managers	
Agreed/Strongly Agreed	16%	41%	13%
Neutral	26%	24%	18%
Disagreed/Strongly	58%	38%	69%

<b>"Policies and procedures are easily understood and applied."</b>			
<b>Survey</b>	<b>2016 - Fitch</b>		<b>2019 - MSDPSC</b>
	Dispatchers	Managers	
Agreed/Strongly Agreed	19%	36%	14%
Neutral	16%	21%	27%
Disagreed/Strongly	65%	43%	59%
<b>"The technology and information systems we use are reliable and are appropriate to"</b>			
<b>Survey</b>	<b>2016 - Fitch</b>		<b>2019 - MSDPSC</b>
	Dispatchers	Managers	
Agreed/Strongly Agreed	27%	7%	11%
Neutral	20%	32%	25%
Disagreed/Strongly	53%	61%	64%

<b>"Equipment problems are handled appropriately and I get feedback on the problems"</b>			
<b>Survey</b>	<b>2016 - Fitch</b>		<b>2019 - MSDPSC</b>
	Dispatchers	Managers	
Agreed/Strongly Agreed	8%	32%	15%
Neutral	19%	14%	22%
Disagreed/Strongly	73%	54%	63%

Fitch summarized the survey responses by writing, “Overall, the results above highlight an organization that has significant morale problems and frustration with lingering staffing, training and management issues.”

### **REGIONAL 911 CONCERNS**

#### Broward County Chiefs of Police Association and Fire Chiefs Association of Broward County

On June 15, 2017, the Broward County Chiefs of Police Association (BCCPA) and Fire Chiefs Association of Broward County (FCABC) issued a joint statement to address the regional communications system. The statement was issued “... in the spirit of cooperation and collaboration. Our common goal is to better ensure the long-term stability of the Regional E911 Communication System and all of its components.” The BCCPA and FCABC cited many successes of the regional system. Among those successes were increased cohesion and sharing of workload, structural and redundancy protections and virtual elimination of transferred calls. (This comment on the elimination of transferred calls applied only to the agencies that were participating in the regional communications system and not to the situation in Parkland where all 911 calls originating from any cellular phone in the city of Parkland were answered by CSPD and then transferred to BSO. This system remains in effect today.)

The BCCPA and FCABC joint statement echoed the theme of the Fitch report by stating, “The Fitch & Associates report highlights what we believe is a critical issue that has challenged the Regional E911 Communication System from its inception: County Administration and the Office of Regional Communications and Technology (ORCAT) making operational decisions when they have no operational expertise in E911 call taking, police and fire/rescue dispatching, and the operational requirements of the police and fire/rescue services. We believe the proper mission of the ORCAT is to fully support the operator of the system and participating municipalities.” Other concerns addressed by the BCCPA and FCABC were:

“... a central philosophy for success of regionalization and consolidation of E911 services is that the day-to-day operation of the system must be predominately the responsibility of the public safety professionals; this is a key component of other models of consolidation.”

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“...a source of continuing lack of confidence has been the role of the County Administration, through ORCAT, in operational public safety decisions. Notably, ORCAT has limited public safety experience and the responsible County Administrators have none.”

“So long as there is a division of responsibility between the County and BSO, where the County Administration has funding and oversight responsibility, there is a need for significant public safety expertise on the part of the County Administration.”

To address their concerns, the BCCPA and FCABC proposed that the regional communications management structure be replaced with a Public Safety Communications Advisory Council. This council would be comprised of 13 individuals representing city and county government, the BCCPA and FCABC, Broward County Sheriff’s Office, and other relevant community organizations. They also proposed that the regional system fall under the direction of a Director of Public Safety Communications who would be appointed by the County Commission and report directly to the County Commissioners, thereby circumventing County Administrator Henry who they viewed as a cause of issues and a source of their angst.

### Efforts to Change Regional 911 Governance and Address Concerns with the Broward County Law Enforcement Radio System

In the summer of 2017, Mayor Mike Ryan of Sunrise, on behalf of his city and the Broward County League of Cities, and County Administrator Bertha Henry both spoke before the Broward County Charter Review Commission’s Human Services and Public Safety Subcommittee. Mayor Ryan spoke in favor of the recommendations by the BCCPA and FCABC and Ms. Henry largely spoke against the recommendations. Ms. Henry also submitted a letter to the subcommittee stating her reasons for opposing the recommendations, including that the Broward County City Manager’s Association “resoundingly rejected” this proposal; Fitch did not recommend creation of the Office of Director of Public Safety (Fitch also did not discourage creation of this position); and such a position “will require working with many agencies under the auspices of the County Administrator, and bifurcating reporting responsibilities will inevitably be counterproductive.” In response and proposing a compromise, Ms. Henry told the charter

review subcommittee that she would seek an ORCAT director who had sufficient public safety experience to address some of BCCA and FCABC's concerns.

These summer 2017 statements were the last known statements or actions addressing the troubled management and organization of the regional communications system prior to the MSDHS shooting on February 14, 2018. As outlined in Chapter 7 of the Commission's initial report, the bifurcated communications system and aging regional communications system resulted in information silos and voids among the responding law enforcement officers, delayed their response and resulted in unnecessary risks to citizens and first responders.

On April 18, 2018, approximately two months after the shooting, Mayor Mike Ryan emailed the Broward County Commissioners and referenced his August 2017 appearance in front of the Charter Review Commission's Human Services and Public Safety Subcommittee. Mayor Ryan pointed out that the proposals were defeated and asked the Commissioners to put the issue on the ballot. He expressed his concerns to include "reported outages of the 911 system (sometime under extraordinarily unbelievable circumstances), the throttling of the radios during major events, and the radio tower failures that results in unreported radio failures."

On May 8, 2018, the FCABC, BCCPA and BSO submitted a letter to County Administrator Bertha Henry addressing some of their concerns about the regional communications system. The letter documented that, as far back as 2015, Mission Critical Partners (Motorola radio consultant) had identified that the County's radio system had "reached the end of its useful life and was in need of replacement. The letter pointed to the January 2017 flawed Ft. Lauderdale Airport shooting and the Marjory Stoneman Douglas High School shooting responses as the most startling examples of how the County's system was in dire need of replacement. They also pointed out the fact that the system frequently reaches its capacity due to the number of users on the system including non-emergency users such as Broward County school buses (according to a July 25, 2019 Broward County Public Schools press release, the buses no longer operate on the County's emergency radio system).

This letter pointed out some of the most significant frustrations by the associations and BSO:

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“...there exists a lack of planning, a lack of oversight, a lack of funding, and no clear vision for one of the most important components of public safety.”

“There have been committees such as the CCCC and ORT committee with little or no measurable success. Representatives of the both Associations and BSO to these committees have reported frustration on the inability to get things done.”

“The Fire Chiefs, for example, believe critical communications equipment is being held hostage until the Fire Chiefs Association of Broward County delivers a written agreement on closest unit response. This equipment, the Mobile Data Terminals, is needed by the firefighters and EMS personnel to do their jobs and should never be used as a bargaining chip.”

“During the meeting it was alluded to that first responders should scale back the use of the radio system during large scale incidents. This is not practical, but a great impediment to the proper handling of a large-scale incident. The system needs to be designed to handle the demands of the county during multiple large-scale events occurring at the same time.”

“BSO and both Associations seek a system-wide approach, led by a subject matter expert, with the experience, ability, authority, and resources to ensure the citizens, visitors, and first responders have a communications infrastructure they can depend on to receive and relay critical lifesaving information.”

Ms. Henry responded to this letter by pointing out their work with the Police Foundation to compile the various after-action reports of the February 14 shooting. She also pointed to continued work with Mission Critical Partners to “determine if there are stop gap measures that can be implemented until the new system and protocols are in place.”

In the summer of 2017, County Administrator Henry offered to hire an ORCAT director with the requisite public safety experience to resolve the fire and police chiefs’ concerns, and in May 2018, after the MSDHS shooting, the County hired Mr. Tracy Jackson to serve as the Director of Regional Public Safety/Emergency Services. Mr. Jackson previously served with the Miami Fire-Rescue Department where he was the deputy chief of administration and oversaw Miami-Fire Rescue’s 911 Call Center. Mr. Jackson’s new role with Broward

County required that he serve as both the director of ORCAT and the County's emergency management director. Directing emergency management and ORCAT are both demanding positions, and it was especially difficult in the unstable ORCAT environment for Mr. Jackson to spend adequate time in both components. Broward County public safety leaders later testified to the Commission said that despite Mr. Jackson's experience in emergency communications, the regional communications system had actually deteriorated since his hiring due to him being absent from meetings and primarily focused on emergency management operations.

### Discord between Regional Communications System Stakeholders and the County

On September 4, 2018, ORT Chair and Sunrise Police Department Chief Anthony Rosa and Sunrise Fire Department Chief John McNamara issued a joint letter to County Administrator Henry. The chiefs stated, "over the last five years there have been many occasions that our City along with our respective Public Safety Associations, both independently and collaboratively, has expressed concerns on issues involving the current regionalized communications system. We have expressed them publicly, privately, in writing and verbally, both formally and informally. We have done so in the spirit of making the regionalization and consolidation stronger, more resilient and providing the best service possible, while not once expressing a desire to exit the regionalized system or advocating to any of the other participating agencies to do anything but work through the process." However, the chiefs continued by stating they would not support renewing their membership in the regional system "due to the uncertainty of the outcome on a variety of unresolved issues. Moreover, we are deeply concerned about how this had been proposed to our agencies as well as the agencies through the County – reflecting a lack of input by the respective public safety professionals, demonstrating fundamental misunderstandings as to the appropriate role of the County, and raising the specter of setting unilateral operational decision and performance standards without regard to the impact on our collective agencies."

To further understand some of the dynamics, during early 2019 Commission investigators met with multiple stakeholders throughout Broward County including members of city and

county governments, fire and police executives, the Broward County Sheriff's Office and ORCAT. Most notably – and perhaps most significantly – as noted in the Fitch report, the Commission found that “every group indicated that ‘there is a lack of trust’ among system participants.”

Public safety leaders in 2019 repeatedly stated that ORCAT was still interfering with operational matters that should fall under the purview of the fire and police chiefs. The public safety leaders had tried to address these matters through the ORCAT workflow but found that despite their strong viewpoints, the County often disregarded their positions. Police and fire personnel also pointed to the bureaucratic inefficiency with which ORCAT operates and the poor quality of services. Below are just a few of the examples of information shared with the Commission:

BSO sought to add radio call signs for some jail personnel to the regional system's computer-aided dispatch. This is a matter which would only have an impact on BSO personnel as they are the only individuals who work within the jail. However, this was a change which BSO could not do without ORCAT's approval and the protracted process resulted in a prolonged approval period while the decision worked its way through bureaucratic delays.

Further, BSO sought to provide its K9 deputies with access to computer-aided dispatch (CAD) for the Hollywood Police Department. K9 deputies often assist other jurisdictions due to the scarcity of K9 units and typically if K9 units are responding to assist another agency it is almost always a high-priority, high-risk call. Having access to Hollywood Police Department's CAD would allow BSO K9 deputies to see information relevant to the call to which they are responding. ORCAT denied BSO's request and refused to make this change stating they did not see the need for BSO to have access to Hollywood's CAD.

Often, 911 callers do not have the address from which they are calling but might have the name of a location. As an example, a caller might say “I'm at the McDonald's on Commercial Boulevard.” The call-taker could then type “McDonald's” in the CAD and get addresses for the various McDonald's locations and find that the caller was at 9300 W Commercial Blvd. and relay that information to the dispatcher. These are known as “common place” searches,

and they are dependent on location data being current. If an officer on patrol takes note that the McDonald's sold the property and it is now a Burger King, the officer can notify the communications center to change that location to Burger King so when the next 911 caller says "I'm at the Burger King on Commercial Boulevard" it can be found using the common place search. These are changes that previously could be done at will, but the County only conducts these updates once a month. This was cited as another bureaucratic inefficiency with the ORCAT structure and is a safety issue that could delay someone receiving emergency help.

The Margate Police Department cited an instance when there was a serial robber who was committing armed robberies at dollar stores in the Broward County area. The suspect entered and robbed a Dollar Tree store in Margate. Margate police officers were across the street on a stakeout of the Dollar Tree store because of the serial robberies. However, when the clerk called 911 the first time it rang for fifteen seconds and no one answered. She hung up and called back a second time with forty seconds of ringing and no answer. The third call was answered after thirteen seconds of ringing and dispatched in two minutes and fifty seconds. When the officers arrived within a minute of being dispatched, after sitting across the street during the robbery and unaware it was occurring despite the clerk calling 911, the suspects were gone. The suspects went on to commit two more armed robberies before later being caught.

Multiple agencies explained how they have contingency plans for when the radio system goes down. There have been numerous times over recent years in which the radios stopped working for seemingly no reason. The down time lasts anywhere from 30 minutes to several hours. The officers are then dispatched in two-person cars to respond to calls without having radios to communicate with one another. This is a serious officer safety issue and also results in little to no proactive policing while the radios are inoperable.

The County has frequently inserted itself into Criminal Justice Information Services (CJIS)-related matters. CJIS policies address the handling of very sensitive information to which only law enforcement agencies are supposed to have access according to regulations promulgated by the Florida Department of Law Enforcement and Federal Bureau of

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Investigation. By becoming involved in these matters and accessing CJIS information, the County risks law enforcement agencies being sanctioned by FDLE and/or the FBI and losing access to this critical information.

One of the factors that are hindering improvement of the regional system is the outdated radio equipment and technology cited by Coral Springs and Plantation in 2013 as reasons to not join the regional system. In 2015, Mission Critical Partners recommended that the County transition from its analog radio system to a digital Project 25 (“P25”) radio system. Most recently, the outdated technology performed poorly at both the Ft. Lauderdale Airport shooting (2017) and the Marjory Stoneman Douglas High School shooting (2018).

### Efforts to Replace the County’s Law Enforcement Radio System

The County funded a replacement radio system but affecting transition to the new P25 system requires installation of new radio towers throughout the county. This was a process that began prior to the shooting on February 14, 2018. One of the obstacles faced by Broward County government is that there are essentially no unincorporated areas in the county, which means County government must work closely with municipal governments to obtain approval for projects of this nature. During the Commission’s work in 2018, it learned that the City of Tamarac resisted having a tower erected in its city. The MSD Commission sent a letter to Tamarac’s mayor conveying the necessity of this tower, and Tamarac later agreed to the tower being erected in their city.

More recently, the City of Hollywood has resisted having the final tower necessary for system replacement erected in West Lake Park, which falls within the city limits of Hollywood. Both Broward County and the City of Hollywood hired consultants to evaluate the location for the new radio tower in Hollywood. Broward County wanted the tower in West Lake Park, and their consultant identified it as the prime location; meanwhile, Hollywood wanted the tower on top of an existing building in downtown Hollywood, and their consultant identified that as the prime location.

Both the Broward County Commission and Hollywood City Council have held meetings and voted on the matter. Citizens, mostly from neighborhoods near West Lake Park, have spoken strongly against the West Lake Park site due to the unsightly appearance of a tower,

environmental concerns and the durability of that oceanfront location in the event of a hurricane.

The Broward County Commission and Hollywood City Council reached an agreement to hire a third consultant, Monetti & Associates, to serve as the “tiebreaker” and determine whether the tower should be erected in West Lake Park or atop the downtown Hollywood building. Monetti recommended West Lake Park.

While it appeared this recommendation resolved the stalemate, another issue recently surfaced because of a clause in the County Charter that prohibits the County from owning park land that is used for anything other than recreational purposes. To remedy this, the County negotiated with the City of Tamarac to purchase West Lake Park, in the city of Hollywood, through a “land swap” deal. The City of Hollywood claims that it was unaware of this deal and that it opposes Tamarac owning property in Hollywood and that this new development voids its obligation to accept the third consultant’s “tiebreaker” determination that West Lake Park is the best site. It appears litigation over this issue is likely.

Broward County announced in October 2019 that it was proceeding with installation of the new radio system without the east Hollywood tower. Thus the new system will have 15 instead of the necessary 16 towers, which will require that the Hollywood Police Department remain on the legacy system until the issue over the 16<sup>th</sup> tower in east Hollywood is resolved. Further, other units on the new system in south Broward County will have radio “penetration” issues and not be able to transmit from within some buildings without the 16<sup>th</sup> tower. The County projects that the 15 tower system will be operational sometime in early 2020. The 16<sup>th</sup> tower will be erected and the system fully operational once the feuding is resolved over the east Hollywood tower site.

Until the new radio system is operational another incident in Broward County necessitating a mass law enforcement response may result in a failure of the regional communications radio system, as occurred during the Ft. Lauderdale Airport and Marjory Stoneman Douglas High School shootings.

### Margate and Coconut Creek Withdrawal from Regional Communications

Because of all the ORCAT issues, according to a June 2016 *Sun-Sentinel* article, the cities of Ft. Lauderdale and Pembroke Pines had contemplated leaving the regional communications system. As evidenced by the September 2018 letter from the Sunrise police and fire chiefs, they expressed hesitation at renewing their contract with ORCAT to remain in the system. The cities of Margate and Coconut Creek have recently informed the MSD Commission that they are leaving the regional communications system and are exploring their options. As a result of the dysfunction, discord, performance issues, and questionable management of the regional system it is in the process of regressing to a fragmented emergency communications system, which was the impetus to regionalize in the first place. Unless local officials act swiftly and decisively to change the course of the regional communications system, it will continue to fracture.

To illustrate how bad it has become, the decisions of Margate and Coconut Creek to withdraw from regional communications will cost the cities several million dollars. As stated previously, all cities saved money when regional communications took effect in 2014 because the County absorbed all the costs. These cities are so frustrated and concerned with the service that elected commissioners of both cities are willing to spend millions of dollars in taxpayer money to join another system or stand-up an independent system.

### **2019 STAKEHOLDER TESTIMONY BEFORE THE COMMISSION AND RECENT IMPROVEMENTS**

The issues covered in this chapter were discussed before the Commission in its April, June and August 2019 meetings. Many of the concerns about the regional system were shared by representatives of police and fire agencies. They spoke about the lack of trust in the County and explained how they felt their input, as the executives responsible for public safety, had been disregarded by the County. County Administrator Bertha Henry expressed frustration with the police and fire associations as she stated that her responsibility is to honor the contracts that the municipalities' city managers signed when they joined the regional system, not to honor mere desires of the police and fire chief associations.

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Members of the Commission conveyed concerns about the ability of the regional system in its current structure and staffing to move forward given the lack of trust and animosity. The police and fire chiefs associations both expressed a willingness to have regional communications moved to BSO; however, Ms. Henry said she would not agree to that because she does not “have confidence that they’re going to be managed and maintained the way that they should.” While there were no significant resolutions during that meeting, Ms. Henry assured the Commission that she would meet with her city manager counterparts along with police and fire executives to address the issues identified during this investigation.

The Commission’s August 2019 meeting included an update on the state of communications from Ms. Henry, Sheriff Gregory Tony and Chief Tony Rosa (as a representative of the Sunrise Police Department and Broward County Police Chiefs Association). There was a consensus among these individuals that the regional communications system had experienced some improvements in the two months since the last Commission meeting. The agency heads worked to improve relationships and communications with one another and began discussions to try and resolve the distrust and operational problems. There was also a consensus that there is still much work to be done to remedy the issues with ORCAT and improve the overall regional communications system.

Ms. Henry has worked to engage the city managers to ensure that all the necessary decision-makers are involved in identifying problems and finding resolutions. BSO, CSPD and ORCAT are in the process of improving interoperability among CSPD and the regional communications system. They are visiting other regional communications systems to learn how they may be able to connect two separate CAD systems which would allow for better information-sharing between the two agencies. Additionally, they are exploring the opportunity for CSPD’s communications center to dispatch BSO deputies assigned to the City of Parkland; this is an unorthodox solution but one that seems to appeal to all stakeholders. As a reminder, all 911 calls originating from a cell phone in Parkland are routed to the Coral Springs communications center. As seen in the response to this shooting, that resulted in CSPD getting the first – and the majority of – 911 calls, which

required CSPD to transfer those calls to the regional communications system. Allowing CSPD to dispatch BSO deputies and migrating all Parkland 911 call delivery to Coral Springs will negate the need for call transfers when Parkland residents are urgently in need of assistance from deputies.

