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VIOLENCE IN OUR SCHOOLS
2000 Warren M. Anderson Legislative Breakfast Seminar Series

FEBRUARY 1, 2000



Government Law Center
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Hon. Mary O. Donohue

New York State Lieutenant Governor

Hon. John R. Kuhl, Jr.

New York State Senator

Hon. Steven Sanders

New York State Assembly Member

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**The 2000
Warren M. Anderson
Legislative Breakfast Seminar Series**

VIOLENCE IN OUR SCHOOLS

Transcript of the Panel Presentations
Delivered at the Feb. 1, 2000, Seminar

2000 Legislative Session

The Assembly Parlor
The Capitol
Albany, N.Y.

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The Government Law Center of Albany Law School

WARREN M. ANDERSON

Warren M. Anderson is a distinguished alumnus of Albany Law School and an active member of the Government Law Center Advisory Board. Having served in the NYS Senate for thirty-five years, he is perhaps best known for his leadership during his tenure as President Pro Tem and Majority Leader from 1973 to 1988.

Warren Anderson began his legal career as an Assistant County Attorney in Broome County. He then joined the law firm of Hinman, Howard & Kattell where he is currently practicing law. Throughout his career he has received numerous honors and awards.

PROGRAM DESCRIPTION

In furtherance of its mission to serve as a resource to all levels of government in the resolution of specific problems, the Government Law Center is pleased to present the ninth annual Warren M. Anderson Legislative Breakfast Seminar Series. Monthly breakfast programs feature experts addressing the legal aspects of a variety of policy issues pending before the Legislature. The seminars are designed to provide access to current legal information on a given topic. The Government Law Center welcomes suggestions for future programs.

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The Government Law Center is grateful to the Leadership of the New York State Senate and Assembly for serving as honorary co-hosts of the 2000 Series:

Honorable Joseph L. Bruno

Senate Majority Leader

Honorable Sheldon Silver

Speaker of the NYS Assembly

Honorable Martin Connor

Senate Minority Leader

Honorable John Faso

Assembly Minority Leader

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The Center also gratefully acknowledges the speakers who participated in the Feb. 1, 2000, program: *Lieutenant Governor Mary O. Donohue, Senator John R. Kuhl, Jr., and Assemblyman Steven Sanders.*

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HON. MARY O. DONOHUE

Lieutenant Governor

STATE OF NEW YORK

As I traveled around the State for the past year as Chair of the Governor’s Task Force on School Violence, I was particularly struck by the difference in the atmosphere in the public schools. I had been a teacher for ten years—from the late 60s until the late 70s, before I went to law school. When I was teaching I was never fearful of my safety in the classroom or my students’ safety or visitors’ safety.

Now, everywhere I went, there was a tone of anxiety or apprehension. Our schools in New York are generally safe, which we should be very happy about, obviously. We should be very pleased about what we have done to make our schools safe. But we all know that it takes only one act of violence to cause a tragedy—for a family, an individual, and a community.

We have to take this situation very seriously because, as I said initially, I believe we have gone down a slippery slope—not to the extent that we have seen in other areas of

the country or the world, but we are on that continuum, without question, of differences in attitudes towards each other and how we treat each other.

Let me give you a couple of very quick examples. A national study in the past year asked teenagers in schools, “Could someone in your classroom be a killer?” Forty-eight percent of those students answered “yes,” another 38% answered “maybe,” and a mere 14% answered that question in the negative.

That, I believe, says a tremendous amount about what my 12-year-old son is facing when he goes to the public schools every day. With that as a framework, I was aware that we needed to talk with the kids themselves. We conducted ten formal public hearings in every geographical area of the state. In addition, I have visited at this point, probably close to 100 schools all over the state, holding informal roundtable talks with ten to twenty students, and asking for their ideas about what is going on in their schools, homes, and communities. Out of that, came the most poignant and compelling stories. Thus, the biggest impact on the Task Force Report came from the students themselves.

Too often I was hearing from students who were speaking out for the first time. “Why do I have to reach out for help? I am only 15. Why doesn’t somebody else recognize that I am in trouble, that I need someone to help me through this crisis?”

