

Even though, pre-COVID, [children spent about 20 percent of their waking hours](#) in school,¹ the [percentage of youth homicides occurring at school](#) each year has been less than three percent since the early 1990s, indicating that schools are actually the safest place in which students spend their waking hours. But research has found that school shootings generate [considerable and disproportionate media attention](#), generating urgency on the part of school officials and policymakers to take action that might prevent these tragedies. Increasingly, action means implementing a form of “threat assessment.”

Since the Parkland school shooting tragedy, the U.S. Secret Service “National Threat Assessment Center” (NTAC) – under the Trump Administration and early in Biden’s Administration – has released three publications on school “threat assessment”². These publications (and accompanying federal trainings and technical assistance) send education leaders an optimistic message that they are eager to hear: we can prevent school shootings and other targeted school violence if every school in the nation assesses threats potentially posed by students with the help of law enforcement.

But this message is NOT true, and the “threat assessment” approach is further embedding a massive law enforcement infrastructure in our schools – contributing to a prison-like environment in what should be a sanctuary of learning. Further, the ballooning of this approach across the country is blithely ignoring the severe negative consequences of the approach, including harm to children of color and children with disabilities.

The approach is based on research done by Dewey Cornell (at the University of Virginia) and colleagues, evaluating the approach that Dewey Cornell developed and that he has, for years, made his livelihood advancing. One argument he and others have advanced for the use of threat assessment is that it helps connect students to needed services. The reality is that there are other methods in place to do this, including school counselors, “child find” through the Individuals with Disabilities Education Act (IDEA), and screenings through Medicaid’s Early and Periodic Screening, Diagnosis and Treatment (EPSDT). However, there are not sufficient service providers to meet students’ needs. The real problem is the lack funding for and availability of community-based services to assist students in need. “Referrals to nowhere” do not help children and families or school safety. There is no evidence in Dewey Cornell’s research of any actual help being provided to students who are named as potential “threats”.

Further, these “threat assessments” are operating beyond any oversight – that is, there are NO publicly-reported data on or accountability requirements for “threat assessments”. There are no requirements for any due process notice to students and/or parents, or opportunities to respond – and the “threat assessments” are

¹ Approx. 1080 hours in school; approx. 5,475 waking hours per year (7am to 10pm).

² [Averting Targeted School Violence](#) (March 2021); [Protecting America’s Schools: A U.S. Secret Service Analysis of Targeted School Violence](#) (November 2019); and [Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence](#) (July 2018).

subverting established special education services and legal protections for students with disabilities, as well as other legal protections for marginalized students.

LET'S LOOK AT RECENT RESEARCH ON "THREAT ASSESSMENT"

Let's start with info from Dewey Cornell's own recent National Institute of Justice-supported study.³

- Law enforcement officers served on all "threat assessment" teams.
- The sample -- cases referred for "threat assessment" -- consisted of 1,865 "threat assessment" cases reported by 785 elementary, middle, and high schools in Virginia, with students ranging from pre-K to grade 12, including some very young students; the greatest number of "threats" (11%) were made by 4th graders and 5th graders (11%).
- Students receiving special education services were 3.9 times more likely to be referred for "threat assessment" than those not receiving special education services.
- The proportion of Black students referred for "threat assessment" was 1.3 times (i.e., 30%) higher than the proportion of White students.
- Approximately two-thirds of "threats" were classified by the school teams as either "Low Risk" or "Transient".
- However, schools reported disciplinary actions in 71% of "threat assessment" cases.
- 3% of "threats" were judged by schools to have been averted when a student attempted to carry them out. All of these cases involved an attempted battery or attempted stabbing. There was no report of a shooting that was attempted and averted.
- While there was data on students being referred for services, there was no data on rates of students actually receiving services.

So, in 1,865 "threat assessments", there was no report of a shooting that was attempted and averted, and no proof of any services provided that students needed. Taking all of this information from Dewey Cornell's own recent study – which is consistent with his prior studies on these points – along with pre-COVID data on school shootings – that about [two percent of homicides of children aged 5-18 occur in schools](#) – it is a waste of hundreds of millions of federal, state and local tax dollars that have been pouring into police in schools, "threat assessments", school hardening, student surveillance, and the like.