Sheriff Tony explained to the Commission that he met with representatives from the City of Coconut Creek and the Coconut Creek Police Department to address some of their concerns about operational matters that are causing them to withdraw from the regional communications system. Nevertheless, as of this report's submission, Coconut Creek is still withdrawing from the regional communications system. A meeting between Sheriff Tony and the City of Margate and Margate Police Department is pending to discuss whether Margate will reconsider its decision to withdraw from regional communications.

Sheriff Tony addressed the findings of the Fitch report and follow-up survey by the Commission. He and his staff are working to address the operational matters identified by that survey, specifically by improving training for BSO's personnel in the regional communications centers. Sheriff Tony maintained that there are still some operational issues that cannot be improved upon until the technology and equipment is improved, which is ORCAT's responsibility. He further stated that continued dialogue and positive relationships with their County colleagues are a necessity for ongoing system improvements.

Chief Rosa pointed out that there had been progress in several areas within Broward County's emergency communications since the Commission's June meeting. The police and fire chiefs' associations met with the Broward County City Managers Association to convey their concerns about the regional communications system and to explain their vision for improvement of the regional system. The city managers association formed a communications subcommittee allowing for them to be more engaged with emergency communications.

Chief Rosa spoke favorably of a meeting he had with Ms. Henry in which she made several assurances about improving certain aspects of the regional system; since that meeting Ms. Henry and her staff have taken several steps towards fulfilling those assurances. Among

those were the creation of a radio governance board within the ORCAT system (similar to the CAD and records governance boards), recognition that the police and fire executives on the Operational Review Team (ORT) are the subject-matter experts and decision-makers on matters related to police and fire operations and, lastly, that Mr. Jackson's role as the emergency management director and director of ORCAT will include significant engagement with emergency communications. Chief Rosa praised Mr. Jackson's increased recent involvement and the insight he brings to their discussions.

Chief Rosa also brought up additional recent improvements in emergency communications and inter-agency relationships. He pointed out that all municipalities, BSO and ORCAT recently started participating in the Operational Review Team meetings. The Broward County Police Chiefs Association has worked to take more of an active role in supporting growth of the new radio system, specifically as it relates to the controversy surrounding the radio tower in Hollywood. The police and fire chiefs' associations have also had several productive and very frank meetings with ORCAT's senior staff and they have started working through several issues.

In conclusion, the regional communications system was established to provide better service and a safer environment for the residents of Broward County. Services were initially improved by some measure, but the system has never achieved the desired or optimum results, and there remains great room for improvement.

### **FINDINGS:**

1. The 2017 shooting at the Ft. Lauderdale Airport and the 2018 shooting at Marjory Stoneman Douglas High School epitomized the problems within the Broward County Regional Communications System and they include: dysfunction, distrust, inefficiency, poor interpersonal relationships, poor policies, inadequate training, antiquated radio technology and equipment and ineffective leadership within the Regional Communications System.
2. The Broward County law enforcement radio system remains a threat to public and officer safety due to it being outdated and unable meet user capacity needs during

instances of mass law enforcement response. The system's delayed replacement is due to the stakeholders' inability to agree on the placement of the last radio tower necessary to complete the buildout of the new system.

3. Communications among regional communications stakeholders has been poor and ineffective. The system has the potential to be effective, but leadership has been lacking to bridge the gaps, effect the necessary changes, resolve differences and optimize the system. The responsibility rests with all parties, and no one person is responsible for all of the issues.
4. Stakeholders distrust each other and disagreements have become personal. Despite some very recent and short-term improvements, these poor relationships have been and remain, without sustained change, a barrier to resolving operational differences and system success.
5. The Broward County Sheriff's Office provides day-to-day management of the Regional Communications centers. Surveys conducted in March 2019 revealed that training and operational readiness issues remained, had not been remediated and in some cases were worse than the issues first identified in the 2016 Fitch report.
6. Broward County's Office of Regional Communications and Technology (ORCAT) provides equipment and information services in the Regional Communications Centers. Surveys conducted in March 2019 revealed overwhelmingly that communications center staff did not view the County's equipment as reliable or responses to equipment issues as effective.
7. The cities of Margate and Coconut Creek have stated that they will be withdrawing from the Regional Communications system due to the system not meeting their operational needs. Both cities will be spending millions of dollars in city taxpayer revenue to affect this withdrawal.

**RECOMMENDATIONS:**

1. All regional communications stakeholders have a vested interest in the system's success, and they must put aside their personal animosity and fulfill their obligations to the citizens of Broward County to provide effective, efficient and safe radio and 911 communications.
2. All those in public safety leadership positions must convey to their subordinates an expectation that the Regional Communications system will succeed and that everyone will put aside their differences and work collaboratively to achieve that result.
3. The City of Hollywood and Broward County must immediately reconcile their differences and agree on a tower site on the east side of Hollywood so that the County can complete the installation of its law enforcement radio system.
4. BSO and the County should address the operational concerns raised by Regional Communications Center employees in the 2016 and 2019 surveys and ensure that the Broward County 911 centers are fully prepared, trained, equipped and able to handle all emergency situations, including mass casualty events.
5. The county administrator and ORCAT director should address the concerns raised by the Regional Communications Center employees in the 2016 and 2019 surveys about poor technology and response to problems with the technology. They must ensure that the employees of the Regional Communications Center are provided with capable, reliable and efficient technology and that any problems with the technology are resolved promptly.
6. The cities of Margate and Coconut Creek should consider abating their withdrawal from regional communications and work with the sheriff and county administrator to meet their operational needs and expectations to avoid regressing back to a bifurcated emergency communications system and spending millions of dollars in taxpayer money to join another system. If the problems are not resolved in a

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reasonable amount of time, the cities can then resurrect their withdrawal plans, but they should make another effort at success before doing so.

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## **CHAPTER 5. ACTIVE ASSAILANT POLICIES AND PROCEDURES**

The Commission's initial report identified deficiencies in the active assailant response policies and procedures for both the Broward County Sheriff's Office (BSO) and Broward County Public Schools (BCPS). Among the deficiencies identified for BSO were an ambiguous active shooter policy, inadequate active shooter training, and ineffective command and control. As for BCPS, they did not have a Code Red (lockdown) or hard corner (identification of the safest space in a classroom) policy; BCPS did not allow law enforcement direct access to school surveillance cameras; and MSDHS had not conducted a single active shooter drill in the year preceding the shooting. Each of these deficiencies manifested during and in response to the shooting and are highlighted in the Commission's initial report. The deficiencies had a negative effect on the school's and law enforcement's response to the shooting and some of these deficiencies resulted in unnecessary casualties.

### **CHANGES TO BSO AND BCPS POLICIES AND PROCEDURES**

#### BSO Policies and Procedures

Eight deputies from the BSO were on campus or in direct proximity to MSDHS as Cruz was firing shots on the third floor of Building 12. Not a single one of these deputies entered Building 12 in pursuit of the threat. Several deputies took the time to put on their ballistic vests prior to going onto the campus and others remained off campus. There was no sense of urgency among these eight deputies despite them hearing gunshots on a school campus. Given the fact that eight deputies performed so poorly it raised many questions about BSO's policy, culture and effectiveness of training.

BSO's active shooter policy on February 14, 2018, stated that deputies "may" enter a structure in response to an active shooter. Several deputies – not just those who responded to the shooting – commented on the word "may" in BSO's policy during their interviews with Commission investigators. During the November 2018 Commission meeting, then-Sheriff Scott Israel defended his decision to use the word "may" in the policy. Days before the Commission's initial report was published and weeks before his suspension, Israel changed the BSO active shooter policy so that it stated a deputy "shall" enter a structure in response to an active shooter. That policy remains in effect today.

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The Commission found that BSO provided active shooter training approximately every three years prior to the MSD shooting, but only about 90 minutes of the training was allocated for actual active shooter drills. In late 2018, then-Sheriff Israel began a new cycle of active shooter training. In March 2019, Commission investigators interviewed 55 deputies about this training and training implemented by Sheriff Tony, as well as other matters. Of the 53 deputies who attended the new training, nearly every one of them spoke highly of the new training and described it as being more intense and effective. They described going through more scenarios and repetitions, the training was more realistic, and there was an emphasis on a single-deputy response focused on eliminating the threat.

Since the appointment of Sheriff Gregory Tony there have been a significant number of positive changes to BSO's active shooter training and response. The training staff has doubled from 13 to 25 deputies. This increase in training staff will allow for annual active shooter training to take place. Members of the BSO SWAT team serve concurrently as members of a Tactical Training Team that will focus on sharing tactical skills with other deputies. The training staff has undergone additional active shooter training with the FBI's Advanced Law Enforcement Rapid Response Training (ALERRT) program and the Federal Law Enforcement Training Center (FLETC). BSO is in the process of constructing a \$30 million training facility that will include indoor gun ranges and a "shoot house" that will serve as a venue for active shooter drills. Practical exercise training time has been increased by moving some classroom-based training to an online setting. All deputies and communications personnel are attending incident command system (ICS) training and this training is incorporated during active shooter drills.

During interviews with deputies, they testified that under the prior administration equipment had been issued sporadically based upon the district to which a deputy was assigned. Patrol deputies testified about various types of equipment being issued inconsistently throughout the agency, including individual first aid kits (IFAKs), ballistic shields, rifles and gas masks. Under Sheriff Tony, all deputies are now being issued rifles and individual first aid-kits that are designed to treat gunshot wounds.

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### BCPS Policies and Procedures

On the day of this shooting, the BCPS did not have a policy addressing Code Reds (lockdowns) or a policy to address the identification of the safest space (hard corner) in a classroom in response to an active assailant attack. The problem with the absence of such policies was evident during interviews with school staff; there were inconsistent answers as to who, when and how individuals on campus may call a Code Red. The lack of policy also led to inconsistency in classroom set-up related to hard corners. Only two of thirty classrooms inside of Building 12 had a clearly identified hard corner. To further exacerbate that problem, most of the hard corners, including the two classrooms with marked hard corners, were full of furniture and other objects that hindered or prevented students and staff from seeking a place of safety in the hard corner.

In February 2019, nearly one year after the shooting at MSDHS, the School Board of Broward County passed its first ever written active assailant response and safe spaces (hard corner) policies. It is inexplicable that it took a year for the school district in which this massacre occurred to pass policies addressing these two basic school safety concepts. To further illustrate this problem, as recently as the Commission's August 2019 meeting, Superintendent Robert Runcie stated that despite there not being a written Code Red policy in the district, BCPS had a history of conducting Code Red drills to prepare students and staff for an active assailant, and the policy merely codified what they were already doing. This is not the case. On the day of the shooting, approximately six months into the school year, MSDHS had not conducted a single Code Red drill. The delays in passing these policies and the inaccurate comments by Superintendent Runcie illustrate the lack of urgency with which essential school safety components have been viewed.

The District's recently revised Emergency Codes Prevention & Preparedness policy addresses who may call a Code Red by stating, "Any staff member must take appropriate action(s), including initiating a Code Red Lockdown, on a school campus should they see, hear or smell anything that may immediately impact the safety and security of any staff, students or visitors on campus." Had such a policy been in place prior to the shooting, it would have unequivocally authorized, and, in fact, mandated, that Campus Monitor Andrew

Medina call a Code Red at the time he saw the person he self-identified as “crazy boy” (Cruz) carrying a rifle bag when he walked on to campus before shooting 34 people. Instead Medina did not alert others of the threat.

In January 2019, then-Sheriff Israel signed an agreement with BCPS to allow BSO to have direct access to school security cameras. Access to those cameras is housed within BSO’s real-time crime center. There are still numerous municipal police departments in Broward County that do not have the same access to the security cameras located in the schools within their cities.

### **REVISIONS TO MONTHLY ACTIVE ASSAILANT DRILL REQUIREMENTS**

The legislation that created the Commission also mandated that an active shooter drill take place once a month in every school in Florida. Since that time, some students, educators and parents have expressed concern that the drills are too frequent and potentially traumatizing to some students, elementary school students in particular.

To address the expressed concerns, during the August 2019 Commission meeting, we heard testimony from Captain Rick Francis of the Seminole County Sheriff’s Office and Hillsborough County Schools Chief of Security and Emergency Management John Newman. Captain Francis and Chief Newman are responsible for school safety in Seminole and Hillsborough counties, respectively. Their testimony was the result of a workgroup formed one year ago to consider this issue, and that group is comprised of representative School Safety Specialists from throughout the state of Florida, the Florida Fire Chiefs Association, and the Florida Fire Marshals Association. The group also received support from the Central Florida Public School Board Coalition and the Florida Superintendents Association (Appendix K). This workgroup has evaluated practices in other states and found that there are no national “norms,” best practices or standards in the area of active assailant drill frequency.

Captain Francis testified that, under the current requirements, students in his district over their educational careers will go through 276 drills when considering fire drills, weather-related drills and active assailant drills. Captain Francis stated that monthly fire drills are

## CHAPTER 5. ACTIVE ASSAILANT POLICIES AND PROCEDURES

outdated given that the last time a student died in a school fire was 1958. Advances in construction, equipment and techniques, fire prevention efforts, fire suppression systems, mass communication, and highly trained firefighters have drastically reduced the immediate threat that fires once presented to schools.

Captain Francis and Chief Newman also pointed out their concerns about drill fatigue. They requested that the focus of these drills transition from the quantity of drills to the quality of the drills. They described meetings with students who said that the drills are so frequent that students and staff do not take them seriously anymore. The Commission has also learned of school districts that are doing the exact same drill every month; such a practice will certainly lead to drill fatigue and only prepares students/staff for a single type of threat. Some schools are doing “drills” during which no one moves to another location. This is the same “check the box” mentality found in other aspects of school safety, such as the FSSAT and SESIR. This mentality and the resulting practices are simply unacceptable and pose a direct threat to school safety.

Captain Francis and Chief Newman recommended dividing drills into two categories: Fire and Emergency. Emergency drills would include such categories as an active shooter, bomb threat or severe weather. Based on their research, discussions and professional experience, they recommended that the number of drills conducted each school year be reduced to six fire and six emergency drills for elementary schools. Middle and high schools would conduct four fire and six emergency drills each school year.

The workgroup represented by Captain Francis and Chief Newman provided many thoughtful recommendations which were reviewed and discussed by the Commission. The Commission has also received a letter from the Florida Fire Chiefs Association supporting workgroup’s recommendations. The workgroup’s recommendations were largely agreed upon by the Commission during its meeting, and the Commission puts forth the following findings and recommendations.

**FINDINGS:**

1. There is no national standard or best practice for the frequency with which active shooter drills should take place.
2. There are schools and school districts solely conducting “drills” that do not require students and staff to move in response to a simulated threat, or schools performing the same drill every time, which is not effective in preparing the students and staff for a response to an active shooter. Such practices are dangerous because they make the drills a rote task which will lead to drill fatigue and complacency.
3. Monthly school active assailant drills were necessary as part of the initial implementation of Senate Bill 7026 to rapidly enhance school security. However, the current requirement for monthly active shooter drills should be reconsidered
4. Several BSO deputies interviewed by MSD Commission investigators stated that the BSO active assailant policy under Sheriff Israel stated that deputies “may” enter an active shooter scene to confront the shooter. Before this Commission, Sheriff Scott Israel defended using the word “may” in the policy and stated it was proper to not compel deputies to enter a building and engage an active shooter. However, days before the publication of the initial MSD Commission Report, Sheriff Israel changed the BSO active shooter policy from “may” to “shall,” requiring that deputies enter an active shooter situation and engage the shooter.
5. Under Sheriff Scott Israel, equipment and training necessary for effective response to mass casualty events was sporadic and inconsistent.
6. Sheriff Tony has increased BSO training staff from 13 to 25 deputies allowing for yearly active assailant training.
7. Under Sheriff Tony, all BSO deputies are now issued rifles and individual first-aid kits designed to treat casualties.
8. There are Florida school districts that have multi-step processes for staff to report on-campus emergencies and seek help, and all staff members do not have direct

communication with other staff members and 911 centers. This multi-step process causes confusion and delays in notifying others on campus of the emergency and delays in the law enforcement response.

9. When communicating an active threat on campus, using emergency codes can potentially lead to confusing and inadequate responses. Codes can be one of the weakest links in an otherwise sound school crisis plan. During an active shooter situation, there is no room for the misunderstanding that using codes can create.

**RECOMMENDATIONS:**

1. The legislature should mandate that all schools include age appropriate decision-based/option-based drills in their training. In order to minimize complacency and drill fatigue, the law should require that every drill in any given school year be comprised of a unique set of circumstances that requires faculty and students to consider the response to that specific threat.
2. The legislature should mandate the specific minimum number of emergency and fire drills that take place during every school year at every elementary, middle, high and charter school. All students, faculty, Guardians, SROs, SSOs and volunteers must participate in the drills. Real-world events qualify as a drill for purposes of meeting the appropriate number of drills. For purposes of this recommendation, emergency drills are defined as the response to active threats/assailants, hostage incidents, bomb threats, severe weather, reunification drills, high-risk police activity in close proximity to schools, etc. Law enforcement officers must be physically present on campus and directly involved in the execution of all active assailant drills. At least some emergency drills should require movement and exercise all necessary aspects of the drill and emergency operations plan, including panic buttons, simulated communications with first responders, notification to parents of the drill, student/faculty movement, turning lights off, covering windows, etc. Elementary schools are to conduct six fire drills and six emergency drills every school year. Middle and high schools are to conduct four fire drills and six emergency drills every school year. On every campus, the first fire and emergency drills (these are to be

separate drills) shall take place within the first ten days of school. The remaining fire and emergency drills shall take place no later than every 45 days that school is in session.

3. With regard to elementary schools, the legislature should mandate that four of the six fire drills involve evacuating the building to the designated meeting location outside of the building. These meeting locations should vary to minimize drill fatigue and the creation of unnecessary exposure to active threats/assailants. Two of the six fire drills can be fire prevention training with content designed by the SFMO/FDOE, but only after a minimum of two physical drills has occurred. Of the six emergency drills, four of the drills must address active threats (active assailant, hostage, bomb threat, etc.). Two drills must address events such as severe weather, natural disasters, reunification, etc. Special consideration must be given so that all drills for elementary-age students are developmentally appropriate. The Commission recommends that the emergency drills differ in presentation and practice for kindergarten through second grade and third grade through fifth grade; however, they must occur concurrently.
4. With regard to middle and high schools, the legislature should mandate that three of the four fire drills involve evacuating the building to the designated meeting location outside of the building. These meeting locations should vary to minimize drill fatigue and the creation of unnecessary exposure to active assailants. One of the drills can be fire prevention training with content designed by the SFMO/FDOE, but only after a minimum of two physical drills has occurred. Of the six emergency drills, four of the drills address active threats (active assailant, hostage, bomb threat, etc.). Two drills must address events such as severe weather, natural disasters, reunification, etc.
5. The legislature should mandate that ESE students and exceptional student centers be afforded some leeway in these requirements but that the district offices maintain strict oversight of these accommodations to ensure faculty is doing all that it reasonably can to ensure the safety of these students by meeting the requirements

## CHAPTER 5. ACTIVE ASSAILANT POLICIES AND PROCEDURES

placed on all other schools/faculty. All self-enclosed ESE classes and ESE/Exceptional Centers need to observe their student's response to auditory and visual drill protocols to accurately assess what challenges they would have during an active assailant incident.

6. The legislature should mandate that each school completes an after-action report subsequent to every fire and emergency drill on campus. The active assailant drill after-action reports must be completed in conjunction with law enforcement. This report should document successes of the drill and identify any problems or obstacles so the issues may be addressed and resolved within 30 days. Those after-action reports shall be forwarded to the district office for review by the superintendent or his/her designee.
7. The legislature should provide the state Board of Education with the authority to establish consequences for non-compliance with laws passed as a result of the legislative recommendations in this section.
8. A best practice is for law enforcement officers assigned to patrol operations become familiar with the schools in their assigned area. This includes familiarity with the fire and emergency drills on those campuses. The law enforcement officers should respond to the schools during fire and emergency drills in order to provide security for the students and staff and to gain familiarity in preparation for an actual emergency.
9. The timeliest way to communicate an on-campus emergency is direct reporting from a school staff member to everyone on campus and the 911 center simultaneously.
10. All Florida public schools should utilize plain language when conducting drills and in emergency incidents. All subsequent announcements and communications should be given in plain language.

