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CLIFFORD'S NOTES

Schools should be places of learning, of safety, of nurturing. Recently, many of these institutions have been forced to become locked down structures in an effort to deter serious safety breaches that have claimed the lives of innocent students, teachers and personnel.

But are schools and law enforcement taking sufficient steps to protect today's youth? And what is necessary in order for a school to avoid liability when a tragedy occurs?

One need look no further than Marjory Stoneman Douglas High School in Florida where a tragic shooting Feb. 14 led to the deaths of 17 people and 17 more injured, not to mention the countless who are forever scarred psychologically and emotionally by what they witnessed. At least 15 survivors of the mass shooting filed a lawsuit in federal court in July alleging that the sheriff's office, school and county officials failed in their duties to protect students against the rampage by the confessed shooter.

It was later revealed through video that one of the officers stayed away from the area of the shooting and never attempted to go inside the building to confront the gunman or protect the students. This inaction led to serious questions about the training of that officer and whether he could have prevented or, at least, minimized the deaths and injuries. The officer was suspended without pay and ultimately he resigned.

Although negligence cases have been filed there for failure of officials to take action about known warning signs of the confessed shooter, the Stoneman Douglas federal case marks the first time that a violation has been framed as a civil rights matter in federal court in violation of 42 U.S.C. Section 1983. The lawsuit goes on to allege that law enforcement and school officials acted "wantonly with deliberate indifference, arbitrarily, and in a manner that shocks the conscience of the court in a constitutional sense." The case is pending.

If a school or police department is found to have inadequately trained those in charge of safety or if inadequate oversight of the training by law enforcement is proven, plaintiffs likely have a cause of action. Although the lives affected by this tragedy cannot be changed, these lawsuits may provide valuable lessons for other schools and police agencies as these types of shootings have become more common in the 21st century. As of mid-October, there had been at least 69 incidents of gunfire on school grounds this year.

This year also marks the 30-year anniversary of the terrible tragedy that shook Chicago's quiet



SCHOOL SOLUTIONS

Shootings raise serious questions

By BOB CLIFFORD

suburban North Shore when a mentally disturbed babysitter went on a rampage in a Winnetka grade school, killing an innocent third-grader. The babysitter also injured several others with pistols she was able to purchase.

She then ran into a nearby home where she took two hostages, shooting one in the chest before killing herself. Families brought lawsuits against the 30-year-old killer's parents who allegedly had shielded their daughter's known dangerous behavior instead of seeking help. After surviving motions to dismiss, the cases settled. It marked the first time that parents have been held accountable for crimes of adult children.

Adequate security in schools also may be pertinent in situations where security officers are assigned to special school events for crowd or traffic control.

Aides hired to assist students who are physically or mentally challenged or who have behavioral disorders, such as school bus drivers, also have been the subject of lawsuits because of improper and inadequate training or insufficient monitoring of these students who require special attention.

Public schools as government institutions are protected from certain negligent conduct by governmental immunity statutes. Although there are a few exceptions, the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10) and the Tort Liability of Schools Act (745

ILCS 25) protect school employees from conduct unless it amounts to reckless or willful and wanton behavior. That standard over the years has been strictly applied despite students being hurt or even killed when closer supervision or established rules have been ignored. Schools also are protected by statute from punitive damages.

Certainly, allowing a gunman into a school to massacre innocent students is an extreme situation, but it is something that is now foreseeable.

Not every situation is cut and dried. Oftentimes, there is a confluence of factors that comes together and that must be examined by courts to determine if the behavior rises to the level of being actionable.

How egregious must behavior become for courts to recognize that many school and law enforcement personnel simply aren't equipped to handle the types of complex situations in which students find themselves? Serious and thoughtful training must be continually undertaken.

Perhaps it is time for the state legislature to step in and more clearly define what is expected from school personnel and law enforcement officers assigned to schools in this new era of risk in education. CL

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