As an analogy: what if we decided we really wanted to prevent brain tumors. And we recognized the association between headaches and brain tumors. So we paid trillions of dollars to have everyone who ever had a headache to get a CT-scan (a type of x-

³ May 2021 Student Threat Assessment: Virginia Study Finds Progress, Areas To Improve; press release is at

<https://nij.ojp.gov/topics/articles/student-threat-assessment-virginia-study-finds-progress-areas-improve>

Full report is at

<https://www.ojp.gov/pdffiles1/nij/grants/255102.pdf> NOTE: One must dig through the full report to get the above info; the "Executive Summary" (which is really a press release) skips or minimizes key points, above, including skipping any data re: the group of students referred for "threat assessment" being disproportionately Black students and students with disabilities.

ray). But we ignored the harms from excessive x-rays: elevated cancer risks. We would be spending a huge amount of money, possibly finding some additional brain tumors, but in the meantime causing more cancer in the larger population. That's a good analogy to the "threat assessment" industry, with government ignoring the harms from "threat assessment", especially to large numbers of children with disabilities and children of color.

SO WHAT ARE "THREAT ASSESSMENTS" AND "RISK ASSESSMENTS"?

"Threat assessments" vary widely, but typically involve a small group of school personnel, including a school police officer, discussing a student whom someone has identified as a potential "threat." Such a "threat" could be a student talking back, a young student forming their hand in the shape of a gun, a student's history of minor misbehaviors, or a concern about dysfunction in a student's family. Sometimes the "threat assessment" group will speak with students and staff, sometimes they answer pre-determined questions on a form. Using whatever data they gather, the group draws a conclusion about whether the child presents a "threat."

A related practice is the use of "risk assessments." Under this practice, a school district informs a parent that they must obtain an evaluation by an approved outside provider (sometimes at parent cost and sometimes a school district contractor) who will ensure that the child is not "risky" in order for the student to return after misbehavior.

This practice turns the entire Constitutional requirement for due process on its head as the burden is placed on the family to prove safety, instead of on the school district to prove that a child has violated a school rule worthy of removal. In addition, there is every incentive for an evaluator to err on the side of caution and deem a child "risky" rather than take the chance that the child will do something dangerous later on, which results in false positives.

Further, in many cases the parent cannot afford to provide an outside evaluation, so the child remains out of school due to cost. Public school is required to be free. Lastly, these processes are illegal when a child is special education eligible, because they circumvent the IDEA's due process and disciplinary protections. They suffer from the same lack of standards and practitioner qualifications, subjectivity and opportunity for explicit and implicit bias as threat assessments.

These "threat assessments" and "risk assessments" may be well-intentioned efforts to fight statistically rare but horrifying school shootings, but their effects are likely pushing many children of color and children with disabilities out of school, into the school-to-prison pipeline and the school-to-deportation pipeline. Yet this risk has been ignored by federal agencies (the [U.S. Department of Justice](#), and – during the Trump Administration – by the [U.S. Department of Education](#)), as well as by states and most school districts.

JAMARI NELSON'S CASE SHOWS WHAT CAN GO WRONG

A pre-COVID ["Searchlight NM"](#) article highlights the case of Jamari Nelson, a 50-pound African American first grader with autism. By law, his school should have had a

Behavioral Intervention Plan (BIP) in place to guide school staff on how to prevent and respond to problem behaviors related to his disability. But by January 2019, no such plan was in place, even months after Jamari’s parents had shared his diagnosis with the school.

On January 22, a teaching assistant told Jamari to turn off his game. When he failed to comply, she grabbed the tablet out of his hands, and Jamari’s reactions to strong sensory stimulation immediately kicked in. Had a BIP existed for Jamari, it would have predicted these disability related behaviors, and showed the aide how to head them off. But that didn’t happen.

Instead, overwhelmed Jamari picked up some pencils and tried to jab the teaching assistant. Another adult intervened and tried to physically restrain Jamari. He bit her, and then hit a teacher on the head with a whiteboard.

“Everybody back up and nobody gets hurt,” said Jamari, the 50-pound first grader with autism. At one point, Jamari was on the ground, flailing; as the school counselor got close to him, she was kicked in the head. Jamari kept yelling that he just wanted to be alone.

The next day, a threat assessment concluded—with no information taken from or given to Jamari’s parents or the experts that work with him—that Jamari was a “high level” threat to the school. He was not permitted to return to school due to this predictable and preventable event.