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## **CHAPTER 6. SAFE SCHOOL OFFICERS AND THE GUARDIAN PROGRAM**

Florida Law requires that a Safe School Officer (SSO) be present on every public K-12 school campus at all times when school is in session. There are multiple ways districts can meet this requirement. The following summarizes how schools may comply with the law and explains current compliance issues.

### **SAFE SCHOOL OFFICER REQUIREMENT AND COMPLIANCE**

An SSO may be a law enforcement officer, a school employee guardian, or a Florida licensed security guard who has received guardian training. A guardian is an employee of the school board authorized to be armed for the purpose of responding to an on-campus active assailant incident.

The 2018 legislation required that the school board employee be a non-instructional member of the staff (principal, guidance counselor, athletic director, etc.), teachers were not permitted to be guardians. The Commission recommended in its initial report that this program be expanded, so that teachers may also volunteer to be armed. The legislature agreed and passed Senate Bill 7030, expanding Guardian Program eligibility to teachers who pass a rigorous background check, psychological evaluation, drug screen, pass training that exceeds the training requirements for police recruits in the police academy, and have the desire to serve as a guardian. The Commission's position and the expansion of the program was intended to ensure that Florida schools will have enough armed personnel, no matter their position designation, who are willing to volunteer for the responsibility to stop an active shooter as soon as possible, and, in doing so, mitigate the loss of life on our school campuses. There is no support or advocacy for arming unqualified individuals or those persons unwilling to meet the substantial requirements to serve in this capacity.

#### 2018 and 2019 Non-Compliance with SSO Requirement

As of March 2018, Florida law required that there be an SSO on every school campus. However, some charter schools and school districts simply chose to disregard the law. Some complained that forcing each campus to have an SSO was an unfunded mandate that

placed unnecessary financial burden on the charter schools and school districts; this complaint is without merit. The legislature allocated \$67 million for schools to implement the Guardian Program with the overwhelming majority of these funds still being unallocated. Only 36 out of 67 school districts implemented the Guardian Program. Some districts and charter schools did not like the Guardian Program and did not want it implemented, but they also did not want to fund the alternative of using law enforcement officers at every school to meet their legal obligations of having an SSO on every campus. To further the opportunities for districts to enroll in the Guardian Program and receive State funding, Governor DeSantis issued Executive Order 19-45 and extended the application period to April 1, 2019.

In addition to funding guardian training and start-up costs, the law actually affords school districts a great deal of control, autonomy and options to comply with the SSO requirement. The districts can choose between law enforcement officers, guardians (collateral duty guardians or dedicated guardians), guardian-trained security guards or any combination thereof; they can choose which school staff members are permitted to be armed; and they can choose whether the armed individuals are there with the sole responsibility of being an SSO or if it is a duty collaterally held with their primary assignment (administrator, teacher, etc.). To claim that this is an unfunded mandate and use that as an excuse to avoid complying with the law is disingenuous and jeopardizes the safety of students and staff.

Further, some people initially questioned whether charter schools also had to comply with the SSO requirement despite the law being quite clear that there had to be an SSO at “each school facility.” In questioning this requirement people self-servingly manipulated the statutory wording that said an SSO must be “assign(ed)” to each school and claimed “assign” did not mean an SSO had to be physically present at all times. They disingenuously asserted that they could “assign” one SSO to cover five campuses, which flies in the face of the spirit and intent of the law which is to ensure student safety by having at least one SSO on every campus when school is in session. These “misinterpretations” exemplify the need for a culture change that must take place within some schools in Florida.

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To aid in clarifying some of these matters, on May 31, 2019, FDOE Commissioner Richard Corcoran sent a letter to all school superintendents stating “every public elementary, middle and high school in Florida, including all Florida charter schools, must have a Safe-School Officer (SSO) physically present on each campus while school is in session. An SSO is a police officer, deputy sheriff or Guardian.” Commissioner Corcoran went on to say “I cannot fathom using the word ‘assign’ to devise a minimalistic approach to school safety, and I strongly recommend you view one SSO as the floor, the minimum, for keeping our students safe, as the law reads ‘one or more.’ Moreover, it is simply unconscionable that some are choosing to use this as a moment to debate whether public charter schools are covered under the law. The law did not empower anyone to decide which public schools count – they all count. To not make every effort to protect all children at every public school constitutes blatant disregard for the law.”

Despite this letter, during the August 2019 MSDHS Commission meeting it was learned that there were still 29 charter schools in Broward County that did not have permanent arrangements to have an SSO on their campus for the 2019–2020 school year. In fact, at least one school started school the day prior to the commission meeting and did not have an SSO on campus, thereby violating a law that had existed for approximately 16 months. Some schools made arrangements for an SSO only the day before school started this August, and one was operating under an unsigned contract with no assurances of sustained coverage.

It was obvious that several schools were not in compliance during the 2018 school year and were scrambling at the last minute to comply with the law for the 2019 school year because of increased scrutiny from FDOE and the Commission. It is beyond comprehension that the school district in which this shooting occurred would have any schools not in compliance with a law designed to enhance school safety. The Commission’s discussion on this matter resulted in some of these 29 charter schools providing the Commission with contracts showing that they made arrangements for an SSO on their campus. But, again, some of these contracts were not even signed and some of those that were signed had been signed within the preceding two days, meaning they had been signed the same week that school was starting and the Commission meeting. Further, some of the contracts only

indicated that an SSO would be on campus for a period of 13 days; there was nothing in place to ensure that an SSO would be present on campus for the remaining 150 plus days of the school year.

These charter schools in Broward County had more than ample opportunity to comply with the law that took effect in March 2018. In July 2019, the Broward County Sheriff's Office commenced a guardian academy that graduated guardians in time to begin work for the new school year beginning in August of 2019. Sheriff Tony testified that the academy capacity was 40 students but that only had eight enrolled. Sheriff Tony was frustrated because he expended significant resources to provide the training, the schools had a void that the guardians would have filled, and charter school management simply did not avail themselves of the opportunity to comply with the law.

#### Palm Beach County Charter School Non-Compliance with SSO Requirement

Broward County was not the only school district lacking a sense of urgency and leadership in ensuring compliance with the law. The Palm Beach County School District (PBCSD) has its own uniformed police department comprised of more than 200 police officers assigned to various schools throughout the county. That number is insufficient however to cover all the traditional public schools and the charter schools within Palm Beach County. The PBCSD had not approved the Guardian Program, but, under existing law, the charter schools had the authority to directly request that the Palm Beach County Sheriff conduct the guardian training, or that he make arrangements with another sheriff to do so.

Instead of making these arrangements, the PBCSD sought to hire guardian-trained security guards and use them in schools to meet the SSO requirement. The state law permitting that security guards may be used to fulfill the SSO requirement only applies if that security guard has also successfully completed the required guardian training. The PBCSD contracted with a private security firm, Invictus, to train their guardians instead of having the training provided by a sheriff as indicated by law. The PBCSD paid to train these guardians at an expense of approximately \$3,000 per student. Sheriff Bradshaw agreed to train the guardians using the State-funded guardian money at no expense to the school board.

## CHAPTER 6. SAFE SCHOOL OFFICERS AND THE GUARDIAN PROGRAM

Despite not having his office conduct the training, Sheriff Bradshaw agreed to review the Invictus training and approve it if it met the statutory requirements. In August 2019, the same month which school was starting in Palm Beach County, Sheriff Bradshaw released an assessment of the Invictus training finding (Appendix L) that not only was the Invictus training not compliant with Florida law, it was woefully inadequate. Among the Invictus failures were that the lead instructor did not have Criminal Justice and Standards Training Commission (CJSTC) certification as required by law, and it was determined that some instructors did not have any CJSTC certifications; Invictus records indicated that students were passing with firearm qualification scores of 80% when the law requires a qualification score of 85%; despite five students failing the firearms qualification, Invictus still gave them a passing score; and the training did not include other required components. After learning of Sheriff Bradshaw's findings, the PBCSD then voted to terminate the Invictus contract and has filed a lawsuit attempting to recover more than \$97,000 in training fees. Sheriff Bradshaw has agreed to train the Invictus students to the proper standard set forth in Florida law.

### SSOs in Miami-Dade County Charter Schools

Leading up to the new school year in August 2019, there were numerous Miami-Dade County charter schools not in compliance with the requirement that they have an SSO on campus. To address this issue the Miami-Dade School Board funded placing a law enforcement officer at each charter school until the charters could hire and train guardians to fulfill the SSO requirement. Guardians are in the training process for Miami-Dade charter schools, and they will replace the law enforcement officers as they graduate from the guardian academy.

### **GUARDIAN PSYCHOLOGICAL EXAMS**

Another issue is the psychological exam administered to guardians. In August 2019, the Commission was contacted by Grant McDougall, Ph.D., who is a licensed clinical social worker and familiar with the evaluation of law enforcement professionals. Dr. McDougall expressed several valid concerns about the language in Senate Bills 7026 and 7030 regarding the mental health evaluations for potential school guardians.

Currently, only psychologists licensed under Chapter 490 of the Florida Statutes are able to administer evaluations to potential school guardians; this prohibits psychiatrists, licensed mental health counselors, licensed clinical social workers, and other licensed professionals from conducting these evaluations. Florida law permits the professionals listed above to conduct the psychological evaluations required for “school resource officers” and “school safety officers” (who are law enforcement officers), and the Commission for Florida Law Enforcement Accreditation (CFA) only states that law enforcement officer candidates be “assessed by a licensed professional.”

Florida law identifies four designations of individuals who are authorized to meet the SSO requirement on each school campus: law enforcement officers, guardians, and guardian-trained security guards. Some of these titles overlap, and others are exclusive. As an example, law enforcement officers, guardians and security guards can all be SSOs but because you are an SSO that does not make you an SRO. Florida law has different psychological evaluation requirements for these different designations. Only guardians and security guards are required to “pass a psychological evaluation administered by a psychologist licensed under Chapter 490,” while SROs and school safety officers (law enforcement officers) only required to “undergo a psychological evaluation” by a licensed professional.

### **FINDINGS:**

1. Since March 2018, Florida law has required that there be at least one armed Safe School Officer on every K-12 public school campus, including charter schools’ campuses. Some Florida schools, which include charter schools, have not complied with this requirement.
2. The Palm Beach County School District improperly contracted with Invictus to provide guardian training. Invictus, as a private company was prohibited from providing the training. The Invictus training was ineligible for state guardian funding reimbursement.

## CHAPTER 6. SAFE SCHOOL OFFICERS AND THE GUARDIAN PROGRAM

3. In addition to Invictus not being authorized to provide the training, the training did not comply with Florida law. The training did not use qualified personnel as trainers and Invictus passed students using lower and improper standards than the law requires, among other statutory violations.
4. There is a different standard for who may complete the required psychological evaluations of law enforcement officer applicants as opposed to guardian applicants. The standard for those who may psychologically assess guardians is unnecessarily more restrictive than those who may assess law enforcement officer applicants.

### **RECOMMENDATIONS:**

1. The legislature should amend the statute to make it unequivocally clear that only Florida sheriffs may conduct the guardian training. The training may be conducted by the sheriff of the county where the school is located or by the sheriff of another county, but all training must be completed by a sheriff.
2. The legislature should amend the law to make it clear that all guardian training be conducted by “active” CJSTC instructors. The current law only requires that someone be a CJSTC instructor (Line 259 of Senate Bill 7030), and this amendment will eliminate any ambiguity that the instructor must hold an active (current) instructional certification.
3. The legislature should amend the guardian training requirements and require that a portion of the firearms training include night and low-light shooting conditions.
4. The legislature should amend the statute to state that all guardians and school security guards may undergo the same psychological evaluation currently required by law for school resource officers and school safety officers (law enforcement officers) in the state of Florida, and that such evaluations be conducted by licensed professionals.
5. Current Florida law requires that psychological evaluations of guardians be conducted by “FDLE-designated” professionals. FDLE does not and has never

## CHAPTER 6. SAFE SCHOOL OFFICERS AND THE GUARDIAN PROGRAM

designated anyone to perform these evaluations, and this requirement should be deleted from the statute.

6. SROs (city police officers or deputy sheriffs) are required under current law to attend Crisis Intervention Team (CIT) training. School Safety Officers (law enforcement officers employed by a school board police department) are not currently required to attend CIT, and the legislature should amend the law to require that School Safety Officers attend CIT training.

## **CHAPTER 7. THE FLORIDA SAFE SCHOOL ASSESSMENT TOOL AND SCHOOL HARDENING**

Assessing schools' physical site security is paramount to effective campus hardening. Knowing vulnerabilities and making decisions about how to best improve school campus site security requires a physical assessment using a properly validated assessment instrument.

### **THE FLORIDA SAFE SCHOOL ASSESSMENT TOOL**

The Commission's investigation identified that a significant weakness in school security throughout the state was an inadequate, and inadequately used, Florida Safe Schools Assessment Tool (FSSAT). The Florida legislature previously funded the creation of this tool so that school districts could readily assess their physical site security, identify strengths and weaknesses and implement school hardening measures that close vulnerability gaps. The FSSAT has been underutilized and, in many cases, has not been properly used as the primary site security assessment tool, and some districts have not complied with the reporting requirements mandated by law.

#### Response to the Commission's Initial Recommendations to Revise the FSSAT

There are actually two FSSAT instruments; one is a school-specific assessment, and the other is a districtwide assessment. However, when we examined the FSSAT submissions from 2015 – 2017 we found that many schools – including MSDHS – had not submitted any FSSATs. The Commission found the FSSAT instrument itself to be inefficient and in dire need of being revamped. The Commission made nine recommendations in the initial report specific to this issue. The legislature addressed these recommendations and enacted laws to improve the quality of the instrument and require timely submission. Additionally, Governor DeSantis issued Executive Order 19-45 which directed the Department of Education to take immediate steps to enhance campus physical site security measures.

The Department of Education contracted with MGT Consulting Group to conduct an analysis of the FSSAT and MGT presented their findings at the Commission's April 2019 meeting. The study evaluated the tool's technical usability, content, and implementation. It

was assessed for compliance with Florida law and national school safety and security best practices. The findings included both positive and adverse findings in each of those three categories as well as recommendations for improving the FSSAT. In its initial report, the Commission identified several concerning aspects of the FSSAT, including how much relevant, useful data the FSSAT was actually gathering. MGT expressed similar concerns in one of its recommendations: “[t]o better assess security and related planning, as well as other data collected from schools relative to safety and security standards, we recommend...revising content to collect more robust information on safety and security details of schools.”

The Florida Department of Education (FDOE) has worked diligently to revise both the school-specific and districtwide FSSATs to address the Commission and MGT’s findings. The FSSAT is a confidential document which required the Commission to review it in a closed session. The Commission has monitored development of the revised instruments, provided input on their design and reviewed the versions now being used by Florida schools. The revised FSSATs are far more effective and will do much more to improve school safety than the prior instruments.

### New FSSAT Requirements by the Florida Legislature

Moving forward, Senate Bill 7030, passed in early 2019, established the FSSAT as the primary physical site security assessment tool to be used by every school in Florida. This does not prohibit any district from conducting further analysis, but it sets the minimum requirement for a standardized statewide instrument. The OSS is required to make the FSSAT available to districts no later than May 1<sup>st</sup> of each year.

The legislation requires that the FDOE, through the Office of Safe Schools (OSS), provide annual FSSAT training to all district and charter schools. The School Safety Specialist (SSS) in every district is required to collaborate with the appropriate public safety agencies and submit the FSSAT by October 1<sup>st</sup> of every year. The SSS is required to submit recommendations to the school board and superintendent to address the FSSAT findings. By October 15<sup>th</sup> of each year, the school district is required to report to the Department of Education that all public schools in the district have completed the FSSAT.

## **SCHOOL HARDENING**

As directed by Governor DeSantis in Executive Order 19-45, on July 1, 2019, the Department of Education issued a report entitled Best Practices for School Hardening and Harm Mitigation. This report focused on various ways to prevent school shootings and then minimize the casualties when a shooting takes place. The report further elaborated on the tiered approach to school hardening that the Commission used in its initial report in addressing school hardening. The tiered approach began with level one concepts, which are inexpensive and easy to implement. Level two concepts have some cost and are more difficult to implement, while level three was comprised of expensive, difficult to implement safety measures.

To further enhance school hardening, Senate Bill 7030 also directed the Department of Education's Office of Safe Schools to convene a School Hardening and Harm Mitigation Workgroup. The workgroup is comprised of subject-matter experts in the area of school physical site security. Among the areas this workgroup will evaluate are access and functional needs; Crime Prevention Through Environmental Design (CPTED); data management and reporting; emergency planning and incident management; interior access control and alarms; mass notification, emergency notification and emergency communications; personnel, policies and procedures; surrounding area and community partnerships; tier/valuation methodology; transportation; and youth mental health and behavioral threat assessment.

The school hardening workgroup began its work in the fall of 2019 and plans to meet in various locations throughout the state. Their work will include touring schools of various sizes, interviews with school administrators and engaging other safe school offices throughout the United States.

The workgroup's report is due to the director of the Office of Safe Schools by August 1, 2020. It is required to contain a "prioritized list for the implementation of school campus hardening and mitigation strategies and the estimated costs of and timeframes for implementation of the strategies by school districts and charter schools." The OSS director is required to also submit recommendations to the commissioner of the Department of

## CHAPTER 7. THE FLORIDA SAFE SCHOOL ASSESSMENT TOOL AND SCHOOL HARDENING

Education on monitoring and compliance enforcement of the workgroup's recommendations. All of these recommendations are then required to be submitted to the governor and legislature by September 1, 2020.

### **FINDINGS:**

1. The FSSAT is statutorily confidential and its contents are not subject to public disclosure.
2. Florida schools have underutilized the FSSAT as the statewide physical site security assessment instrument despite the FSSAT having been mandated and funded by the legislature since 2014.
3. Some school districts failed to file their FSSATs with FDOE as required by law.
4. The 2019 revised FSSAT is superior to the old tool and will lead to better assessments of physical site security on Florida's K-12 school campuses. The FSSAT is a dynamic document that is constantly being reviewed by the Office of Safe Schools for enhancements.

### **RECOMMENDATIONS:**

1. It is imperative that all Florida schools assess their physical site security at least annually and use the FSSAT to develop a remedial plan that addresses deficiencies and improves school hardening.
2. All schools and school districts must comply with the law and submit all school-specific and districtwide FSSATs in a timely manner.
3. The Commissioner of Education and State Board of Education should have sanction authority over the superintendent and school board for non-compliance with FSSAT submission requirements.

## **CHAPTER 8. BEHAVIORAL THREAT ASSESSMENTS**

The Commission's initial report identified behavioral threat assessments as one of the most important opportunities to provide a safer school environment by heading off concerning behavior before it manifests into actual harm. Due to the significant role behavioral threat assessments play in school safety, the Commission continued to explore the topic alongside the Department of Education's Office of Safe Schools.

The Commission's initial investigation included information specific to the Broward County Public Schools' threat assessment process and the single threat assessment that it initiated on Nikolas Cruz. While the BCPS threat assessment policy and its threat assessment instrument were comprehensive, the application and execution of actual threat assessments at MSDHS and across the district were flawed. School administrators at MSDHS and across the Broward school district were not properly trained or qualified to execute the District's threat assessment protocol, and they were disengaged from the threat assessment process. There was also minimal, if any, oversight from the District office on the school's application of the threat assessment policy.

### **2019 REVIEW OF BCPS BEHAVIORAL THREAT ASSESSMENT PROCESS**

The most significant open issue from the Commission's initial report regarding threat assessments was whether the threat assessment processes' flawed application was unique to MSDHS or there was a systemic problem that permeated the school district. In late 2018, BCPS contracted with an outside auditor, RSM International, to evaluate the application of its threat assessment protocol across the district and to determine whether there were systemic problems. A copy of RSM's report is included as Appendix M to this report. This audit was not to determine the efficacy of any specific threat assessment but to determine if the process was being completed properly. The sum of RSM's findings is that Cruz's botched threat assessment was merely one example of a systemic problem executing threat assessments throughout BCPS.