Too often there was not enough listening going on. Caring and communication—those supposedly simple concepts that each of us were raised with—often seemed absent. Our kids are not feeling that they are getting that type of communication. Some of them do not feel they are getting it at home, and many of them do not feel that they are getting it through their schools or communities. Many of them said to me, “Sure we’ve got lots of after-school programs and community programs, but I don’t believe and feel that the people in those programs care about me as an individual.”

About a year ago, after I had been working on this issue approximately a month, the Governor said to me, “What do you think at this point, Mary? Do you have any preliminary indications of where we should be going?” I said to him, with some awkwardness because I was not sure how it would be received either internally or statewide, that I thought we needed more citizenship education in our

schools. We need more of what I believe I saw in my education, and what I saw in the 60s and 70s in the schools, whether they were public or private schools—teaching our students their responsibilities to others and to communities. Overwhelmingly, the kids were so impressive in the quality, and in the depth and the interest level they showed in this topic. I did not see the problem in the kids; the problem was in what we were doing with the kids.

We did publicize the Task Force Report. I hope if you have not yet read it, you will. It can be found on the State’s web site. Out of that came 24 recommendations. Half of those recommendations will require legislative approval. I have just been reviewing our draft legislation that I expect will be introduced within the Governor’s program bill. Our school violence initiatives will be introduced imminently, and we expect that it will be forthcoming within both houses.

First and most importantly, after-school programs are pivotal. The Governor has doubled his commitment to the advantage of after-school programs and we are working on the emphasis in those programs of caring, communications, and listening to the kids.

Secondly, and very importantly, we recommend citizenship education, a K-12 curriculum, not separate “civility 101.” It has got to be interwoven into every course our students are learning in the schools. I will be meeting with the Regents. I have already met with the chancellor about that issue which will require Regents approval.

The Governor has committed half a million dollars to that program. I am very pleased and encouraged that the Governor backed us 300%. I submitted to him a proposal of what we would need financially to back up these recommendations, and he is on board.

As a former teacher and now as your Lieutenant Governor, I am always a believer in inspiring our kids to be their best, but in addition to that we have got to listen to our children and care not only about what our kids are learning and coming out of the school with academically, but who they are as people and as community members over and above their academic skills.

We also talked about a statewide center on school safety, which is an outgrowth of the upstate center that has currently been functioning in conjunction with the State Education Department. The center will serve as a

clearinghouse of information for school districts and communities on this issue.

There is a lot more depth in the Task Force Report on each of these. My time is limited, so I am giving just a brief overview.

We would like to see changes in the health curriculum. This would be a shifting of priorities in the health curriculum, not adding on an additional requirement. This would help us deal with the mental health issues of our students at an earlier stage before they have gone down that slippery slope where we are dealing with the explosions that have been happening all over the world in our schools and communities.

Regarding discipline, we would like to give school districts alternatives when they suspend a kid. A day of suspension or a week out of school should not be a week to watch soap operas. As a mother, I have some perspective on this. That could be an incentive for a 15-year-old, for example, to act out and to get out of the classroom. We have been overlooking some of these basic ideas for too long. We would like to give principals and teachers the ability, control, and authority to mandate counseling, community

service, and partnerships with the community and parents—working together with the kids to achieve this goal.

As demonstration projects through the RFP process at the state level, we expect to have pilot programs around the state. The Task Force Report contains a myriad of sample programs. These represent programs that I personally observed, or that Task Force members have observed, that have worked well in different areas of the state, that we recommend for implementation all over the state.

We need to develop emergency plans. I have been asked so often, “If a Columbine occurs in New York State, will we be ready?” God knows I wish I could answer that question with an unequivocal “yes.” I can say that we will be ready. But, will we be ready to prevent it? I can not promise that. We know that we can only do our best to ensure that we are ready in terms of preventing an escalating tragedy from happening. Emergency school plans are part of our recommendations to achieve that goal.

Every school district in New York State will be expected to have an emergency plan that is disseminated publically, at least the framework of it, approved by the Board of Education, filed with the Education Department and then

shared with the Division of Criminal Justice Services and the State Police. If a tragedy starts to unravel in one of our schools, we will be ready to deal with it as expeditiously and safely as possible.

One of the problems I saw, and I knew this as a former district attorney and judge, was that there are so many different philosophies as far as reporting incidents in the schools. What constitutes an assault? Is it physical injury? Is it verbal? We need a uniform system of reporting all over the State so that we are all on the same page. We all need to know where the real problems are and where we need to focus our attention.