In another world – a world in which funding is supporting evidence-based behavior approaches in schools including appropriate special education measures – Jamari would have had a BIP that ensured he was given multiple notices of an upcoming change in activity, along with timeframes, as well as instructions to staff NOT to grab things from him and NOT to restrain him. The staff would be trained to work with him in a manner consistent with his sensory needs. The BIP would also include calming techniques to use if he becomes agitated. As for the school-shooting-and-serious-violence-prevention goal of threat assessments, was Jamari really THAT kind of threat? Clearly, no.

HOW WE GOT HERE ON “THREAT ASSESSMENTS”

In 2013, [Virginia](#) became the first state to develop [a threat assessment approach](#) based on Dewey Cornell’s work. After the 2018 Parkland, Florida school shooting, many states passed laws adopting threat assessments, including [Florida \(2018\)](#) and [\(2019\)](#); [Maryland \(2018\)](#); [Colorado \(2018\)](#); [Kentucky \(2019\)](#); [Pennsylvania \(2019\)](#); [Rhode Island \(2019\)](#); [Tennessee \(2019\)](#); [Texas \(2019\)](#); and [Washington \(2019\)](#). Some states, like [Idaho](#), don’t require threat assessments by law, but encourage them through training and guidance.

Since Parkland, the federal government has enthusiastically pushed adoption of threat assessments and related law enforcement involvement in schools through reports, legislation and resources, as noted above, including through the federal STOP School

Violence Act of 2018 (enacted as [P.L. 115-141](#), Division S, Title V; see the recent [COPS office funding availability](#) and recent [BJA office funding availability](#)).

Due to these federal and state developments, “threat assessments” were spreading like wildfire pre-COVID. Now, more and more schools are again open for in-person learning, and more and more students are returning after experiencing substantial additional traumas and substantially less treatment and services. This may be expected to contribute to increased behavioral issues, which should be addressed through evidence-based therapeutic and positive behavior approaches... But these issues may just be met by more “threat assessments” and police in schools. These “threat assessments” are likely to target large numbers of children who aren’t actual threats—including disproportionate numbers of children of color and children with disabilities—and cause them significant and lasting harm, while doing little or nothing to increase safety in schools. In addition, they may refer children to services that do not exist.

MULTIPLE THREATS OF “THREAT ASSESSMENTS”

Threat assessments can go awry in five major ways:

- Inappropriate triggers.
- Procedural flaws.
- Unjust consequences for students.
- Racial and disability disparities in application.
- Violations of student privacy.

Unfortunately, threat assessments can be triggered by unreliable, [anonymously reported “threats,”](#) that may be subject to interpretation or lack any factual basis. Threat assessments can also be triggered by normal child behavior—an attempt at humor, or acting out in temporary frustration—that poses no sustained threat of substantial harm with any defined target, timing, means and motive.

It’s also important to note that threat assessments can be triggered simply by profiling a student due to demographics, personal characteristics, or history of delinquency or other problems. Although the U.S. Secret Service reports found student profiling to be ineffective, the reports still identified demographic and personal/family characteristics and history as school shooting factors, and thus, in reality, the reports encourage such profiling.

After a threat assessment is triggered, the process of conducting it can involve inappropriate processes, including ignoring basic investigation and evidence-gathering techniques. Threat assessments also typically ignore the basics of legally-required due process and requirements of special education law, including the input of experts who work with the child and the child’s IEP (Individualized Education Program) team.

“Threat assessments” also usually lack any external or third-party review. Procedural problems like these can result in sloppy investigations and false positives that leave students and families with little recourse to fight back.

Once a threat assessment is conducted, it can have inappropriate consequences, including labeling a student as dangerous and stigmatizing them among school personnel. In fact, nascent research suggests merely going through the threat assessment process causes [trauma to the child](#).

Threat assessments can also lead to inappropriate school disciplinary action, inappropriate arrest or referral to law enforcement. And there can be major disparities for children with disabilities and children of color, as described above from Dewey Cornell’s own research, and in the [Searchlight NM article](#).

“Threat assessments” can result in inappropriate sharing of existing personal educational records with law enforcement – privacy violations – and can create new disciplinary and/or law-enforcement records with no time limit or opportunity to purge those records. Further, threat assessments can impact whole families by affecting immigration, custody, public benefits and child protective services for parents, siblings and other family members. Also, any time a child is home from school, there is likelihood that a parent can no longer work full-time, or a child, including a child deemed a “threat”, is left unsupervised in the community. For this reason alone, school removals should be used only when absolutely needed.

It’s important to note that, typically, no data is reported regarding schools’ threat assessments. All of that, together, makes for a secretive process with information flowing in, little or no transparency, and little or no accountability.