## CHAPTER 8. BEHAVIORAL THREAT ASSESSMENTS

A post-shooting external audit was conducted on a representative sample of 60 out of 642 threat assessments conducted in the Broward County schools. The following are findings in RSM's report:

- 14 (23%) threat assessments had no supporting paperwork.
- Of the 46 samples with supporting paperwork, 16 (35%) threat assessments had documentation that was "substantially complete." The remaining 30 (65%) threat assessments included exceptions and were incomplete.
- Not a single high-level threat assessment from any Broward County high school was completed properly.
- "The existing process is extremely paper driven. An electronic system could improve availability and completeness of documentation, version control, and streamline the process."
- "Currently there is no formalized process to follow-up and monitor the Threat Assessment process to assess that documents are fully completed and that follow-up as indicated in student plans occurs."

### BCPS 2019 Behavioral Threat Assessment Process Revisions

In June 2019, Dan Gohl, BCPS' Chief Academic Officer, updated the Commission on modifications and improvements to their threat assessment process. BCPS made changes to their policies and processes based on reports from the Collaborative Education Network, this Commission and the RSM audit referenced above. BCPS adopted a revised threat assessment policy in early 2019 that implemented many changes and put BCPS in compliance with the threat assessment portion of Senate Bill 7026.

The new policy directs the principal to identify a school-based threat assessment team to include mandatory and optional team members. The mandatory members include the principal or assistant principal; mental health practitioner; teacher who is familiar with the student; school resource officer and/or Broward Schools Police investigator; and the school security specialist (middle and high schools only). Additional team members may include an ESE specialist, behavior specialist or others who know the student. This policy

## CHAPTER 8. BEHAVIORAL THREAT ASSESSMENTS

requires that all school-based administrators and threat assessment team members attend and complete annual threat assessment training.

As of Mr. Gohl's presentation, BCPS had offered 22 threat assessment trainings to all District staff on the new process. All principals, assistant principals and school-based psychologists were trained in the new procedures. BCPS also purchased and implemented software, based on the State of Virginia's model for behavioral threat assessments, to manage the threat assessment process (Virginia is widely recognized as the national leader in school-based behavioral threat assessments). This new electronic process will allow for immediate access by any District staff to all threat assessments, result in increased accountability, as well as more accurate and thorough record-keeping. The roll-out for this new electronic system and the necessary training is still taking place.

Further, to bring about increased accountability at the District level, all BCPS school-initiated threat assessments must be submitted for review to BCPS's cadre directors, who serve as supervisors to the principals. The BCPS chief auditor will also conduct annual audits of the threat assessment process for compliance and report his findings to the audit committee and the School Board.

BCPS is making a significant effort to improve its threat assessment process and there is a newfound emphasis on the importance of threat assessments. However, the Commission has also received allegations of some concerning lapses in how threat assessment teams operate in some schools.

On July 15, 2019, Sheriff Gregory Tony sent a letter to Superintendent Robert Runcie in which he descried a "widespread problem" of deputies not being initially and directly involved in threat assessments and/or deputies being asked to sign-off on a threat assessment after the fact. Sheriff Tony described similar issues taking place with officers from the police departments within Broward County. These matters were brought to the attention of Superintendent Runcie during his August 2019 testimony before the Commission. Superintendent Runcie was aware of these allegations and assured the Commission that he viewed such behavior as unacceptable and that any specific instances

## CHAPTER 8. BEHAVIORAL THREAT ASSESSMENTS

would be investigated. He described recent punishments which were levied against BCPS employees who were not in compliance with the District's threat assessment process.

Superintendent Runcie also countered Sheriff Tony's claims with concerns that law enforcement was not timely responding to participate on threat assessment teams. Superintendent Runcie described instances where law enforcement agencies had been notified that an officer was needed on campus to participate in the threat assessment process and the law enforcement officer's response was so delayed that the process had to begin without him. The Commission has also learned of patrol officers/deputies with no threat assessment training being dispatched from street patrol to participate in a threat assessment process as if it were any other call-for-service. Using patrol officers/deputies with no threat assessment training and no knowledge of the students or the school is inefficient and ineffective and is contrary to established best practices.

Both Superintendent Runcie and Sheriff Tony seem committed to remediating these deficiencies. Indeed, based on October 2019 discussions with Sheriff Tony many of these issues have been resolved or BSO and BCPS are actively working toward resolution.

### **STATEWIDE THREAT ASSESSMENT PROCESS IMPROVEMENTS**

In May 2019, Governor Ron DeSantis signed into law Senate Bill 7030. This legislation mandated implementation of several school safety measures, including additional requirements for conducting behavioral threat assessments. The law required that the Department of Education's Office of Safe Schools develop a statewide behavioral threat assessment instrument by August 1, 2019. The Commission has worked closely with the Office of Safe Schools, provided input on development throughout the process and reviewed the final instrument. The OSS also obtained assistance from nationally recognized experts to construct the instrument. Due to the sensitive nature of this process, the new instrument it is statutorily confidential and that required the Commission to review and discuss it in a closed session.

In addition to creating a statewide threat assessment instrument, the law requires OSS to address implementation of and compliance with proper threat assessment protocols. On

July 31, 2019, FDOE sent a memorandum to all superintendents and charter school directors notifying them that the Comprehensive School Threat Assessment Guidelines (CSTAG) was the statewide threat assessment process to be used in all of Florida's schools. FDOE certified 88 individuals throughout the state as trainers who were then tasked with returning to their districts and training the school-based threat assessment teams. The training included how to identify individuals who presented a threat to themselves and others. The persons receiving the training included school safety specialists, student services staff, mental health coordinators, etc. By August 1, 2020, OSS is required to evaluate each district's threat assessment procedures to ensure they are in compliance. The OSS is required to report any districts that are not in compliance to the district's superintendent. Non-compliance is a matter which this Commission will also monitor.

### **VERBAL THREATS**

Threat assessment teams and law enforcement officers are called upon to address verbal threats, such as a statement by a student that, "I am going shoot up the school." Prior to the passage of Senate Bill 7026, Florida law made it illegal for someone to author a written threat of that nature, but the writing had to be "transmitted" for it to constitute a crime. As an example, if someone wrote on their computer, "I am going to shoot up the school" that was not a crime, but if they wrote that in an email and sent it or posted in on social media that would be a crime because the threat was transmitted. Likewise if a student wrote on the mirror in the school bathroom, "I am going to shoot up this school," that too was not a crime because there was no transmission of the threat. Senate Bill 7026 removed the transmission requirement, and now if someone writes a threat as described above it is a felony.

However, it is still not a crime to verbally threaten the same thing— "I am going to shoot up this school." For a verbal "threat" to be a crime it has to include action of the type that would constitute an assault or aggravated assault. This is inconsistent with Florida law that prohibits and makes it a felony to threaten to place a destructive device (bomb). If someone calls a bank today and tells the bank employee that he is going to "blow up the bank," that is

a crime. If someone calls the same bank and says he is going “shoot up” the bank, that is not a crime.

Verbal threats to shoot, like verbal threats to place a bomb, should be unlawful. The Florida legislature should amend the Florida law regarding bomb threats and make it a felony to make verbal threats of violence using a firearm or other deadly weapon.

### **DATA SHARING AND THE FLORIDA SCHOOL SAFETY PORTAL**

In order to improve information sharing during the threat assessment process, on August 1, 2019, FDOE sent a memo to school district superintendents and charter school directors informing them of a centralized data repository known as the Florida School Safety Portal (FSSP). The FSSP was required by Senate Bill 7026, and it queries information from the following sources: SESIR and other state level disciplinary records; FortifyFL; social media monitoring data; and Baker Act Reporting Center data. In the future, if funded by the Legislature, the FSSP will also house a threat assessment database allowing for increased sharing of threat assessments throughout the state.

### **STATEWIDE THREAT ASSESSMENT DATABASE**

Senate Bill 7030 also required that OSS establish a Threat Assessment Database Workgroup to make recommendations regarding the development of a statewide threat assessment database. This workgroup is required to provide a report by December 31, 2019, outlining their recommendations. The workgroup’s recommendations are to identify database content; personnel who should be allowed to input and view records; data security; costs to develop and maintain the database; an implementation timeline; and address privacy law issues associated with FERPA, HIPAA and 45CFR, part 164. For this database to become effective it will require funding by the Legislature.

### **FINDINGS:**

1. Based in part upon determinations by an outside consultant and this Commission, the Broward County Public Schools had systemic failure with its behavioral threat assessment process. The failure was due, at least in part, to ineffective implementation of the BCPS threat assessment policy, a lack of training,

## CHAPTER 8. BEHAVIORAL THREAT ASSESSMENTS

inexperience by school personnel, a lack of accountability at the District level and a failure of school administration to emphasize the importance of the threat assessment teams.

2. The June 2019 BCPS revised threat assessment policy provides the necessary remedial measures to implement an effective threat assessment process in the BCPS, including oversight and accountability at the District level.
3. Using patrol-assigned law enforcement officers to respond to a call for service at a school that asks officers to serve on a school's behavioral threat assessment team is improper and inconsistent with the requirement that law enforcement meaningfully participates on each school's threat assessment team. (This issue has been or is in the process of being remediated in Broward County.)
4. Some schools were asking a law enforcement officer to ratify a threat assessment after the fact and that is improper and inconsistent with the requirements of Florida law. (This issue has been or is in the process of being remediated in Broward County.)
5. The statewide behavioral threat assessment instrument implemented by FDOE on August 1, 2019, is an effective tool to evaluate concerning behavior and the Commission supports the use of this instrument by all 67 Florida school districts and charter schools.
6. The FSSP was required by law and the responsible state agencies used their best efforts and fulfilled their obligations. However, the "richest" and most beneficial data to the threat assessment process is housed in the myriad of local law enforcement, school and mental health provider databases across Florida. It is not possible to include these various databases within the FSSP. The FSSP has limited value and should not be the sole source of school data used in a threat assessment. Chapters 9 and 10 review the SESIR and Integrated Data System in detail.

**RECOMMENDATIONS:**

1. It should be a priority for the legislature to amend Florida law to include as a criminal offense any type of a threat to conduct a mass shooting, etc., especially a verbal threat. The Commission supports the legislation proposed in House Bill 311 making it a felony to verbally threaten a mass shooting.
2. Law enforcement agencies and school districts must work collaboratively to implement effective, meaningful and timely threat assessment processes using properly trained personnel. Only threat assessment-trained officers or deputies should participate on a threat assessment team, and patrol officers or deputies should never be dispatched to a school as a “call for service” to participate on a threat assessment team.
3. School behavioral threat assessment teams should have permanent members, including mental health practitioners, to ensure consistency in the process. If possible, non-school mental health providers, DJJ and/or DCF representatives should also participate on threat assessment teams when they have unique knowledge of the person who is the subject of the assessment.
4. In order to ensure that all statutorily required threat assessment team members meaningfully participate in the threat assessment process from beginning to end, and that nobody “signs off” on a threat assessment after the fact, the legislature should amend Florida Statute 1006.07(7)(a) to state that all statutorily required members of the threat assessment team must be present and involved in the threat assessment process from start to finish, including the disposition decision.
5. Because it is impossible to include the information-rich local databases in the FSSP, it is imperative that local threat assessment teams establish processes to ensure that all relevant information is obtained so that information important to the threat assessment team’s decision-making process is not omitted. Law enforcement agencies should consider committing a dedicated analyst familiar with data

## CHAPTER 8. BEHAVIORAL THREAT ASSESSMENTS

gathering to conduct the research necessary for an effective threat assessment process.

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## **CHAPTER 9. SCHOOL ENVIRONMENTAL SAFETY INCIDENT REPORTING (SESIR)**

A significant issue discovered during the Commission’s initial investigation was the issue of non-reporting and under-reporting of criminal and other school incidents as required by law—the School Environmental Safety Incident Reporting (SESIR). The Commission issued a number of findings and recommendations in its initial report that sought to correct identified SESIR reporting deficiencies and continued an investigation into SESIR compliance this year. In order to gain a better understanding of the underlying issues, the Commission heard testimony about SESIR during its April 2019 meeting. Additionally, in the June 2019 meeting, a panel of school superintendents offered their perspective on SESIR.

### **SESIR REPORTING BY FLORIDA SCHOOLS**

At the time of the MSDHS shooting, there was a single staff member at FDOE who was responsible for overseeing SESIR data for the nearly 4,000 schools in Florida. While FDOE provided on-site training to school districts upon request, there were school districts that never invited FDOE to provide that training. Most districts relied on online SESIR training. The online training provides guidance to school district personnel on how to comply with the reporting guidelines. However, the current reporting guidelines are so nuanced and specific that online training alone is likely insufficient to ensure accurate reporting.

#### SESIR Definitions Contribute to Reporting Problems

Testimony revealed that some definitions within SESIR were unclear, inconsistent with other legal definitions of the same conduct and at times overlapped one another. For example, if someone on campus committed a violent act against another person that incident could potentially be classified within one of three SESIR categories: Fighting, Physical Attack or Battery. The following are these SESIR definitions in order of least severe to most severe:

**Fighting:** (mutual combat, mutual altercation) When two or more persons mutually participate in use of force or physical violence that requires either 1) physical restraint or

2) results in injury requiring first aid or medical attention. (Do not report to SESIR lower level fights such as pushing, shoving, or altercations that stop upon verbal command. Use local codes.)

Physical attack: Physical attack refers to an actual and intentional striking of another person against his/her will, or the intentional causing of bodily harm to an individual.

Battery: (physical attack/harm) The physical use of force or violence by an individual against another. The attack must be serious enough to warrant consulting law enforcement and result in more serious bodily injury. (To distinguish from Fighting, report an incident as Battery only when the force or violence is carried out against a person who is not fighting back.)

The SESIR definition of Physical Attack is more similarly aligned with the definition of “battery” (F.S. 784.03) under Florida law, and the SESIR definition of battery is more similarly aligned with the criminal statute defining aggravated battery (F.S. 784.045). The fact that SESIR and Florida law both have offenses identified as batteries, but they have different definitions certainly results in confusion between school personnel and law enforcement about what and how to report certain conduct under SESIR. Additionally, expecting consistent interpretation of these three definitions among the nearly 4,000 schools and 67 school districts within Florida is unrealistic and bound to result in inaccurate reporting to some degree. FDOE has the authority and ability to change SESIR definitions; however, FDOE is hesitant to change them frequently as doing so does not allow for multi-year comparisons in order to identify trends. (The data is so unreliable today that it likely cannot be relied on for any meaningful trends anyway.)

#### SESIR Reporting Guidelines Lack Clarity

In addition to problems with the definitions, SESIR’s reporting guidelines are unclear and likely the greatest contributor to inaccurate and unreliable data. Within the 26 SESIR definitions, the 21 most severe incidents “are expected to include *consultation* with law enforcement” and the other five incidents “may not need to include *consultation* with law enforcement.” The phrases “are expected to,” “may not need,” and “consultation” are vague

and open to interpretation. These ambiguities result in unintentional misreporting, but also allow for the possibility of school/district staff being intentionally deceptive.

While SESIR directs that law enforcement be “consulted” in some instances, the instances in which law enforcement is merely consulted is not a data set that gets reported to FDOE. “Consulted” is an informal notification or discussion between school personnel and a law enforcement officer. It can be as casual as “hey, what do you think about x” or “just FYI about x,” and the law enforcement officer is unaware that he/she is being “consulted.” A consultation does not necessarily result in any documentation (police report, etc.) by the officer, and it is not part of the SESIR reporting despite the consultation being a SESIR requirement.

#### FDOE SESIR Data Tracking

FDOE only tracks SESIR incidents for which law enforcement takes official action and reports that action in a category titled “Incidents Reported to Law Enforcement.” SESIR provides a very specific definition for what “reported to law enforcement” means: “Official action was taken by a School Resource Officer (SRO) or a local Law Enforcement Officer such as: a case number was assigned, a report was filed, an affidavit was filed, a civil citation was issued, an investigation was conducted and found to be an incident reportable to SESIR, or an arrest was made. The presence of, notification of, or consultation with a Law Enforcement Officer or SRO, is not sufficient for an incident to be coded as ‘Reported to Law Enforcement.’”

By maintaining and distributing data that indicates the number of “Incidents Reported to Law Enforcement,” the numbers can be misleading to the consumer because not all school districts require a law enforcement case number or other verification that the incident was actually “reported.” By stating an incident was “reported” without verification law enforcement may only have been “consulted” and no actual “report” occurred. Similarly, consumers of SESIR data have no way to know that law enforcement was actually consulted when so required.

Officer Discretion and Agency Policy Contribute to Data Discrepancies

The Commission recognizes officer discretion and law enforcement agency policy also contribute to SESIR discrepancies. As examples, the SESIR definition of “Reported to Law Enforcement” is almost exclusively dependent upon the action taken by the law enforcement officer who is notified of a SESIR incident. The response to any given incident will vary from one law enforcement officer to another and from one law enforcement agency to another. For example, two law enforcement agencies in the same school district may have very different policies and practices on how to handle juvenile offenders. If Agency A is more prone to take official action than Agency B, that results in a disparity over which the school district has no control, yet it impacts whether that matter was “Reported to Law Enforcement” (as defined by SESIR guidelines and a report taken), thereby having an impact on statewide data. Simply stated, an officer who exercises discretion and does not take a report and one who does for identical incidents will result in inconsistent data.

There is no way for FDOE or the public to know about the number of SESIR incidents that involved some sort of consultation or unofficial involvement with law enforcement. There are undoubtedly incidents where did school staff “consulted” with the SRO and told the SRO of a physical attack, but school staff told the SRO they would handle it administratively. There are also occasions where school staff consulted with the SRO, but the SRO determined the incident did not need to be documented. These differences cannot be reconciled.

Below are some examples from the 2017-2018 school year that illustrate how the SESIR data is so grossly inaccurate that it provides no meaningful, relevant information. These tables are merely a few examples of consistently inaccurate data.

## CHAPTER 9. SCHOOL ENVIRONMENTAL SAFETY INCIDENT REPORTING (SESIR)

<b>Fighting</b>				
<b>School District (County)</b>	<b>Student Population</b>	<b>SESIR Incidents</b>	<b>Incidents Reported to LE*</b>	<b>% of Incidents Reported to LE</b>
Duval	129,583	3,33834	10	0.3%
Broward	271,956	2,695	173	6.4%
Volusia	62,977	1,022	89	8.7%
Miami-Dade	354,840	540	0	0%
Polk	104,136	514	465	90%
*Incidents in which official law enforcement action was taken as defined by SESIR guidelines				

Duval County reported an extremely high number of SESIR fighting incidents. The next closest county was Broward (2,695 incidents) despite Broward County having twice as many students as Duval. There were six other counties that reported more fighting incidents than Miami-Dade County despite Miami-Dade County being the largest school district in the state. Additionally, Miami-Dade had no official law enforcement involvement; Duval had official law enforcement involvement in less than one percent of its fights, while Polk County took official law enforcement action in 90% of its fights.

<b>Battery</b>				
<b>School District (County)</b>	<b>Student Population</b>	<b>SESIR Incidents</b>	<b>Incidents Reported to LE*</b>	<b>% of Incidents Reported to LE**</b>
Pinellas	101,824	410	410	100%
Hillsborough	217,072	113	113	100%
Miami-Dade	354,840	67	67	100%
Duval	129,583	49	49	100%
*Incidents in which official law enforcement action was taken as defined by SESIR guidelines				
**SESIR requires all batteries be “Reported to Law Enforcement”				

## CHAPTER 9. SCHOOL ENVIRONMENTAL SAFETY INCIDENT REPORTING (SESIR)

Pinellas County reported the by far highest number of batteries despite having student populations significantly smaller than Broward (271,956), Hillsborough (217,072), and Miami-Dade (354,480). Despite being the sixth-largest school district in the state, Duval reported only 49 batteries. This is perplexing considering that Duval County reported the highest numbers of both physical attacks and fighting incidents.

<b>Physical Attacks</b>		
<b>School or School District</b>	<b>Student Population</b>	<b>SESIR Incidents</b>
Stephen Foster Elementary School (Alachua)	519	72
Holiday Hill Elementary School (Duval)	584	119
McDonald Elementary School (Hillsborough)	591	101
Miami-Dade County School District	354,840	0
Pinellas County School District	101,824	3

When comparing schools to districts the statistics for Physical Attacks reveals a startling disparity. Three elementary schools with student populations under 600 reported high numbers of physical attacks, while the vast majority of elementary schools in Florida reported fewer than 20 physical attacks. Conversely, the entire Miami-Dade School District reported no physical attacks, and the entire Pinellas School district reported only three physical attacks.