We have recommended implementing a uniform system of reporting incidents of violence in our schools. We have given a couple of specific models being used in other states to the Governor. There is a phenomenon that is happening right now in New York schools, I knew of it from my teaching days and I have heard of it from my friends who are still in teaching or who are in administration, and it has received a very positive reaction through the Task Force hearings and report. This is the need to end the phenomenon of silent resignations where a teacher, staff person, or employee in a school can be abusing a child—

there could be probable cause that individual has committed abuse—but that individual right now in New York State, because of loopholes, can silently resign from one district and apply for a job in another district. It may be the district where your child is in school or where my 12-year-old son is in school. Nobody knows that individual’s history.

We have got to close the loopholes in the Commissioner’s Regulations that delay the time period within which that individual is taken out of the first school, number one. That is what is creating the incentive for administrators to let the person resign. The New York State Superintendents of Schools Association was represented on the Task Force, as well as the teacher’s unions, and the PTA. That helped make us successful in having everyone come together to rise above individual philosophies and concerns to do what we can to protect our kids. It is the highest goal that any of us can have in the jobs that we are doing.

Finger printing of teachers is another recommendation that I was reluctant to address, and yet with each day I knew we need finger printing of individuals who are spending their days with our kids. It is unfortunate, but the reality of it is that there are too many individuals who are working in the public school system or in the schools for the wrong

reasons. Too many can be only three, I am not going to define that term. Three is three too many when we are talking about the protection of our kids.

I believe from my decade in teaching that a good teacher is not going to resent being finger printed prior to certification, or prior to applying for a job in a second school district. They will want to know that the teachers and the individuals that they are passing the kids on to after working with them for a year are in there for the same reason they are—because they care about the welfare of the kids.

We have to rise above individual concerns and think of what this is all about. We have finger printing now for childcare workers. It is just as important that we know who is in the school with our children every day.

FERPA, the Federal Education Rights and Privacy Act, has a provision where a state can have enabling legislation that will allow sharing of information between school districts and a juvenile justice system. Before I was a DA, I prosecuted juveniles in family court and, nine times out of ten, I did not have a clue as to the school history of the kid who I was prosecuting, and I would make a recommendation for disposition with input from the

probation department. Sometimes we did not know that a kid had been suspended several times, or the myriad of incidents that some of the kids have been involved in at school. That is not good for the community, it is not good for the school, and it is not good, most importantly, for that student.

It works the other way, too. The schools need to know that one of their students has just been adjudicated in family court for who knows what act that would have been a crime if he or she were over the age of sixteen. We need to share that information. I believe that close to 40 states already have that information and that local legislation now.

It is time New York got on board and I am confident that we will. Senator Kuhl and I have discussed this matter many times. Assemblyman Sanders and I have also been discussing it, and we are going to be meeting further. It is my belief—based on what happened with the bomb threat legislation in the spring where we all rose above political alignment and philosophical orientations and got that legislation passed—that we can do this, too. You may have read this spring about the almost six hundred bomb threats in the last school year, many of them after Columbine.

Again, did I like the fact that I had to make certain recommendations to the Governor, and that he was agreeing with me that we have to do this legislation quickly? No—who wants to increase the penalties for a kid at the age of fifteen, unless there were more important priorities? Protection of the school is one of these priorities. I saw kids who were so intimidated and frightened, who testified at our hearing or who talked with me because there had been a bomb threat in their school the day or the week before. It was a false bomb threat, but did that matter before they knew it was false? Our kids have been really scared from all of this. This was obvious from their answers to that survey I mentioned to you.

We have to send out a strong message that, whether it is a false threat or a real threat, it is going to be taken very seriously in New York State Courts. That is in effect, and the number of bomb threats have gone down already in this school year. So sending out a firm message does make a difference.

I am confident that we will be working together in the coming months to get the rest of the legislation passed the way we did with the bomb threat legislation in the spring, so that we can achieve the important goal of making sure our

kids can flourish and learn in our schools, free of fear. We need them in the twenty-first century and they need us to be there for them now.

Thank you for joining us this morning and I look forward to your input.

HON. JOHN KUHL, JR.

