

Another Look at Mass Shootings, and How They Can Be Prevented



The New York State Bar Association (NYSBA) has always been at the forefront of issues that are critical to the welfare of our state and our country. This year, NYSBA will return to an issue that continues to be a scourge of our society – the prevalence of gun violence and mass shootings in the United States.

The newly formed Task Force on Mass Shootings and Assault Weapons will consider the connection between mental health and mass shootings; the relationship between domestic violence and mass shootings; and government oversight of assault weapons and accessories, consistent with constitutional protection of a person's right to possess guns, to prevent the plague of mass shootings devastating our country.

The task force will make appropriate recommendations aimed at decreasing the occurrence of mass shootings in our country. In particular, it will explore the potential effectiveness of enhanced waiting periods and enhanced background checks; uniformity of rules regarding purchases in stores and at gun shows; whether private sellers should be required to conduct background checks on the

domestic violence registry; and federal and state regulation of assault weapons and related accessories such as large ammunition magazines, “bump stocks” and other devices.

NYSBA is certainly not alone in our efforts to tackle this national crisis. On February 22, 2018, New York Gov. Andrew Cuomo entered into a memorandum of understanding with New Jersey Gov. Philip D. Murphy, Connecticut Gov. Dannel P. Malloy and Rhode Island Gov. Gina M. Raimondo to form States for Gun Safety, a coalition to combat gun violence. This coalition will work to create a multi-state task force to trace and intercept illegal guns and enhance intelligence gathering, information sharing and efforts to prevent and respond to mass gun violence, and will establish a regional gun violence research consortium that will include researchers in various disciplines who will collect and analyze data and produce reports to support efforts to reduce gun violence. Shortly after the initial announcement, Massachusetts, Delaware and Puerto Rico also joined the States for Gun Safety coalition.

The coalition is working with the country's first Regional Gun Violence Research Consortium, which brings together thought leaders and researchers from the involved states to undertake groundbreaking research across multiple disciplines in order to address this crisis of mass shootings and the use of assault weapons occurring in our country.

To help understand these issues, it is useful to look at the facts about recent mass shooting incidents:

- In the October 1, 2017 shooting at a concert in Las Vegas, Nevada that left 58 people killed and 422 injured, the shooter had a cache of 24 legally purchased guns, mostly semi-automatic rifles, many of which were outfitted with bump-fire stocks that allow semi-automatic rifles to fire rapidly like automatic rifles. The bump-fire stocks, also known as bump stocks, are legal in many states.
- A November 5, 2017 shooting at the First Baptist Church in Sutherland Springs, Texas resulted in 26 people killed and 20 injured. The shooter, a former U.S. Air Force airman, had been court-martialed and jailed for assaulting his wife and son and should not have been allowed to buy the guns he used in the shooting. But his conviction was never entered into the FBI database. If it had been he would not have passed the background check and would not have been able to purchase the guns.
- In the February 14, 2018 shooting at Marjory Stoneman Douglas High School in Parkland, Florida, the shooter was a troubled student with a history of depression who had been expelled the year before. Authorities released chilling cellphone videos taken before the incident by the shooter in which he said, among other things: "I'm going to be the next school shooter of 2018;" "My goal is at least 20 people, with an AR-15;" "It's going to be a big event. And when you see me on the news you'll all know who I am." He was shown laughing, and singing the words, "You're all going to die." Seventeen people were killed and 17 people were injured that day.
- On May 18, 2018, a mass shooting at Santa Fe High School in Santa Fe, Texas resulted in 10 people killed and 10 injured. The 17-year-old shooter was a student at the school, and police reportedly found journals on his computer and cellphone in which he talked about wanting to commit the shooting and kill himself as well (he was captured alive). He also reportedly had a social media history that included a T-shirt with the words "BORN TO Kill" on it and a jacket bearing Nazi and other symbols.

While these four tragedies have elements in common, they also indicate the many facets of the problem – and the huge challenges that we face in addressing it. Individuals with mental illness and a history of domestic violence have been allowed to obtain assault weapons that are then used to wreak devastation and death. Massive quantities of assault weapons, and accessories that make them even more deadly, are sold to individuals whose intent is not lawful, but deadly. Laws designed to prevent guns from falling into the hands of people who should not have them are not being effectively administered and enforced.

It is important to note that this is not the first time that NYSBA has studied the issue of gun violence. A Task Force on Gun Violence, formed in 2013, focused on public education about gun laws and the Second Amendment; and supporting federal efforts to collect and share data on gun violence, which had been stymied by Congressional actions. The 2015 report from the task force addressed a number of issues, including the absence of gun violence data, including why that information is missing, and proposed corrective actions to enable lawmakers and policy makers to make informed judgments about gun regulations.

Since that report was issued, NYSBA has worked to reverse restrictions on the collection of gun violence data. NYSBA in 2015 declared its support for President Obama's call for greater data collection on gun violence;¹ and on January 7, 2015, the association issued a memorandum in support of the repeal of the Dickey Amendment,² which, in effect, forced the Centers for Disease Control and Prevention to stop its research into firearm violence.

The Task Force on Mass Shootings and Assault Weapons will recommend concrete proposals, including model federal and state laws and regulations that will serve to diminish the frequency of mass shootings while protecting an individual's right to lawfully possess firearms. NYSBA members recognize that there will be no easy or simple solutions to this problem, but we remain committed to working to end the epidemic of gun violence that has touched so many lives in our country.

1. See the October 2, 2015 release: Association Joins Call for Congress to Reverse Restrictions on Gun Violence Data, <http://www.nysba.org/CustomTemplates/PressReleaseList.aspx?id=58922>.

2. Memorandum in Support, January 7, 2016 (calling for the repeal of the Dickey Amendment), <http://www.nysba.org/workarea/DownloadAsset.aspx?id=61172>.



Margaret J. Finerty (mfinerty@getnicklaw.com), of Getnick & Getnick LLP, New York, N.Y., is a former New York City Criminal Court Judge and a current Member-at-Large of NYSBA's Executive Committee. She and NYSBA Past President David Schrauer co-chair NYSBA's Task Force on Mass Shootings and Assault Weapons, an initiative of President Michael Miller. Website: www.getnicklaw.com.