<b>Theft (&gt;\$300)</b>				
<b>School District (County)</b>	<b>Student Population</b>	<b>SESIR Incidents</b>	<b>Incidents Reported to LE*</b>	<b>% of Incidents Reported to LE*</b>
Miami-Dade	354,840	291	291	100%
Broward	271,956	112	36	32%
Seminole	67,915	112	63	56%
Volusia	62,977	51	51	100%
*Incidents in which official law enforcement action was taken as defined by SESIR guidelines				

## CHAPTER 9. SCHOOL ENVIRONMENTAL SAFETY INCIDENT REPORTING (SESIR)

Despite the appearance of under-reporting for fighting, Miami-Dade had the highest number of thefts. Both Broward and Seminole Counties reported 112 thefts; however Broward County's student population is four times that of Seminole County. Both Miami-Dade and Volusia Counties had official law enforcement involvement in every single theft, yet Broward and Seminole Counties had official law enforcement involvement at much lower rates.

<b>Total SESIR Incidents</b>				
<b>10 Least Populous School Districts</b>				
<b>School District (County)</b>	<b>Student Population</b>	<b>SESIR Incidents</b>	<b>Incidents Reported to LE*</b>	<b>% of Incidents Reported to LE*</b>
Calhoun	2,237	13	6	46%
Dixie	2,187	140	33	23%
Gulf	1,977	31	8	25%
Glades	1,678	6	6	100%
Hamilton	1,651	105	37	35%
Liberty	1,422	27	11	40%
Franklin	1,305	117	21	17%
*Incidents in which official law enforcement action was taken as defined by SESIR guidelines				

Examining the ten least populous school districts shows equally disparate data when examining all SESIR incidents for the 2017-2018 school year. Liberty and Franklin Counties have very similar student populations, yet Franklin reported four times as many SESIR incidents. The same problem exists between Dixie and Calhoun Counties; they have similarly-sized student populations but Dixie County reported ten times as many SESIR incidents. Glades County appears to be grossly under-reporting when compared against the two most comparable student body sizes, Gulf (1,977) and Hamilton (1,651), which reported 31 and 105 SESIR incidents, respectively.

Lack of SESIR Training by School Districts

While it has been well-established that SESIR's current structure is flawed, the instrument alone does not bear all responsibility for the inaccurate data. Discussions with FDOE staff revealed that there have been several counties that have had minimal to no dialogue with FDOE staff regarding SESIR procedures despite FDOE attempting to contact those districts. Many districts have never invited FDOE to their county for training, and some counties have even refused to return phone calls from SESIR staff. One FDOE staffer indicated that prior to February 14, 2018; SESIR did not seem to be a priority for many school districts. The apathy demonstrated by some school districts is partially a byproduct of FDOE's prior inability to levy sanctions against districts that were not in compliance. (As a result of Senate Bill 7030, the FDOE commissioner may direct the local school board to withhold a superintendent's salary for improper SESIR reporting.) Conversely, FDOE also identified several counties with which they have very good working relationships and maintain regular lines of communication regarding SESIR incidents.

**SCHOOL SUPERINTENDENTS' PERSPECTIVE ON SESIR**

The Commission also heard testimony from school superintendents from various districts in Florida. During that testimony it was revealed that districts track student misconduct through other mechanisms, implying that sometimes SESIR may be a redundant task. It was also pointed out that SESIR's terminology sometimes conflicts with local codes of student conduct. Specifically, the panel stated that codes of student conduct often categorize offenses from level one to level four, with level four being the most severe. The opposite is true for SESIR; level one is the most severe, with level three being the least severe. While it is true that all districts report using the same SESIR definitions, the superintendents opined that this juxtaposed categorization is a source of confusion.

The panel of superintendents also pointed out how having 80 to 100 people within a single district who are responsible for SESIR reporting can result in various interpretations of the SESIR definitions. This problem has been magnified by rapid growth in some school districts which requires new personnel to be trained on the intricacies of SESIR. Dr. Walt Griffin, the school superintendent in Seminole County addressed the intricacies of SESIR

reporting by stating, “SESIR is supposed to be an objective reporting data mechanism. I think the biggest struggle we have with our school safety team and as superintendent is making the definitions as objective as possible so people really understand how to (file) a report.”

The panel opined that some intentional misreporting of SESIR data may take place: “In some cases, a principal wanted to make his school look better or worse for whatever reason.” These superintendents expressed a concern over inaccurate reporting for many reasons, but practically speaking, they try to allocate their resources where the needs are; in some counties SESIR is used as one measure of where resources are needed. This means intentional misreporting can result in misallocation of resources and actually harm the school or district.

The panel made various suggestions, including streamlining the definitions to reduce the types of incidents from the currently 26, forming a workgroup to align SESIR more closely with the various student codes of conduct and implementing more training within their districts. One of the primary concerns identified by Dr. Griffin is the absence of a formalized, aggregated data-sharing platform among school districts. He suggested the creation of a platform which aggregates various information sources to allow for a formal process of information-sharing about students who have mental health or disciplinary issues. In particular, Dr. Griffin identified the lack of information when it comes to students transitioning among the various types of schools: public schools, private schools, home schools and charter schools. He specified the need for the immediate identification of students who display troubling behavior.

**FINDINGS:**

1. There has been under-reporting, non-reporting and over-reporting of SESIR incidents by school districts across Florida.
2. The misreporting is the product of definitional ambiguity, misinterpretation of and confusion over the reporting guidelines, inadequately trained personnel tasked with compiling SESIR data and a lack of accountability in the reporting process.

**RECOMMENDATIONS:**

3. SESIR guidelines should be changed to eliminate confusion over what incidents require “consultation with law enforcement” versus incidents that are required to be “reported to” law enforcement. Any required action should be tracked and reported so that compliance can be measured. If there is required “consultation” with law enforcement then that should be documented and reported. If an incident is required to be “reported” to law enforcement, then whether an official report was generated by the officer should be documented. Officer discretion is important, so this is not a recommendation to mandate that officers take action, only that if they are required to be told under SESIR that the result be reported.
4. To ensure proper reporting, SESIR guidelines should require the gathering and reporting of law enforcement data including the date and time of law enforcement notification and name of the law enforcement officer who was notified. If a case/report/incident number is generated, that should be included in the data gathered through SESIR reporting.
5. The two groups of SESIR data which “are expected to include consultation with law enforcement” (21) and those which “may not need to include consultation with law enforcement” (5) require clearer direction to school faculty. The category that includes the 21 more severe incidents should direct that staff “will notify law enforcement” and that the less severe incidents “may not need to include notification to law enforcement.”
6. As currently defined within SESIR, acts of violence against another could be classified as either a battery, physical attack or fighting. These categories should be consolidated to two categories which closely mirror the criminal definitions of battery and aggravated battery. Both of these categories should fall under the category that mandates staff to notify law enforcement.

## **CHAPTER 10. INTEGRATED DATA SYSTEM AND SOCIAL MEDIA MONITORING**

Complete and accurate information is crucial to effectively and fairly assessing a threat or an individual's concerning behavior. Incomplete information will lead to flawed decision-making and may result in a missed opportunity to avoid harm. The goal is to avoid information silos and enhance information sharing to achieve a successful result. Many different people (school staff, law enforcement officers, mental health providers, etc.), over several years, knew about Cruz's violent tendencies and concerning behavior, but there was no effective information sharing and no one had the global perspective of Cruz. The question will forever linger whether effective information sharing would have led to a different outcome than what occurred at MSDHS on February 14, 2018.

### **DATA ACQUISITION AND SHARING**

Data is acquired about individuals at various governmental levels and access to that information is mostly controlled by federal and state laws. As a general principle, the most detailed and current information about an individual is acquired and maintained locally, while more macro information is available through state and federal resources. As an example, a record that someone was convicted for burglary and sentenced to prison is available from state and federal indices but the specifics about what occurred during the commission of the crime are only available from the local law enforcement agency that conducted the investigation. If a state agency needs details of the matter, it would have to request them from the local entity. The state agency generally does not have direct real-time access to local law enforcement agencies' records systems.

#### Law Enforcement Data Systems

State and federal indices are generally limited in number and consistent across the state. The Florida Department of Law Enforcement has one database for its investigative reports; any query to determine what FDLE knows about an individual can be made by an agent in Pensacola, and she will receive the same information that is queried by an agent in Miami. The opposite is true of local law enforcement records. All sheriff's office and police department records are maintained by each agency; they are not directly connected, and

while there are some small counties that share a countywide system, for the most part there is not one unified countywide or statewide records management system (like the state system FDLE uses for its reports).

Using Broward County as an example, for a law enforcement officer in Broward County to determine what Broward County law enforcement knows about an individual, the officer has to check a minimum of eight different police records management systems (RMS). The Broward County Sheriff's Office and city police departments use different systems provided by different vendors. There is a State-operated system to which local law enforcement agencies may contribute their reports that enables more universal queries. There are limits on what and when agencies contribute to that system, and there are limits on from where and how that universal query is made. The State query system mitigates, but does not eliminate, data silos.

### School District Record Systems

In addition to law enforcement records, the school systems across Florida have their own distinct and independent incident and discipline databases. Some school districts even have multiple databases within their districts for incident and discipline reports. Further, the mental health providers across the state have unique and unconnected data repositories that are generally inaccessible to non-providers.

### Creation of an Integrated Data Repository

In the case of Nikolas Cruz, valid observations were made after the shooting that information silos existed that prevented the “dots from being connected”. If the dots had been connected, that may have resulted in some sort of intervention before Cruz acted to shoot and kill others. Law enforcement, the school district and private and community-based mental health providers all had “silos” of information about Cruz—no one person or entity had the whole picture about Cruz.

In an effort to remedy this void, the legislature directed in Senate Bill 7026 that several state agencies work together and establish an Integrated Data Repository, and that they implement a social media monitoring tool. The legislature's intentions are well-founded,

and it is correct that data silos exist which make having an overall view of an individual difficult. However, as stated previously, most of the current and “rich” data is with local agencies (police departments, sheriff’s offices, schools, mental health providers, etc.) that have many different and unconnected databases, and trying to integrate all this information in one place is virtually impossible. Any such effort is also challenged by state and federal laws and regulations designating some of the most important information private and confidential and only accessible by certain authorized individuals.

Despite these challenges, those responsible for carrying out the effort at data integration did the best they could with the current landscape and developed the Florida School Safety Portal.

### **FLORIDA SCHOOL SAFETY PORTAL (FSSP)**

Section 1001.212(6)-(9), Florida Statutes, as created by Senate Bill 7026, directed the newly established Office of Safe Schools at the Department of Education to work with the Florida Department of Law Enforcement to provide a centralized integrated data repository by December 1, 2018. Meeting this deadline was not possible due to the magnitude of the task, so Governor DeSantis issued Executive Order 19-45 calling for the repository to be completed by August 1, 2019, prior to the 2019-2020 school year. The system, now renamed the Florida School Safety Portal, went live on August 1, 2019, at [www.flsafetyportal.org](http://www.flsafetyportal.org).

The repository was required to integrate data from, at minimum, the following data sources: social media, Department of Children and Families, Department of Law Enforcement, Department of Juvenile Justice and local law enforcement. All data that is exempt from disclosure under the public records laws or confidential and prohibited from disclosure was required to maintain those attributes in the repository. The agencies contributing the data remain the sole custodian of the data for the purposes of Florida public records laws in Chapter 119 of the Florida Statutes. Finally, access to the data in the repository was required to comply with all applicable state and federal data privacy requirements through the use of user authorization and role-based security; data anonymization and aggregation; and auditing capabilities.

The Department of Education and all the other stakeholders that were charged with developing the repository were given an almost impossible task because of the divergent and voluminous data that exists at the state and local levels, as well as the mandated privacy laws that prohibit access to and sharing of the information (state law modifications do not abrogate or lessen federal privacy law requirements). Further, the richest data is maintained at the local level in diverse databases that are incapable of integration. This effort was to be called the Centralized Integrated Data Repository, and the idea was to bring all of these systems together in what would amount to a unified query so that users could go to a dashboard and conduct a single search without having to go to individual systems. The agencies charged with this task did everything that they could with the resources, rules and laws available. However, the capabilities of the system that was created are extremely limited and are unlikely to meet the expectations of what was envisioned because what was envisioned is largely not attainable.

The Florida School Safety Portal was developed by the Department of Education with their vendor, FivePoint Solutions, and NTT Data Services, the vendor for the social media monitoring tool. The Portal includes searchable, statewide information from the Department of Education (SESIR) (not school-based incident or discipline reports), the Department of Children and Families (Baker Act Reporting Center) (this data is mostly statistical and personally identifiable information is omitted), FortifyFL (Florida's anonymous tip platform), as well as social media monitoring data. The data available to users is based on the user's assigned role: education, law enforcement, mental health, or a combination of these. As an example, only the mental health component of the school threat assessment team will have access to the Baker Act Reporting Center data. School resource officers will also be given access to search the SESIR, FortifyFL and social media data as "school officials," but they are prohibited from sharing that information with other law enforcement officers absent an applicable exception to the law. SESIR data is currently only updated three times a year, so there is not real-time data access, but more frequent collection is being considered. In sum, users only have access to and may query databases to which they have authorized access without the FSSP existing, and the FSSP does not provide access to local records.

Access to the data is governed by applicable state and federal privacy laws, and authorized FSSP users will not be able to download or store information. To be clear, the portal does not store information about students' race, religion, disability or sexual orientation. Threat assessment team members must undergo complete training and sign user agreements to obtain access to data, but again, it is only data to which they already have access outside the FSSP. The data can be queried by student name, date of birth, identification number, and school district. Keywords found in the results – such as gun, knife, or trespass – highlight items and can be used to filter the search results.

### Criminal Justice Network (CJNET) Access through the FSSP

The FSSP is hosted on the Internet so that all users can access it, but law enforcement systems cannot be integrated into the Portal, mainly based on restrictions of state and federal law that prevent non-criminal justice agencies, such as the Department of Education, from housing this type of information. To accommodate law enforcement users, the Portal contains a link directing users to the Criminal Justice Network (CJNET). CJNET is a private network managed by FDLE solely for use by Florida's criminal justice and law enforcement agencies. The FSSP simply creates a link to the CJNET website and provides no more than what the users may access without the link from FSSP.

CJNET also takes users to the Statewide Data Sharing System (LInX), which contains data from records and jail management systems, computer-aided dispatch systems, and other databases from over 95% of Florida's law enforcement agencies. The system also connects to many other local, state, tribal and federal agencies across the United States. Integrating and maintaining the data from over 350 Florida law enforcement agencies has taken considerable effort over many years and was only possible through close partnerships with all participating agencies. While all records are not available in the system for technical or policy reasons, the system contains a wealth of information to assist the law enforcement component of threat assessment teams.

Law enforcement personnel who are compiling information for a threat assessment will be reminded to begin by checking the databases and resources within their own agency, or

other agencies' systems to which they have direct access, where the most complete information may be available.

#### Social Media Monitoring Tool through the FSSP

Senate Bill 7026 also directed state agencies to implement a social media monitoring tool and it is accessible through the FSSP. Data from the social media monitoring tool is collected in real time and comes from a variety of popular social media sites as well as news sites, blogs, forums, and other miscellaneous websites. While the data is collected in real time, it is not monitored live or reviewed in real time. The data is searchable by the users, but it requires a manual search to obtain the information. Further, only data in the public domain that users have not made private is captured by the tool. Threats detected by the tool can be queried within the Portal and can be sent to districts via email notifications.

The system focuses on threat keyword searches for five topic types: gun, bomb, bullying, mental health, and "general." School districts can opt to work with the vendor to supply school-specific keywords such as mascots, nicknames and other slang used in the district to enhance the searches. All threats matching the threat keywords that are made within a geo-fenced area of the campus will be captured, and all threats matching those threat keywords and the school keywords made outside the geo-fence will also be captured. If the threat is made outside of the geo-fence and does not contain school keywords, it will not be captured. Threats made within the geo-fence also capture the user's handle (username) and location. Once captured, that person is monitored for threats, regardless of their location or use of school-specific keywords. This is the one exception to threats made outside the geo-fence without school keywords. At present, the user's handle itself is not searchable, only the student's name if that name is used.

Email notifications can be configured with help from the district and are sent in real time with the details of the threat when detected by the tool. It is the districts' responsibility to review the information in the tool and respond to the alerts if they are configured. Notifications are also sent to the Office of Safe Schools at the state level as part of the Portal, where they are not actively monitored, but can be searched.

This is the first version of the Portal, and the Department of Education is going to continue working to identify and expand it to include additional data sources and collect SESIR data more frequently, as previously noted. Additionally, the Behavioral Threat Assessment Instrument is currently paper-based and will need to be digitized to be integrated into the Portal. The Portal has the ability to report on utilization of the system by school districts. The success rate of the keywords will be assessed at the end of the first year.

### **LOCAL/COUNTYWIDE DATA SHARING**

The Commission received information about a pilot project that began in the summer of 2019 in Pinellas County to facilitate local information gathering and sharing in the threat assessment process. The goal is to comprehensively gather all available data on an individual and disseminate it to the threat assessment team as quickly as possible so that it is useful to the team in its decision-making process, and to ensure that the team does not miss or omit relevant information from its decision-making process.

On the law enforcement side alone in Pinellas County, there are 18 different databases that have to be queried to gather information during a threat assessment. That number includes the Pinellas County Sheriff's Office and other county law enforcement agencies' records management systems to which they have direct query access; LInX reports from around the state, criminal history information, Juvenile Justice Information System (JJIS), In Site, social media and many other systems. A workgroup established all possible information flows to ensure that a comprehensive database list was developed and nothing is missed in this portion of the threat assessment.

The average school resource officer or officer on the street does not have the knowledge or the access to all of these systems to do the analytical work required for a comprehensive threat assessment. Under the Pinellas County pilot, when a threat assessment team is convened, the participating officer or deputy sends the student's information to the Intelligence-Led Policing Section of the Pinellas County Sheriff's Office where an analyst will search all the databases and return a comprehensive report to the requesting officer within approximately four to six hours. The analyst will check these 18 systems, at minimum, and thereby ensure the threat assessment team that it has all the available

information that will allow them to make an informed decision based on the totality of the information.

On the Pinellas County schools side, there are four databases to check: FOCUS, which contains attendance, discipline, and grades; the Cumulative Folder for discipline and education history; the SWIMS Database for behavior diagnosis and learning disability/plans; and the mental health liaison for Baker Act notifications. Mental health team members will be required to check all of the different databases and facilities that they have access to for their portion of the threat assessment.

When the three components (law enforcement, schools and mental health) complete their respective checks on the student, they will document what has been queried and this will become part of the threat assessment team record. Each component is responsible for the storage and retention of information as required by law.

#### **FINDINGS:**

##### **FLORIDA SCHOOL SAFETY PORTAL (FSSP):**

1. The creation of a true centralized integrated data repository requires that legal authority and the technological capability exists to combine a plethora of data sources and put them in one place and such authority and resources do not exist.
2. The Florida School Safety Portal is not a centralized integrated data repository that allows for a unified query capable of searching all relevant data (named data sets as well as data that is within each of the 67 counties various data systems) in one place. This is impossible given the legal and technical limitations that exist.
3. Other than the FortifyFL and social media data in the Portal, members of the threat assessment teams will only have access to data from systems that they already have access to as education, law enforcement or mental health professionals.
4. The Social Media Monitoring tool is not monitored live or viewed in real time and has limitations in what it can capture and monitor. Email notifications are only available to agencies using the tool that have worked with the vendor to configure

their email addresses. Email notifications are timely received only when a person is actively monitoring their email account; thus, notifications may be delayed.