NYS Senate

Good morning. Lieutenant Governor Donohue, thank you for your remarks this morning. And, most importantly, thank you for all that you have done over the past year with the Task Force and in leading this effort on anti-school violence. Thank you for focusing the State government's attention on this issue. I think it is extremely important.

And you know, as we have discussed, that I look forward to working with you and Governor Pataki and certainly my colleague, Steve Sanders, the Assembly Education Committee Chair, to develop a comprehensive plan that will deal with this issue of making our schools safer.

I believe this is the year that we can do it. Certainly I believe that it is the year that we will do it.

I also would like to thank Albany Law School's Government Law Center for hosting these seminars. They are a tremendous tribute to our past leader in the Senate, Warren Anderson, and certainly a very valuable addition to the

legislative session that we are having this year, as they have been over many past years.

Last April, just four months into my first year as Chairman of the Senate Education Committee, the tragedy of Columbine High School in Littleton, Colorado, took place. It struck the very heart and soul of this nation. The following week we had a school violence piece on the floor of the Senate and I wanted to share with you the comments that I made to my colleagues at that time, because I believe they still have meaning today:

I didn't have this day in mind, and so I rise today with some dismay. I rise with dismay that in my first session as Chairman of the Senate Education Committee we are forced to confront challenges that are not really about what many of us had always envisioned as the fundamentals of education. We are forced to confront challenges as far away from reading and writing and learning as we could ever have imagined. We are forced to confront challenges, not about how to teach our children how to read and write and learn well, but how to keep them safe in school. We are

forced to confront the challenges of violence in our schools. We don't want to think about guns or assaults or security cameras in our schools, but that is a reality of what we must face today.

That is what I said then and it is what I say to you again today. It certainly is what the Lieutenant Governor's Task Force is all about, and that is what really led the Senate to adopt our Seventeen Point Governor's Program bill, which is known as "Safe Schools Against Violence In Education Act," last April.

That was a good starting point but, unfortunately, we did not move further ahead last year. But, again, I believe we will act this year.

There are a couple of points that I would like to remind us all of this year. As we gather here to begin the 2000 Legislative Session and think once more about safety in our schools, we can be grateful, and I believe it just may be a fate of fortune, that we gather here not thinking about a tragedy that has just occurred. Still, I hope that it will not take tragedy to pinpoint our focus and our will to act to help schools become safer places.

Too many of our schools experience increasing acts of violence, as the Lieutenant Governor has indicated. If we value the integrity of the learning process, then we must face the reality that many administrators, teachers, and school staff—as well as students themselves—fear for their safety. The poll that the Lieutenant Governor mentioned, where you have eighty-six percent of the students earmarking other students with potential violence, indicates an existing fear that undermines the quality of the education.

We have to devote a great deal of thought and diligent attention to the issue of safety in our schools. We have the opportunity this year. I believe we will take advantage of that opportunity to come up with some sort of agreed upon consensus that will do just that.

Steve Sanders will be sharing some of his thoughts with you. Those of you who have watched us in the short period of time that we have chaired the Education Committees in both Houses may have realized the great many goals that we share, including the goal of making our schools very, very safe places.

There are a lot of issues that we are working on such as higher standards, a better infrastructure, and more classroom resources. Certainly school safety is one of the most important issues that is going to confront us this year.

I look forward to working with Lieutenant Governor Donohue, Governor Pataki and Steve Sanders as we move ahead. The Senate is ready and willing to act on a safe school program.

Thank you. It is nice to be with you today.

HON. STEVEN SANDERS

NYS Assembly

Thank you all for being here, and thank you, Patty Salkin, for putting together this very important breakfast. It is encouraging to see so many people who are willing to get up so early in the morning on a cold day. This is an important topic and I appreciated listening to the remarks of the Lieutenant Governor who spent a good year working on ideas and answers to try to help stem the growing tide of school violence which is occurring around the country from affecting New York State. I congratulate the Lieutenant Governor for her diligent and hard efforts and certainly will look forward to working with her to move forward on this issue.

There is a little secret that my colleague and friend, Randy Kuhl, and I share that we don't like to publicize too often—which is that we really like each other. He is a Republican and I am a Democrat and, contrary to what people think about how dysfunctional legislatures around the country can be, Randy and I not only work well together, but we enjoy working together. I think that bodes

well for what needs to be done this year, differently from the last several years.