IS THERE A BETTER PATH TO STUDENT SAFETY?

While a justification used for “threat assessments” may be getting a child needed supports, this explanation rings hollow, since there’s no evidence of services and supports being provided. Schools can use more appropriate processes to offer student supports, with less risk of harm. That’s why we need to utilize Child Find and resulting requirements for services under the [Individuals with Disabilities Education Act](#) (IDEA), multi-tiered systems of support, ESPDT, counselors, social workers, etc.

And while student reporting of potential school shooter threats to school staff could avert some school shootings, [research indicates](#) that such reporting is actually hindered by the punitive and criminalized school environments that have been created in the past couple of decades. “The lack of positive bystander behavior on the part of students likely reflects increasingly punitive and criminalized school environments that erode trusting relationships between students and school staff members.”⁴

⁴ Averting School Rampage: Student Intervention Amid a Persistent Code of Silence
https://www.researchgate.net/publication/273633401_Averting_School_Rampage_Student_Intervention_Amid_a_Persistent_Code_of_Silence

So the government should be investing resources in advancing what works: supportive, welcoming school communities with trusted, culturally-responsive adults in the school – teachers, counselors, social workers, special education behavioral support staff, etc. – who can build relationships with all of the children in the school, and implement approaches like Positive Behavior Interventions and Supports, Restorative Justice, and the like.

WHAT SHOULD THE FEDERAL GOVERNMENT DO NOW?

Threat assessments have been “sold” as the chicken soup of school shootings—as was the case with the sale of opioids: “they can’t hurt, and they should help.” That turned out to be tragically wrong, with downsides of widespread use far outweighing any upsides. On opioids, it was a full-blown human health catastrophe before it began to be curbed; let’s not wait that long on threat assessments.

For all of the foregoing reasons, the undersigned 50 national, regional, state and local organizations call upon the US Department of Education to:

- provide immediate leadership in the Administration, including with the US Department of Justice and the US Secret Service NTAC, raising concerns about harms to children – especially children of color and children with disabilities – from “threat assessments” and ending further dissemination of federal funding and informational resources that further advance this harmful approach;
- ensure that, as soon as possible, the Civil Rights Data Collection (CRDC) begins to collect data on “threat assessments”, including the numbers and demographics of the children referred, the numbers and demographics of any resulting discipline and/or law enforcement responses, the numbers and demographics of children who are referred for any therapeutic or otherwise helpful services, and the extent to which the services were actually provided to children who are referred for services;
- ensure that investigations are conducted of disparities for children of color and children with disabilities resulting from “threat assessments”, to determine any violations of anti-discrimination laws; and
- maximize federal funding, publications, training and technical assistance to advance dissemination of effective behavioral approaches in schools, including community based mental health services, school counselors who may work with students and refer them to locally available services, staff training, and others – see, e.g., “Alternative Disciplinary Approaches” in the U.S. Commission on Civil Rights report, [“Beyond Suspensions: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities”](#) (July 2019).

Respectfully submitted,

Association for Special Children & Families
Association of University Centers on Disabilities (AUCD)
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for Disability Rights
Center for Popular Democracy
Communities for Just Schools Fund
Council of Parent Attorneys and Advocates
Dignity in Schools Campaign
Disability Rights Center - NH
Disability Rights Education & Defense Fund (DREDF)
Disability Rights Maryland
Disability Rights Tennessee
Education Law Center
Education Law Center-PA
Family Equality
Family Voices NJ
Fannie Lou Hamer Center For Change
Federation for Children with Special Needs
Georgia Coalition for Public Education
Georgia Legal Services Program
GLSEN
Gwinnett SToPP
Hispanic Federation
Juvenile Law Center
Michigan Teacher of the Year Network
National Center for Learning Disabilities
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Center for Youth Law
National Disability Rights Network
Native American Disability Law Center
Parent Coalition for Student Privacy

Parent to Parent of Georgia, Inc
Parents Helping Parents
Parents Organized for Public Education
Pegasus Legal Services for Children
Public Advocacy for Kids (PAK)
Public Justice Center
Racial Justice NOW
Rocky Mountain Children's Law Center
SPAN Parent Advocacy Network
Texas Appleseed
The Advocacy Institute
The Daniel Initiative
The Intercultural Development Research Association
The Parents' Place of MD
The Southern Education Foundation
THRIVE Center
Uplift MN LLC
Youth Justice Education Clinic, Loyola Law School