5. Statewide FortifyFL data can be queried via the Portal but the percentage of people using this tool versus the school population is still low. Since the August 15, 2019, meeting there has been an uptick in use of the tool based on the requirements in Senate Bill 7030 to put FortifyFL on school-issued devices and school websites.
6. Some mental health data is available through the Portal but is only accessible by mental health professionals and is not real-time data. The Portal adds nothing new to anyone's ability to obtain information.
7. Law enforcement data, while accessible on CJNET, is not accessible within the Portal, due to legal constraints. Other than the Statewide Data Sharing System (LInX) and the Florida Crime Information Center (FCIC), there is no integration of law enforcement data.

Local / Countywide Data Sharing:

8. Most law enforcement, school and mental health representatives participating on threat assessment teams do not have a checklist of systems to search, and do not designate specific personnel who are trained and have knowledge of those systems to conduct the searches. The absence of specifically trained and designated personnel to search these systems jeopardizes the effectiveness of threat assessments.
9. The average officer on the street and the average school resource officer do not have the knowledge, ability, time, or information source access to do the type of analytical work necessary for an effective threat assessment.
10. There are three pillars of behavioral threat assessment management: identify, assess, and manage. Collecting and analyzing information to conduct a threat assessment is important; however, the challenge will continue to be managing the threat.

**RECOMMENDATIONS:**

1. To manage expectations and eliminate false expectations, threat assessment teams need to be educated to understand the limitations of the FSSP and its capabilities.
2. Agencies should consider a dedicated research component that supports the threat assessment teams to ensure comprehensive data is acquired and available to the team.
3. The social media monitoring tool should be renamed to reflect that it is not “actively” monitoring social media.
4. The social media search should allow the FSSP user to run keyword and username searches of the data.
5. Require school districts to provide school nicknames (e.g. MSDHS) and other relevant information to enhance the social media tool.
6. SESIR data quality and frequency needs to be improved if it is to be of value to FSSP users.
7. Preparing for a threat assessment meeting should be a ground up process where agencies first collect the information they have locally accessible and then use the FSSP and other existing information sources to augment other available information.
8. Threat assessment team members should each have a well-developed list of sources of information and data from their discipline (law enforcement, schools, and mental health) that should be prepared and reviewed for the threat assessment meeting. An example is the Pinellas County pilot, where such a list was created to ensure that all databases are checked and no relevant information overlooked during the assessment.

## CHAPTER 10. INTEGRATED DATA SYSTEM AND SOCIAL MEDIA MONITORING

9. Before any additional money is spent to consolidate data, time should be spent to evaluate how the process is working with the data currently available to the teams and the systems that have been put in place.
10. Further research is required to determine the best way to manage students who have been identified as threats. This includes what resources will be needed to manage them and how this management will be transferred when the student ages out of the school system.

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## **CHAPTER 11. JUVENILE DIVERSION**

The Commission has repeatedly identified information silos that exist within and between various fields related to school safety. These barriers hinder well-informed decisions and increase the likelihood of poor decisions being made. Juvenile diversion programs are no exception to this dilemma. Determining whether a juvenile should be arrested or referred to a diversion program must be based on having comprehensive knowledge of the juvenile's criminal history, prior contacts with law enforcement and prior enrollment in juvenile diversion programs. To further examine this issue, during our 2019 meetings, the Commission heard testimony regarding juvenile diversion programs and the manner in which they operate throughout the State of Florida.

The primary goal of diversion programs is to reduce recidivism or the occurrence of problem behaviors without having to formally utilize the justice system. The pre-arrest diversion concept is based on the idea that while young people may commit minor crimes for which they need consequences, arrests for incidents are usually unnecessary and may be a barrier to future success. Diversion programs are also designed to be less costly than formal court proceedings by reducing the burden on the court system. Such programs are considered a best practice, and they exist throughout the state of Florida and the United States.

### **FLORIDA JUVENILE DIVERSION PROGRAMS**

Florida Statute 985.12 provides the basis for how civil citation or similar pre-arrest diversion programs operate in our state. These programs take on various names in various Florida counties, but, for purposes of this report, they will all be referred to as diversion programs. (Note that pre-arrest diversion differs from post-arrest in the type of permanent record created by the law enforcement contact). The law directs that a diversion program "shall be established in each judicial circuit in the state" and that the state attorney in each of the circuits establish, in conjunction with the other stakeholders, a juvenile diversion program. The statute identifies the other stakeholders as the public defender, the clerk of the court and representatives of participating law enforcement agencies in the circuit.

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The legislature mandated that every juvenile diversion program in the state of Florida comply with guidelines of the community-based juvenile diversion programs operated by the state attorney in their respective circuits, as defined in Florida Statute 985.12. Compliance with the community-based juvenile diversion programs includes all reporting requirements as mandated by law and DJJ policies, specifically that criminal diversions be entered into JJIS-Prevention Web. School districts may still operate their own “diversion programs” that address **non-criminal** conduct such as Student Code of Conduct violations and other misbehavior. Non-criminal school diversion programs avoid in-school or out-of-school suspensions.

### State Attorney Operated or Approved Juvenile Diversion Programs

There are 20 judicial circuits in Florida, each having its own state attorney. Within those circuits there are 67 school boards, 66 sheriff’s offices (Miami-Dade has a county police department) and approximately 250 municipal police departments. The law directs those stakeholders to establish the criteria for the program in each circuit. The criteria include, crimes eligible for diversion, the number of times a juvenile may participate the diversion program, sanctions to be applied, restitution requirements and intervention services, among others.

The statute mandates that the state attorney in each circuit operate the diversion program. The exception to this requirement is that diversion programs that existed prior to October 1, 2018 that were operated by a sheriff, police department, county or city or an educational institution, may continue to operate as an independent program. However, for this exception to apply, the program has to be reviewed by the state attorney and determined by the state attorney to be “substantially similar” to the pre-arrest diversion program developed by the circuit. If the independent program is found to not be substantially similar, then the operator may adjust the program to bring it in compliance and the state attorney may conduct an additional review. It is unknown how many pre-existing programs were approved by state attorneys.

### PROMISE and School District Operated Diversion Programs

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Predating the passage of F.S. 985.12 in 2018, F.S. 1006.13 provided the authority for schools to implement diversion programs for conduct that rises to the level of criminal activity. The legislature did not rescind F.S. 1006.13 when passing F.S. 985.12, and the two statutes arguably compete and provide different frameworks to address the same issue.

When the legislature amended F.S. 985.12 in 2018, the resulting statute encouraged “counties, municipalities, *and public or private educational institutions* participate in a civil citation or similar pre-arrest diversion program created by their judicial circuit” (emphasis added). Most juvenile diversion programs in Florida are community-based programs that accept youth regardless of whether the crime occurred in or out of school. The specific statutory reference to participation in programs “created by their judicial circuit” is most relevant when examining the school-based diversion program that operates in Broward County. The Broward County Public Schools’ diversion program is the PROMISE program, which was implemented in 2013 through a Collaborative Agreement on School Discipline. The signatories to the agreement included the school board, chief judge, state attorney, public defender, sheriff’s office, Department of Juvenile Justice, NAACP, five police departments and the Broward County Chiefs of Police Association. Not every police department was a signatory to this agreement. Police departments who were not signatories to this document expressed concern to the Commission about the lenient manner in which the program has been operated. The BCPS PROMISE program is unique in Florida because it is a school-based *criminal* diversion program that does not interface with the community juvenile diversion program operated by the state attorney and is a stand-alone program operated by the school district.

### Required Reporting of Juvenile Diversion Data to DJJ

The 2018 law in Chapter 985 regarding juvenile diversion programs requires that any time a juvenile is entered into a diversion program, the information concerning the diversion (as opposed to the arrest) be entered into a statewide database—the Prevention Web component of the Juvenile Justice Information System. JJIS is a statewide database operated by the Florida Department of Juvenile Justice. Prevention Web is a confidential system and the data contained therein is not subject to public records disclosure. The purpose of

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Prevention Web being a confidential system is to honor the spirit of diversion programs and avoid juveniles bearing the stigma associated with an arrest that hinders future achievement for a first time and/or minor, non-violent law violation.

As equally important purpose of Prevention Web is to track each opportunity that a juvenile has at a diversion program. It is improper for juveniles to repeatedly break the law and repeatedly be referred to diversion programs which, based on the juvenile's recidivism, are seemingly having no positive impact. Prevention Web, at least in concept, allows law enforcement and other stakeholders to determine how many times a juvenile has been referred to a diversion program throughout the entire state of Florida so that they can make good decisions about whether to divert or arrest a juvenile.

The manner by which juveniles are considered for diversion as opposed to arrest varies throughout the state. In some circuits, all juveniles are placed under arrest and transported to a Juvenile Assessment Center (JAC) where they are evaluated for referral to a diversion program. If they are eligible for the diversion program, that juvenile is then released from the JAC to their parent/guardian. Even though that juvenile was arrested by law enforcement, that arrest would only be documented in the confidential files of Prevention Web since they were referred to a diversion program. In other counties, the law enforcement officer at the scene makes the determination whether that juvenile is eligible for participation in a diversion program and the juvenile may not be transported to the JAC. The law enforcement officer can decide at that moment to postpone an arrest and refer the juvenile to a diversion program, and the juvenile would not be physically taken into custody.

### Status of PROMISE as a School-Based Diversion Program and DJJ Data Reporting

Broward County Public Schools' PROMISE program was, until June 2019, a hybrid diversion program that addressed criminal (theft, vandalism, etc.) and non-criminal misconduct (harassment, disrespect to administration, etc.). It was not and still is not a community-based program being operated under F.S.985.12. BCPS takes the position that PROMISE is a program under F.S. 1006.13.

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Nevertheless, in June 2019, BCPS revised its program to only allow PROMISE participation for criminal law violations. This is very different because most school districts refer the decision whether to arrest or divert for crimes to SROs or other law enforcement officers. BCPS makes PROMISE referral decisions without the juvenile being transported to the JAC, without consulting Prevention Web, and sometimes without consulting with law enforcement. By not coordinating with the community-based diversion program in Broward County and not querying Prevention Web there is no effort by BCPS to determine whether a juvenile had been previously referred to a diversion program by law enforcement outside the school environment. As an example, if a student steals from a store on the weekend and then the following week in school the same student is referred to the PROMISE program for stealing on-campus, the student may inappropriately be avoiding arrest because of his recidivist behavior. When law enforcement officers on the street do not know that a juvenile has been diverted for on-campus crimes, and the schools do not know that the same juvenile has been diverted by law enforcement for off-campus crimes, then the juvenile inappropriately avoids being criminally charged multiple times. Failure to coordinate school-based and community-based diversion programs prevents decision-makers from making well-informed, effective decisions.

Despite taking the position that its PROMISE program was covered under F.S. 985.12, in early 2019, Broward County Public Schools (BCPS) began entering PROMISE data into Prevention Web, as is required by F.S. 985.12. At the time BCPS made this decision, its PROMISE program was still a criminal and non-criminal diversion program. This decision resulted in an overly broad and inappropriate inclusion of information in Prevention Web because BCPS was entering both criminal and non-criminal diversions into the system. The system is meant to contain data about criminal diversions, not non-criminal misbehavior. The result of BCPS' decision was that juveniles referred to PROMISE for a non-criminal offense were documented in Prevention Web (a crime-based database) for non-criminal offenses.

Additionally, all entries showed as Civil Citation equivalent offenses—i.e. crimes. When BCPS realized it was entering overly broad data it stopped sharing non-criminal offenses into Prevention Web. The District then changed its PROMISE program criteria to include

## CHAPTER 11. JUVENILE DIVERSION PROGRAMS

only criminal offenses but has not resumed entering data in Prevention Web because it now takes the position that PROMISE is not governed by F.S. 985.12.

The District's assertion that it is not required to enter criminal diversions in Prevention Web is a misapplication of law, but moreover it is inconsistent with the best practice of eliminating data silos and sharing necessary information among all stakeholders with a need to know that information. Good decisions about whether to arrest or divert are important, and those good decisions cannot be made in a vacuum because information is withheld.

### Stakeholder Access To DJJ Data

The other side of the equation is access to data entered in Prevention Web, and that access varies throughout the state. Personnel inside the JAC (DJJ or contract employees) have immediate access to Prevention Web; so for counties in which all arrested juveniles are transported to the JAC, there is immediate access to Prevention Web for a well-informed decision. In other counties where the law enforcement officer on the street has discretion on referral to diversion programs, access to Prevention Web is very limited. The overwhelming majority of law enforcement officers do not have direct access to Prevention Web because they do not have connectivity from the field. As a result, school resource officers, school officials and patrol officers/deputies do not have access to the data needed to make a well-informed decision about diverting a juvenile. DJJ is aware of this void and is working on a solution.

### DJJ Review of School Diversion Programs Statewide

On February 13, 2019, Governor Ron DeSantis signed Executive Order 19-45: Ensuring the Safety of Our Children in Our Schools. The order directed that the Department of Juvenile Justice conduct an audit of all 67 school districts to identify school-based diversion programs such as the Broward County PROMISE program. The order further directed the Department of Education and the Department of Juvenile Justice to work together to review requirements, eligibility, costs, whether there is evidence to support their continuation, closure or regulation in law, and make recommendations for best practices and consistent criteria for school-based diversion programs.

## CHAPTER 11. JUVENILE DIVERSION PROGRAMS

DJJ issued its report on July 1, 2019, and the report included an overview of diversion programs, including standards, guidelines, and reporting requirements; key elements of evidence-based diversion practices; methodology for their audit of the 67 counties along with the audit findings; and four key recommendations to address their findings.

The report documented the results of diversion program for Fiscal Year 2016–17. During that time, 82% of juveniles successfully completed the diversion program, and 97% of the juveniles were not identified to have committed another offense during the time they were in the diversion program. Ninety-five percent of the juveniles were not arrested in the year following completion of the program. Utilization of juvenile diversion programs has increased steadily since Fiscal Year 2011–12, and it is currently at over 60% throughout the state.

The DJJ audit focused on programs serving youth who committed criminal offenses, not behavioral policy violations, as criminal offenses are the traditional subject of diversion and hybrid programs like PROMISE are an exception. DJJ found that 58 of the 67 school districts do not operate school-based diversion for criminal offenses, and diversion occurs through the community-based program operating in that district (county). Six districts operate programs that supplement or “overlay” traditional handling of criminal diversion through school-based discipline and/or referral to law enforcement. These programs merely offer additional services to the juvenile who committed criminal offenses that were referred to law enforcement and the community-based diversion program.

### **FINDINGS:**

1. Contrary to the District’s assertion otherwise, the BCPS PROMISE program is a civil citation or pre-arrest diversion program subject to the requirements of F.S. 985.12.
2. BCPS is not currently entering criminal pre-arrest diversion data in DJJ’s Prevention Web as it should.
3. Entering pre-arrest diversion data in Prevention Web is required by law and all diversion decision-makers having access to that data is paramount to effective decision-making regarding youth.

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4. The Commission concurs with DJJ's findings and recommendations in its July 1, 2019, report, except that school districts should not be permitted to operate diversion programs outside the scope of F.S. 985.12.

### **RECOMMENDATIONS:**

5. The Commission supports most of DJJ's recommendations as set forth in its July 1, 2019 report. However, as opposed to allowing independent school-based juvenile diversion programs, the Commission recommends that the legislature amend F.S. 1006.13 and prohibit schools from creating and/or operating any juvenile pre-arrest diversion program other than a program operated pursuant to F.S. 985.12. By requiring that school-based diversion program operate under and consistent with programs established under F.S. 985.12, continuity is ensured between State Attorney-led diversion programs and school programs.
6. DJJ should continue its efforts to provide easy and direct access to Prevention Web for all law enforcement officers and the legislature should support DJJ in its effort with necessary funding.

## **CHAPTER 12. MENTAL HEALTH**

During the initial investigation, the Commission reviewed the mental health services provided to Nikolas Cruz prior to the shooting, and summary findings were included in the Commission's initial report. Federal and State law prohibited the Commission from examining Cruz's mental health information during public meetings and providing any information in public documents. During closed, private meetings, the Commission reviewed Cruz's extensive records, as well as the results of interviews conducted by Commission investigators with many of the individuals who contributed to Cruz's mental health evaluations and treatment. Confidential Appendix F of the initial report set forth Cruz's protected records in detail, and we made this appendix available to those who are legally authorized to view the information.

The Commission's initial focus was on Cruz and the mental health services that he received as opposed to focusing on the mental health system generally. We determined that Cruz received extensive services from multiple providers beginning at age three and continuing through August 2017, approximately six months before the shooting at MSDHS. Both the community-based and school-based provider records revealed a lifelong pattern of troubling behavior.

In order to further evaluate mental health services in general, specifically the current status and interaction between school and community-based mental health services, the Commission heard testimony from several entities involved in mental health services, both in Broward County and statewide. The following is an overview of our findings and an explanation of how mental health services are provided in Florida.

### **MENTAL HEALTH SERVICES**

There are a few main areas through which people receive mental health services: private providers—psychiatrists, psychologists, and Licensed Clinical Social Workers/Licensed Mental Health Counselors; government providers, such as Veterans Affairs, county jails and state prisons; K-12 schools; and community mental health providers (community providers are publicly funded private providers, usually non-profit organizations). Three provider

areas are most relevant to the issues at hand here—schools, private providers, and community-based providers because those are the three provider types from which Cruz received services.

### Community Mental Health

Florida's community mental health system is administered through DCF; however, DCF is not a direct service provider of services. Under Florida law, DCF contracts service responsibility to seven Managing Entities throughout Florida. The Managing Entities then contract out the actual provision of services because like DCF, the Managing Entities are not direct service providers either. The legislature funds DCF, DCF funds the Managing Entities, and the Managing Entities fund the community-based providers, and they sometimes further sub-contract services. Broward Behavioral Health Coalition is the Managing Entity serving Broward County.

Florida Managing Entities provided services to over 300,000 people in Fiscal Year 2017. The Managing Entities receive approximately \$700 million a year from DCF to distribute across the state for services. Broward County receives about \$60 million a year and there are about 15 provider networks in Broward County.

The community-based providers also receive additional funding from a variety of complex funding sources, including Medicaid and Medicare, commercial insurance, counties and other State agencies. Despite that funding, Florida being the third-largest state in the country ranks near last in per capita mental health funding.

There are two tracks for services in Florida: one adult system of care and another for children. The array of services generally falls within a continuum of care that begins with:

- Promoting Wellness
- Outpatient Treatment
- Case Management and Care Coordination
- In-Home Services
- Residential In-Patient Services
- Crisis Stabilization

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There are also State-funded specialty teams that address more acute issues, such as Community Action Teams or CAT teams and Mobile Response Teams.

To understand Florida's mental health system, it is necessary to understand Florida's Baker Act framework. The Baker Act is more limited than what most people think. The general and erroneous perception is that the Baker Act usually results in some sort of an involuntary commitment and that it mandates treatment. A person may be taken into custody under the Baker Act if there is a "substantial likelihood that without care or treatment the person will cause, in the near future, serious bodily harm to self or others, as evidenced by recent behavior." As the result of a Baker Act, the person must be released within 72 hours unless the person voluntarily consents to treatment or the facility obtains a court order for involuntary services.

In reality, the Baker Act is mostly a tool for an involuntary mental health evaluation for someone in crisis. Under the Baker Act a person is taken to a receiving facility or crisis stabilization unit. Once the person is deemed to not be, or no longer be, in crisis, they are generally released. Only a small portion of people are held involuntarily for treatment. If a person is released, they are subject to purely voluntary outpatient treatment. Effective discharge planning from a Baker Act facility varies widely (in some cases it is non-existent), and there is little to no master case management, which is the greatest void in Florida's mental health system.

Baker Acts are on the rise in Florida, but, of the 200,000 annual Baker Acts, only about 1% result in involuntary commitments. To provide some perspective on increased mental health needs, Baker Acts have increased in Florida from 95,000 in Fiscal Year 2002 to 205,000 in Fiscal Year 2018 or an increase of 115%. These numbers are not de-duplicated. In other words, some reflect multiple Baker Acts for the same people over and over. While most Baker Acts are one-time events for people, there are a percentage of individuals who are high recidivists, and those people are usually high recidivists in both the mental health and criminal justice systems.

In children under age 18, Baker Acts have increased from 15,000 in Fiscal Year 2002 to 36,000 in Fiscal Year 2018, an increase of 140%. For young adults ages 18 to 24, Baker Acts

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have increased from 12,000 in Fiscal Year 2002 to 26,000 in Fiscal Year 2018, an increase of 120%. In Fiscal Year 2018, of the 205,000 Baker Acts, 73.5% were for adults, 12.7% of which were 18-24 years old and the remaining were those under 18 years old.

The increase in Baker Acts is not merely attributable to Florida's population increase. Between 2007 and 2017, the Florida population increased by 11.2%, and the number of Baker Acts increased by 60.7%. During that same period, the number of children under age 18 Baker Acted increased by 83%, while the population of Florida children under age 18 decreased by 0.8%. Law enforcement officers have been encouraged over the last few years to do a better job of recognizing that mental illness is the cause of some misbehavior and to Baker Act individuals as opposed to arresting them and thereby "criminalizing mental illness."

For Fiscal Year 2018, the majority of Baker Acts were initiated by law enforcement—51.6%, with 46.3% initiated by a Professional Certificate and 2.0 % through an ex parte court order. Of the Professional Certificate initiated exams, 68% were completed by non-psychiatrist physicians. The majority of Baker Acts are initiated by law enforcement officers, who are the least qualified, but most called upon, of all those authorized to initiate a Baker Act. Law enforcement officers likely "over Baker Act" because of the emphasis not to "criminalize mental illness" and because there are limited alternatives other than jail. To change this course there is a trend for law enforcement agencies to establish mental health units within their agencies that pair officers and deputies with mental health practitioners for Baker Act Diversion so that better decisions are made by qualified practitioners. These units are formed and self-funded by individual sheriff's offices and police departments.

Baker Acts have significantly increased, and law enforcement is making strides in its effort to recognize mental illness as the cause of certain behaviors; thus, officers are Baker Acting people in lieu of arrest. However, the Baker Act system is not managing these people as well as it needs to so that we avoid a revolving cycle of Baker Acts. Effective discharge planning is lacking, coordinated care is lacking, and Florida does not have a universal master case management system. Case management is mostly left to the individual providers which results in multiple treatment plans, and in many cases ineffective care

coordination. To have better results we need an enhanced and likely dedicated master case management system.

The Commission recently learned of one 14-year-old from Pinellas County who has been Baker Acted 35 times since he was 8 years old. This same child has been arrested at least 14 times. This child has threatened to shoot up a school, rape teachers and has committed drug rip-offs. Because the child has been Baker Acted by several different agencies, it was not until a recent school behavioral threat assessment that anyone “connected the dots” and realized the magnitude of the problem with this child.

The magnitude of the problem with this child is significant, but it illustrates the magnitude of a greater problem—a “system” where a 14-year-old can be Baker Acted 35 times and arrested 14 times without any flags, interventions or some responsible entity “owning” the problem. The void is because of inadequate discharge planning and care coordination as well as no effective case management.

DCF testified before the Commission and addressed the challenges of stopping repeat Baker Act cycles. The Department recognized the commonality of such occurrences, noting that a large part of the issue is that a patient needs timely access to services, but nothing requires compelled services. DCF recommends requiring that a child comply with discharge recommendations after being Baker Acted. Nothing currently compels follow up services or medication compliance. Moving forward, the Department is considering more effective wraparound services upon an individual’s first Baker Act to prevent later incidents.

### Overview of Mental Health in K-12 Schools

Most educators are not specifically trained to provide mental health services; although mental health services are essential to help certain students thrive in the educational environment, and to create safe schools. Accomplishing both objectives requires that school districts employ specialized mental health professionals to provide effective services. However, all provision of school-based mental health services has to be measured against the premise that schools are not designed, staffed or funded to be any individual’s, or any family’s, “overall” mental health provider. In many cases, besides its role of helping

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the student thrive academically, the school's role is to refer the student and/or their family to community-based treatment services.

In an overview of mental health issues provided to the Commission by Broward school officials, including Dr. Antwan Hickman, Executive Director of Exceptional Student Learning Support, the Commission heard testimony that the most common student disorders include ADHD, depression, anxiety, and conduct disorders. Statistics show that approximately 70% of students have experienced some type of physical or emotional trauma in their lives. A working practical definition of trauma is explained as a real or perceived event, threat or series of events. These threats are so emotionally painful that the individual's ability to cope may be severely compromised or overwhelmed. Consequently, behavioral responses may be filtered through the "lens" of trauma.

Additionally, approximately 20% of school-age children and youth have a diagnosable mental health disorder. The majority of mental illnesses emerge in childhood, though less than half of those children receive any sort of treatment. Adverse childhood experiences, or ACEs, drive many mental health issues and consequences. An ACE is defined as a stressful or traumatic event, such as abuse or neglect. ACEs may also include household dysfunction, such as witnessing domestic violence or growing up with family members who have substance use disorders. ACEs are strongly related to the development and prevalence of a wide range of health problems throughout a person's lifespan, including those associated with substance misuse. According to Dr. Hickman, there is a clear correlation between ACEs and students' academic and health outcomes. As just one example, young people with mental illness are frequently absent from school, and many experience reductions in academic achievement. Only one third of young people with mental illness advance to postsecondary education. More than 60% of children in juvenile detention have a diagnosable mental illness.

The Every Student Succeeds Act (ESSA) creates several expectations in regard to mental and behavioral health. First, schools must implement positive behavior supports, or other school-wide tiered models to address the social-emotional, behavioral and mental health needs of students. Schools must also administer universal health and behavioral screening

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and provide early intervention for students who are at risk. Additionally, schools must increase access to comprehensive school mental and behavioral health services, including wellness promotion. Finally, schools must provide mental health first aid and other professional development and training for school staff.

There is a continuum of school-based mental health services. Providers may begin with basic mental health and behavioral health needs and progress to advanced services for more at-risk children, who will need more intensive school interventions and more intensive community supports.

The majority of students in need are able to receive some services from a school-based mental health professional; however, the needs exceed the resources. Broward County Public Schools' school-based mental health professionals include family counselors, school counselors, school social workers, ESLS counselors, school psychologists and employee assistance program staff (the only group that focuses on faculty and staff).

Broward County Public Schools has approximately 270,000 students and 121 school psychologists with a ratio of about 1 school psychologist for every 1,630 students. The District has 147 social workers and the ratio for social workers to students is approximately 1:1,936. BCPS also has 47 family therapists with a ratio 1 to every 4,000 students.

FDOE has provided the schools across Florida with a tiered model for providing mental health services. Tier 1 includes universal prevention, Tier 2 includes supplemental/at-risk, and Tier 3 includes individualized intensive services.

- Tier 1 provides foundational universal prevention to all students. Services include screening and needs assessment to deliver social emotional learning, trauma informed care, youth mental health first aid, and positive behavioral intervention and support.
- Tier 2 provides direct services to students by mental health professionals and includes small group anger management, emotional regulation, and reinforcing Tier 1 strategies.

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- Tier 3 provides increasing levels and intensity of direct and consultative services, including individual counseling and functional behavior assessments. The state model includes community mental health providers as the primary provider of intensive services for the high-needs students in tier 3.

Cruz was clearly a Tier 3 student.

### **SCHOOL MENTAL HEALTH PROGRAM IMPROVEMENTS**

Prior to the tragedy at Marjory Stoneman Douglas High School on February 14, 2018, BCPS service delivery included: mental health plans (including mental health and wellness plans, a mental health portal, and the Unified District Mental Health Campaign); prevention programs (including suicide prevention, bullying prevention, and the Mindfulness Initiative); social emotional learning resources (including Reimagining Middle Grades, and behavior intervention programs); and intervention programs (including Youth Mental Health First Aid, and Multi-tiered System of Support). BCPS had some level of a mental health professional at every school prior to February 14, 2018.

Since the MSDHS shooting, Senate Bill 7026 has required changes to BCPS services. The law requires that all districts in Florida prepare an annual mental health assistance allocation plan and submit it to FDOE. This plan for all districts is available online and the BCPS plan was previously provided to the Commission. The mental health assistance allocation plan must focus on delivering evidence-based mental health care and include several items, such as: 1) the provision of mental health assessment, diagnosis, intervention, treatment, and recovery services to students with one or more mental health or substance abuse diagnoses and students at high risk for such diagnoses; 2) the coordination of services with a student's primary care provider and other mental health providers involved in the student's care; 3) the establishment of collaborative relationships with mental health service providers; and 4) contract-based collaborative efforts or partnerships with community mental health programs, agencies, and/or providers.

By September 30, 2019, schools were required to report on program outcomes and expenditures. Data required to be contained in the report includes: the number of students

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who receive screenings or assessments; the number of students who are referred for services or assistance; the number of students who receive services or assistance; the number of mental health services providers employed by the district; and the number of contract-based collaborative efforts or partnerships with community mental health programs, agencies or providers.

After the MSD shooting, BCPS partnered with many entities to ensure adequate mental health services, such as the National Center for School Crisis and Bereavement, and the Center for Mind, Body, and Medicine. Mental Behavioral service delivery now includes: 1) ongoing consultation with National Center for School Crisis and Bereavement; 2) expanded youth mental health first aid; 3) “PREPaRE” model trainings, to include comprehensive school safety planning for crisis prevention and preparedness and crisis intervention and recovery; and 4) Center for Mind-Body Medicine wellness trainings, and an expansion of trauma focus cognitive behavioral therapy (to include 51 clinicians, 32 brokers, and 6 senior leaders in progress). BCPS also focuses on mindfulness training, providing increased and enhanced clinical mental health services; as well as community partnerships; and collaboration with Sandy Hook Promise and GC Scored collaborative services for the eastern part of the county to ensure the provision of culturally-sensitive services.

Next steps for BCPS include a variety of initiatives, including: 1) continued partnerships with local and national organizations; 2) conducting ongoing focus groups and surveys to better understand district-wide needs; 3) engaging SEL and mental health measures for tier two and three services; 4) the development of a three-year strategic recovery plan; 5) incorporating sustainability into planning via Project SERV grant funds and other funding sources; 6) developing a comprehensive communications plan; and 7) a reorganization of student support initiatives to focus on recovery and support. To this last point, BCPS has hired a chief for recovery, developed a department of school climate and discipline, and hired a program manager for recovery within Broward County schools. BCPS is also in the process of hiring a service manager as a clinician. Additionally, BCPS has a consultant who serves as a family liaison to work closely with families who lost children or had children injured at the Marjory Stoneman Douglas tragedy. BCPS also has a new Mental Health Leadership Team that meets monthly to assess service needs.

### Partnership with SEDNET

BCPS also relies on SEDNET, which is a multi-agency service network for students with, or at risk of, emotional disabilities. SEDNET has been in existence since the mid-1980s to coordinate with providers to access services both at home and at school. SEDNET provides family service planning teams dedicated to securing the least restrictive, most relevant and appropriate resources/interventions necessary to keep the child living in the home and the community. SEDNET also provides case management for educational and behavioral case management services. It includes partnerships with community agencies and trauma trainings for students.

SEDNET also employs Family Service Planning teams, which use weekly meetings that look at the unique needs of students. Additionally, local review teams meet monthly to discuss children who are escalating. SEDNET is involved in case management and providing trauma trainings. The program in Broward also conducts suicide prevention training. Notably, Broward County received its first Community Action Team (CAT) as a result of recent legislation (Senate Bill 7026).

BCPS further relies upon the Broward Behavioral Health Partnership, which is also a part of SEDNET. The program started in the late 1980s and came out of a desire to build relationships with behavioral health providers in the community. The partnership started with about eight partner agencies, and now has 22 agencies. Partner agencies meet monthly to address services needed on campuses.

### Suicide Prevention

BCPS has district-wide suicide prevention for staff, including Jason Foundation Training, which consists of a suicide prevention certified school offering. The offering includes a two-hour training for all staff in a given school. BCPS held 123 Jason Foundation training sessions and trained approximately 1,050 staff members in suicide prevention between March and July of 2018. Student participants receive 12 session modules to cope with stress and to early-identify if a student may have an issue requiring assistance. End-of-year data from 2017-18 showed that 2,536 students participated in 80 peer counseling classes.

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Not every student is meant to take these classes, but those that do participate are meant to spread information to other students.

BCPS has taken advantage of a free crisis-text line discovered by district students. Over 1,800 students have engaged in 3,000 conversations through the service this calendar year. Eight Broward County students have been rescued this year from suicide because of this text line. After the receipt and use of certain grant funds regarding suicide prevention in February 2018, Broward County has seen a decrease year-to-year in students lost to suicide from 11 to 2.

### Needed Improvements and Moving Forward

Despite these significant steps, BCPS recognizes the need to do more and fill remaining gaps in service, such as layering multiple connections with students to provide an effective safety net through teacher/student relationships. The District will also work to remove the stigma about seeking mental health assistance so that they improve the likelihood that people in need will seek services.

Commission members questioned staffing and whether BCPS was able to meet statutory requirements and the population's needs. BCPS presenters assured the Commission that referrals are picked up expeditiously, and that BCPS utilizes outside agencies as necessary to meet their needs. While a recommended number of clinicians to students was mentioned based on numbers from a national advocacy organization, the Commission believes that better outcome benchmarks would be valuable to determine needs for more complete staffing and the prioritization of closing staffing gaps.

A Broward County millage increase referendum passed in August 2018 and the proceeds will benefit mental health services for students primarily through direct service providers. BCPS also intends to hire more behavioral analysts to serve more students, more often. These funds will be available in Fiscal Year 2019-20.

### **CRUZ AND MENTAL HEALTH SERVICES**

There is little doubt, from the testimony heard and the findings within the MSDHS Initial Report that despite multiple visits from Henderson Behavioral Health and other mental

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health providers to their home, the Cruz family remained in desperate need of services. For various reasons the services that Cruz received did not ultimately alter Cruz's course that led to the February 14, 2018, shooting at MSDHS.

Cruz turned 18 years old on September 24, 2016. He withdrew from Henderson's services in December 2016 despite his mother's urging that he remain in treatment. Cruz also withdrew from ESE services at MSDHS in December 2016, and he left MSDHS in February 2017 to attend an Adult Learning Center where he received no mental health services. The last time Cruz is known to have received any mental health services was as an adult in August 2017, and that was from a private provider.

As noted previously, one of the greatest challenges facing the mental health system is care coordination and case management—this too applies to those transitioning from child to adult services. Too many times service providers do not work together. When the right supports are in place, such as therapy, support and medication, effective outcomes follow. People should not have multiple treatment plans by different disconnected providers. Providers communicated between each other about Cruz but there was not true care coordination or master case management and no hand-off from child to adult services.

According to information provided by DCF, serious consideration should be given to how children transition from child services into adult behavioral services, and Florida needs a better safety net for high-risk children. This point was reemphasized by the Commission noting the importance of providing better services during this transition period and improving the tracking of these individuals.

DCF testified that it seeks to improve the coordination of care and is reviewing the current organizational structure for possible coordination positions and realignment. Additionally, the Department is committed to improving information sharing and data-driven decision making, noting its recently-executed data sharing agreements with the Agency for Health Care Administration and the Department of Education.

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### **FINDINGS:**

7. Florida's mental health system is not adequately funded as evidenced by comparison to other states per capita funding.
8. Florida's mental health system, specifically the Baker Act System, needs better discharge planning, master case management, and care coordination.
9. There is no adequate or effective system for tracking or flagging high recidivist Baker Acts, such as the 14-year-old from Pinellas County who has been Baker Acted 35 times.
10. Mental health services are in most cases voluntarily. Parents and children can choose to not participate in treatment making it difficult to ensure the child's needs are met.
11. Schools are limited in the type and quantity of mental health services they can provide, and their role is limited to helping the student thrive in the academic environment.
12. While BCPS and other school districts provide mental health services, there continues to be a gap in ensuring that these services meet demand and need.
13. A gap exists in providing a safety net for high-risk children transitioning into adulthood from child services.

### **RECOMMENDATIONS:**

1. The legislature should consider additional mental health funding and require that entities receiving State funding report data-driven and outcome-based performance metrics establishing effective use of the State money.
2. The legislature should authorize State funding through which all mental health providers are required to participate in care coordination with other public and private providers, especially school-based providers. Expectations and performance

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measures should be established for all providers to ensure proper and necessary care coordination.

3. The legislature should require that school districts engage community mental health providers that receive state funding to participate in the coordination of student treatment plans and the elimination of multiple treatment plans between school and non-school providers.
4. The legislature should establish and require the implementation of master case management systems for high-utilizers of acute care statewide.
5. The legislature should require DCF, DJJ and AHCA to develop an alert system to identify those individuals who are repeatedly Baker Acted. The responsible entity must develop a course of action to address why the person is repeatedly Baker Acted.
6. The legislature should hold DCF and AHCA accountable to ensure outcome-driven results and require holistic responsibility for system recidivists, with a focus on timely access to care coordination and high-end utilization reduction.
7. Programs, such as Community Action Treatment (CAT) teams, should be enhanced, and expanded where necessary, to provide better continuity of behavioral health services to close the gap when high-risk children transition into adulthood.
8. Schools should be required to implement evidence-based mental health and behavioral education designed to help youth develop empathy for others, learn how to make decisions, problem solve, resolve conflict, advocate for themselves in an appropriate way, develop self-esteem, and identify and handle their emotions. It should start with Pre-K and continue through 12th grade.

## **CHAPTER 13. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT**

The lack of information sharing among the various stakeholders responsible for school safety was one of the most severe systemic failures identified by the Commission leading to the MSDHS shooting. Further, law enforcement not having live, real-time access to the security camera system at MSDHS caused a delay in the law enforcement response to Building 12; SWAT clearing of Building 12; apprehension of Cruz; and medical attention for third floor victims.

Some individuals and organizations often cite privacy laws as the reason that they do not share relevant student information with their counterparts. These laws are also cited for the reason not to share or allow access to school security camera systems. The refusal to share information is sometimes the result of people and organizations not having an accurate understanding of the privacy laws and their applicable exceptions, and other times, those privacy laws are used as an excuse to not share information. In other instances, a specific decision is made to call everything an “educational record” in order to avoid developing rules and procedures for access to records.

### **THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT**

The Family Educational Rights and Privacy Act (FERPA) is the privacy law most frequently cited by school districts as the reason they “cannot” share information regarding students. The Commission heard testimony about FERPA during its 2018 meetings and the initial report identified that “it is evident that there is significant misunderstanding and over application of several privacy laws, including FERPA and HIPAA. The misunderstanding and over-application of privacy laws is a barrier to necessary and successful information sharing.” The Commission also found that “it is unclear what actually constitutes an educational record under FERPA, including whether recorded video surveillance is an educational record.”

In order to gain a better understanding of FERPA, at the Commission’s August 2019 meeting, Pamela Hepp, outside counsel for the Florida Department of Education who specializes in education law, provided an overview of FERPA. Ms. Hepp included in her

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presentation information about a recent guidance issued by the United States Department of Education regarding sharing of educational records with law enforcement and Threat Assessment Team members (the “Guidance”).

As a general matter, FERPA provides parents and eligible students (i.e., those who are age 18 or older or who attend or have attended a post-secondary education institution) with the right to control or limit disclosures of the student’s educational record, the right to inspect such information and to challenge the information contained in such records by seeking an amendment to the record. FERPA does not provide a private cause of action for violations, and the only sanction for a violation is the withholding of federal funds to a school district by the US Department of Education. Congress enacted FERPA 40 years ago, and to date there are no known instances where the US Department of Education has withheld funds from an educational agency or institution as a result of a FERPA violation. While there is no private cause of action under FERPA, Florida law does provide for a private cause of action, and, generally speaking, individuals may be able to sue under a common law right to privacy theory; however, to be successful the individual must show some harm as a result of such a violation.

The vast majority of records held by an educational institution constitute education records that are subject to FERPA. Such records are not limited to academic records such as grades, course schedules, accommodation requests, disciplinary records, immunization records, tuition or payment related information, but may also include health or mental health records, photos and video surveillance footage, depending on the circumstances under which they were acquired. Often, a request for records is met with an “automatic” response that the records cannot be disclosed because of FERPA. Educational institutions sometimes provide this response because the analysis is complicated so “no” is an easy answer, or there may be confusion because of the complexity of the law and its exceptions.

### **FERPA APPLICATION TO THREAT ASSESSMENT TEAMS**

FERPA is flexible and permits disclosure or sharing of information by schools to and with law enforcement in a number of situations. In February 2019, the US Department of Education issued new guidance with Frequently Asked Questions for School Resource

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Officers, School law enforcement units and FERPA. The Guidance addresses various questions regarding access to or disclosures from “education records” and “law enforcement unit records,” while also distinguishing between these two types of records.

With respect to education records, the USDOE Guidance acknowledges that FERPA provides flexibility for schools to disclose Personally Identifiable Information (PII) from student education records in certain limited situations to advance school safety and security. The PII may be disclosed to “school officials,” and that disclosure may include School Resource Officers (“SROs”), members of Threat Assessment Teams (“TATs”), including law enforcement officers on the team, and outside third parties, including outside law enforcement under certain circumstances. As a general rule PII contained in an education record can be disclosed with the consent of the parent or eligible student or if the disclosure meets one of 16 exceptions, including disclosures: (a) to “school officials” with legitimate educational interest, (b) for health and safety reasons, or in response to a valid subpoena or court order.

“School officials” who have a legitimate educational interest in the information may access information contained in an education record, but can use the information only for the purpose for which the disclosure was made – e.g., by a TAT member for purposes of threat assessment or to promote school and student safety and security. Curiosity or seeking information for personal reasons (for example, snooping into records of a neighbor or relative) would not constitute a legitimate educational interest.

Members of a TAT, such as law enforcement officers or mental health professionals may be considered “school officials” who may access a specific record for a legitimate educational reason, and need not be employees of the school, provided they: a) perform a function or service for which the school would typically use employees; b) under the direct control of the school with respect to use and maintenance of the records; c) subject to FERPA prohibitions against disclosure or re-disclosure (i.e., re-disclosure requires the parent/student’s consent or an exception applies); and d) meet the criteria specified in the school’s FERPA notice.

## CHAPTER 13. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

A law enforcement officer serving on a TAT who has access to information contained in a student's education record is subject to FERPA's restrictions on re-disclosure. This is probably one of the hardest requirements of the law for law enforcement officers to understand apply because it generally prohibits them from sharing information learned with superiors and colleagues. The TAT member officer must have an applicable FERPA exception to share student record information. To that end, a TAT member officer may re-disclose the information to outside law enforcement if the officer has the parent's or child's consent; in response to a court order or subpoena; or in connection with an emergency if necessary to protect the health or safety of students or others. With respect to emergencies, there must be a reasonable determination that there is an articulable and significant threat to the health or safety of students or others based on a totality of the circumstances. Such a threat must be specific enough as to time, place and manner of acting. Moreover, access to the shared information must be limited to the period of the emergency and cannot be unlimited or ongoing.

The FDOE guidance gives some additional information concerning when a health and safety emergency may exist and who determines that an emergency is present. The guidance is clear that the determination must be made on a case by case basis and that an "articulable threat" is one that a school official is able to explain, based on the information available at the time as to what the threat is and why it is significant. While the school is ultimately responsible for making the determination whether the exception applies to any given situation, schools may, at their discretion, grant non-employees (officers) authority to make or assist the school in making such determinations. The U.S. Department of Education will not second guess a school's reasonable determination that such a threat warranted disclosure.

### **LAW ENFORCEMENT UNIT RECORDS VS EDUCATION RECORDS**

Education records subject to FERPA are different than "school records" of a school "law enforcement unit" that are not subject to FERPA. Specifically, education records do not include school records maintained by a "law enforcement unit" that were created by the law enforcement unit and for law enforcement purposes. Accordingly, unlike education

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records, law enforcement unit records may be re-disclosed to other law enforcement officers without parent/student consent or the need for any FERPA exceptions because they are not covered by FERPA. Note, however, that all three criteria must exist in order for the record to constitute a law enforcement unit record (created, maintained and used).

A “law enforcement unit” means any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by that agency or institution to: a) enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself; or b) maintain the physical security and safety of the agency or institution.

While a school law enforcement unit has the advantage of being able to freely re-disclose information contained within law enforcement records, there are still limits on their ability to access a student’s education record—they have to have independent authority for educational record access. This means that school law enforcement units may access information contained in a student’s education record with the consent of the parent or eligible student, or they have to fit within the definition of a “school official.” If the officer is wearing the “school official” hat, then the school must have control over his access and disclosure of the records. The Guidance gives the example that a city police officer serving as a member of a school’s TAT cannot give his police department information to which he was privy by virtue of his role on the TAT absent consent or another FERPA exception.

Some small schools designate a principal or other school official to serve as the “law enforcement unit” to act as a liaison to refer an issue to outside law enforcement. In the alternative, a school may contract with outside third parties to perform the school’s law enforcement function. Regardless of how structured, a school has flexibility in deciding how to carry out safety functions. But the school must indicate to parents in its school policy or FERPA notice to parents which office or school official serves as the school’s “law enforcement unit” in order for the records of such persons or groups to constitute law enforcement unit records and not education records.

SROs or other members of law enforcement could serve both in a school's law enforcement unit as well as on a TAT and function as a school official. However, SROs or TAT members are not automatically deemed "school officials" but must meet the criteria of a school official and be designated as such in the School's FERPA notice and policy. If officers are school officials, they may then access PII from a student's record without consent to perform their professional duties and assist with school safety. The Guidance gives the example that if a student is expelled from school, the principal can disclose the student's disciplinary record to law enforcement unit officials so that they know the student is not permitted on campus. The PII from the student's record continues to remain subject to FERPA and can only be re-disclosed to the local police department with consent or as otherwise permitted under FERPA. However, the law enforcement unit record that does not include information obtained from the education record can be re-disclosed, so information obtained by the law enforcement unit from the education record should not be stored in the law enforcement record to avoid potential impermissible re-disclosure. Similarly, information provided by a law enforcement unit to the school for disciplinary purposes does not lose its status as law enforcement records, but the copy of such information when maintained by the school or school official constitutes an education record. Said differently and taken as a whole, information can serve two purposes and be housed in two different records, a law enforcement record and an education record.

### **VIDEOS AND PHOTOS**

The Guidance, as well as FAQs on Photos and Videos Under FERPA are insightful as to how FERPA may apply to video surveillance camera recordings and supports the conclusion that video recordings can similarly serve two purposes and be housed in both a law enforcement unit record and an education record.

Video surveillance recordings or photos may constitute an education record if such recording is directly related to a student and maintained by an education institution. Such recordings may constitute education records if the student is the focus of the recording – such as where it is to be used for disciplinary action - and the recording is maintained by the school and NOT the law enforcement unit of the school.

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However, video surveillance taken for purposes of school security will generally not constitute an education record. Specifically, the FAQs along with the Final Report of the Federal Commission on School Safety, presented to the President of the United States by the US Department of Education, US Department of Homeland Security, US Department of Health and Human Services and the US Department of Justice make clear that if a school's law enforcement unit, such as a school's security department or campus police, maintain the school's surveillance video system for a law enforcement purpose, the videos are not education records and can be shared with outside law enforcement as well as with another component of the school for education purposes such as in connection with disciplinary action. Smaller schools without a security department could designate a school official such as the vice principal to serve as the school's law enforcement unit for such purpose and maintain the videos as a "law enforcement record."

Moreover, the FAQs and Guidance, when taken as a whole, support the position that dual records may be maintained, particularly where the video is captured, recorded and maintained for a law enforcement purpose and then shared with the school for disciplinary reasons. The FAQs provide that "To be considered an education record under FERPA, an educational agency or institution, or a party acting for the agency or institution, also must maintain the record. Thus, a photo taken by a parent at a school football game would not be considered an education record, even if it is directly related to a particular student, because it is not being maintained by the school or on the school's behalf. If, however, the parent's photo shows two students fighting at the game, and the parent provides a copy of the photo to the school, which then maintains the photo in the students' disciplinary records, then the copy of the photo being maintained by the school is an education record." By analogy, a recording taken and maintained by the school's law enforcement unit for a law enforcement purpose could be provided by the law enforcement unit to the school for purposes of disciplinary action, and the copy of the record maintained by the school would constitute an education record but the copy maintained by law enforcement does not lose its status as a law enforcement record.

Also note that FERPA applies to tangible records and information derived from tangible records. As has been noted by the US Department of Education, "FERPA does not prohibit a

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school official from disclosing information about a student if the information is obtained through the school official's personal knowledge or observation, and not from the student's education records. For example, if a teacher overhears a student making threatening remarks to other students, FERPA does not protect that information, and the teacher may disclose what he or she overheard to appropriate authorities.”

Based on this same principle, a live video feed would constitute personal observation that could be freely re-disclosed by whoever sees the live feed. Only the recording of the video surveillance would constitute a record that would constitute either an education record of the school subject to FERPA, or a law enforcement unit record that is not subject to FERPA.

In summary, if a record is an education record – directly related to a student and maintained by or on behalf of the school, the information can be disclosed to an SRO or TAT LEO, and can then be re-disclosed with consent, per a court order or in the event of an emergency. In this situation, the SRO or LEO must meet the definition of a school official - i.e., he or she must have a legitimate educational interest in the information, must be under the control of the school with respect to access and use of the information, subject to such re-disclosure limitations and meet the criteria contained in the school’s FERPA notice. Practically speaking it would be difficult to name an entire police department as a school official for this purpose. However, the school could designate a vice principal or other individual to serve as the law enforcement unit that retains the actual recording.

If the record is a law enforcement unit record – the information can be used and re-disclosed to others within law enforcement. While it is not clear, the definition of law enforcement unit would seem to allow an entire police force to meet that definition, provided it is defined that way in the FERPA notice. Information from the law enforcement unit record pertaining to events occurring on school property can be shared with the school, and if then used for disciplinary purposes, the copy that is maintained by the school also becomes a disciplinary record but the copy retained by the law enforcement unit continues to retain its status as a law enforcement unit record.

Finally, there is nothing that would preclude a split video feed that could be maintained by both the law enforcement unit and the school for dual purposes. In the alternative, it

appears that many schools may have a dual feed, but law enforcement only accesses the live feed on their end if there is an articulable health or safety emergency. For maximum flexibility, schools should include language in their FERPA notice that describes TAT members as meeting the definition of a school official who may access education records for legitimate educational purposes, as well as defining the School's law enforcement unit.

**FINDINGS:**

1. FERPA and other privacy laws are important to ensure the protection of individual privacy interests. However, these laws, including FERPA, are often misunderstood, over applied and their exceptions under applied.
2. When FERPA and other privacy laws are misapplied and/or their exceptions under applied, it adversely affects school safety because such actions prohibit access to necessary information.
3. Some law enforcement officers and agencies misunderstand FERPA and its exceptions and erroneously believe that they are entitled to receive, without restriction, otherwise FERPA protected information. Disclosure of FERPA protected information under applicable exceptions requires a case-by-case analysis and determination and private information cannot be wholesale released to law enforcement. Like school personnel, law enforcement needs training to better understand the applicable laws and exceptions.
4. The first determination is whether FERPA applies—whether information held by an educational institution is an “educational record” within FERPA’s definitions. If it is, then it requires a determination whether the educational record fits within one of FERPA’s exceptions allowing disclosure.
5. Some school districts improperly cite FERPA to deny law enforcement agencies live, real-time access to school security video that is essential to effectively responding to an on-campus active assailant or other emergency situation.

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6. SROs are “school officials” under FERPA and as such are entitled to access student records as part of their duties in that capacity.
7. SROs may not disclose FERPA protected information to other officers unless the health and safety or another applicable FERPA exception applies.

### **RECOMMENDATIONS:**

1. FDOE should prepare and present comprehensive FERPA and other privacy law training to all school district, school board and law enforcement legal counsel.
2. The Legislature should require that Florida Safe School funding to be tied to the lawful real-time access to school security video by law enforcement agencies and the proper sharing of videos and photos by school districts with law enforcement. In order for a district to receive Safe School Funds the district must:
  - have agreements that enable the law enforcement agencies that serve and respond to incidents on the campus with access to school video feeds, if the law enforcement agency has the desire and technological capacity to receive the video fee; and
  - require their legal counsel and administrators attend FERPA training workshops developed by FDOE.

## GLOSSARY OF TERMS

**Active Shooter:** An individual using a firearm in an ongoing event to wound or kill persons usually in a public area, office, school, church or commercial location.

**Active Shooter Policy:** The standing order for law enforcement officers on their duty and how to respond when an individual is firing a weapon at victims.

**Active Shooter Training:** The training associated with events related to an active shooter event.

**AR-15:** A type of semi-automatic rifle.

**Assistant Principal (AP):** The deputy or second-level administrative position at a school.

**Campus Monitor:** An employee of the Broward County school system that is unarmed and assigned general duties including observation and reporting related to on campus activities.

**Baker Act:** An evaluation of an individual by law enforcement and mental health professionals that identifies individuals immediately at risk for self-harm or harming others.

**Body-worn Camera or Body Camera (BWC):** An audio-video recording device worn by law enforcement officers.

**Breaching tool:** A device utilized by law enforcement to defeat the locks on doors in order to force entry.

**Broward County Sheriff's Office (BSO):** The law enforcement agency reporting to the elected sheriff established under the Florida constitution.

**Building 12 (The freshman building):** The three-story classroom building on the Marjory Stoneman Douglas Campus in which the targeted attack occurred on February 14, 2018.

**Bump Stock:** An after-market device that can be added to a semi-automatic rifle that increases its rate of fire.

## GLOSSARY OF TERMS

**Captain:** A senior supervisor in a law enforcement agency above the level of lieutenant.

**Chief:** A title for a member of the command staff of a law enforcement organization.

**Code Red:** The alert that warns administrators, teachers and students that an attack is occurring which requires the campus to lock down and students not in safe areas to flee.

**Command Post:** The physical location at which the equipment and the incident commander is located.

**Computer-aided dispatch (CAD):** The method of dispatching and recording the dispatch of emergency services aided by computer hardware and software.

**Crime Suppression Team (CST):** A specially trained law enforcement unit with the ability to respond to violent situations.

**Deputy:** A sworn law enforcement officer.

**Deputy Chief:** A command staff position in a law enforcement agency below the level of chief.

**Detective:** A sworn law enforcement officer assigned investigative duties.

**Dispatcher or Dispatch:** The individual at a law enforcement base station or a 911 center that is listening to and broadcasting information to law enforcement or other first responder personnel.

**Drywall:** Common wall construction made up of panels of matrix material held in place by wood or metal supports.

**Emergency Medical Services (EMS):** Paramedics, ambulances and other medical resources that respond to emergencies and then transport victims to hospitals.

**Exceptional Student Education (ESE):** Federal and state educational programs for students aged 3 to 21 that have certain disabilities or are gifted.

## GLOSSARY OF TERMS

**Family Educational Rights and Privacy Act (FERPA):** a federal law that protects the privacy of student educational records.

**Florida Education Finance Program (FEFP):** The funding formula that is adopted annually by the Florida legislature that allocates funding to county school districts.

**Fire Alarm Panel:** The centralized base panel that is attached to remote fire alarm sensors that provides information on the location and type of the alarm.

**Florida Congressional Delegation:** Refers collectively to the elected members of the United States House of Representatives and United States Senate that represent the citizens of the State of Florida.

**Florida Identification Card:** An official card issued by the State of Florida that provides identification including age in lieu of a driver's license.

**Florida Safe Schools Assessment Tool (FSSAT):** A mandatory mechanism required by state law by which the school districts conduct and report physical site security assessments.

**FortifyFL:** A statewide app that facilitates public reporting of school security concerns to law enforcement and school districts.

**Global Positioning System (GPS):** An electronic device that identifies a specified physical location by latitude and longitude.

**Glow Stick:** A small tube that can be carried and caused to glow in different colors, utilized to mark a location.

**Hard Corner:** The part of a classroom or other school space that cannot be observed from outside of the room when the door is locked.

**Health Insurance Portability and Accountability Act (HIPPA):** A federal law that protects the security of certain patient health information.

**Hot Zone:** An unsafe area in an active shooter event.

## GLOSSARY OF TERMS

**Improvised Explosive Device (IED):** A homemade bomb.

**Individual Education Plan; 504 Plan (IEP):** A plan prepared by professionals, the student and the student's parents that sets out goals and mechanisms to achieve those goals for a student involved in Exceptional Student Education programs.

**Interoperability:** The capacity for different agency radio systems that allows the agency personnel to talk to each other.

**Junior Reserves Officer Training Corps (JROTC):** A youth development high school program sponsored by the U.S. Department of Defense.

**Juvenile:** Defined in the criminal justice system as a person less than 18 years of age.

**K9:** A specially trained dog that works with a sworn police officer to form a team used in law enforcement activities.

**K-12:** The public and private school system including kindergarten through twelfth grade.

**Leakage:** Identified by the United States Secret Service, the term identifies the phenomena of telling, posting online or writing by an attacker about an attack in advance.

**Lieutenant (Lt.):** A supervisory position in a law enforcement agency above a sergeant and below command staff.

**Long gun:** A term for a rifle.

**Mass Casualty Incident (MCI):** A designation applied to an event where multiple persons are injured or killed.

**Medic; SWAT medic; TAC medic:** An individual trained and certified in advanced first aid, able to apply life saving techniques in field settings under difficult conditions.

**Memorandum of Understanding (MOU):** An agreement between two or more agencies that assigns responsibility for activities between the agencies.

## GLOSSARY OF TERMS

**Marjory Stoneman Douglas Public Safety Commission (MSDPSC):** Twenty-person commission established in Florida law to study and report on the Marjory Stoneman Douglas High School shooting and other mass violence incidents.

**Marjory Stoneman Douglas High School (MSDHS):** The high school in the Broward County Public School system that came under attack on February 14, 2018, resulting in the deaths of 17 persons and the wounding of 17 others.

**Office of Safe Schools (OSS):** A division of the Florida Department of Education.

**Officer:** A sworn police officer.

**Patch:** An electronic system that allows two or more different law enforcement radio systems to cross-communicate.

**Preventing Recidivism through Opportunities, Mentoring, Interventions, Supports and Education (PROMISE):** A program designed to reduce school-based arrests for minor offenses and provide second chances to school-aged children.

**Principal:** The senior-most administrative official in a school.

**Public Access Line (PAL):** A system operated by the United States Federal Bureau of Investigation that provides around-the-clock opportunity for the public to report concerns.

**Public Address System (PA):** A system of interconnected microphones and speakers that allows information to be widely broadcasted.

**Rescue Task Force (RTF):** An ad-hoc group of trained medical personal that provide initial on-scene medical care in the hot and warm zones of a mass casualty event.

**Safe Schools Allocation:** An amount of funds set aside in the State of Florida budget that is allocated to county school systems.

**Student with Emotional/Behavioral Disabilities (SEDNET):** Multiagency network that creates and facilitates a network of key stakeholders committed to assisting in the care for students with or at risk of emotional and/or behavioral challenges.

## GLOSSARY OF TERMS

**Sergeant:** A supervisory law enforcement position.

**School Environmental Safety Incident Reporting System (SESIR):** A mechanism for schools in Florida to report crime, violence and disruptive behaviors on school grounds and transportation.

**School Radio:** A radio system used by school personnel to exchange information with each other consisting of portable devices and a base station.

**School Resource Officer (SRO):** A sworn law enforcement officer assigned to work on a K-12 school campus.

**Security Specialist:** A non-sworn unarmed employee of the Broward County School system assigned general security duties.

**Special Weapons and Tactics (SWAT):** A unit of a law enforcement agency that receives specialized training to carry out duties related to specific types of events.

**Tactical Operations Center (TOC):** A specialized command post to guide tactical police operations.

**Targeted attack:** A violent event planned and carried out with weapons and/or explosive devices by one or more persons, frequently resulting in the wounding of individuals and loss of life.

**Threat Assessment Team (TAT):** a program required in every Florida school that is to identify and ameliorate threats from students.

**Throttling:** A technical term that is applied when a radio system is degraded because it has more transmissions occurring than it can handle.

**Tourniquet:** A medical device utilized to stop bleeding on an arm or leg.

**Triage area:** An area designated at the scene of a casualty event for first aid and for determining order of patients dispatched to hospitals.

## GLOSSARY OF TERMS

**Uber:** A service that provides customers a ride from point to point, similar to a taxicab service.

**Vest or Ballistic Vest:** Protective gear worn by law enforcement officers on the upper body.

**Warm Zone:** A clear, but not secure, area in an active shooter event.

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