I want to very briefly outline for you what I think are perhaps the differences in the approaches that have been offered and what the challenges are.

It is a priority of the Assembly that, in talking about preventing school violence, we have to start with the word “prevention.” We will have to make penalties tougher, and suspensions swifter and more certain when youngsters become violent. We will need to separate youngsters who are committing acts of violence or disruption. We will need to pass laws that make crimes which are committed on the school grounds a higher penalty with greater consequence. We will try to make the school grounds and the school buildings, to the extent we can, safe havens, by at least sending out the message that if you commit a crime on school grounds—whether you are a student or whether you are a drug or gun pusher—the consequences of those actions will be much greater. Although we undoubtedly will need to address the issue of penalties and punishment, we also must acknowledge at the outset that every penalty, even a perfect penalty, and every consequence that we can put into law for a bad behavior or criminal behavior is not sufficient.

As we have learned in Jonesborough, Arkansas; Littleton, Colorado; Paducah, Kentucky and in Oklahoma and Michigan, as well as in other school districts in states around this country that have been touched by heinous violence, is that the people who perpetrate those acts of violence—mostly students, and mostly acts of violence by students against students—will not be prevented or deterred by a longer suspension or by a tougher penalty. The perpetrators of this mayhem and violence are not only prepared to take the lives of their classmates, but they are prepared to take their own lives as well, and often they do.

We need to work at preventing a youngster from committing these kinds of irrational acts in the first place. Responding after something happens is necessary, but preventing it from happening in the first place is the key. To do that we need to have a serious discussion about school-based intervention—having the ability to identify youngsters who would be prone to committing violence based on their history or based on their behavior. A perfectly well-behaved youngster doesn't turn into a murderous individual overnight. We know there are signs. The tragedy in Colorado was that the signs were seen in the schools and at home as well. We have to be smart enough to pick up on those signs and committed enough to have programs in the

school to prevent the violence from happening. We need to identify youngsters at risk of committing violence, intervene, and provide support services such as mental health services and social services. We need to identify these youngsters before the time-bomb goes off. Then maybe we will prevent a few tragedies from happening. But that will cost money. It is not going to be cheap. It is not going to just be rhetoric. If we are really going to have school-based anti-violence programs, extended day programs, mental health intervention programs, and referrals to other services, it is going to take an expenditure of dollars to create this network of prevention and intervention right within schools. But it is something we must do.

If we are really serious about preventing crime and violence from touching our schools, we have to at least acknowledge that most of the mayhem that occurs, that in a split second can take the lives of ten or twelve individuals, is committed with firearms. It is committed because youngsters in other states, and in this State, have had easy access to weapons. Sometimes they even build an arsenal in their own homes and bring the weapons into the schools and, in an instant, eight or ten lives could be snuffed out. I know that if you are intent on committing violence you can do that with a knife, a baseball bat, or brass knuckles, but I defy anybody

to identify any school district in this nation where lives were lost, especially multiple lives, because somebody came into school with a metal pipe and started slugging people over the head.

If we are going to be serious about ensuring that this kind of violence does not touch the lives of people in New York State school districts, we also have to have a serious dialog about accessibility, especially for young people, to these weapons.

So much of what the Lieutenant Governor, Senator Kuhl and I talk about we agree on. We agree that there has to be a real code of conduct in every school with real consequences, a school safety plan that every district will develop, uniform violence incidence reporting, coordination with juvenile justice agencies, finger imaging, and automatic suspension with alternative educational placements. All of these things we agree on.

What we also have to agree on is if we are going to emerge from this session with a law, first of all, when we disagree to go to conference committee. We have a mechanism that we use in the Legislature now whereby when one house passes a bill and another house passes a bill on the same

subject but they are not identical, we go to conference committee—the Senate and the Assembly sit down together and we work out our differences. We understand that we won't agree on everything, but we should certainly agree on those things that we do agree on.

Seventy-five or 80% of the issues that you have already heard this morning you have heard from all three of us. We agree on many issues. So we need to agree to go to conference committee with our different positions, hash out the differences, and make sure that at the end of this Session we don't have a situation similar to the movie "Groundhog Day." Some of you may remember that movie which starred Bill Murray. He woke up in the morning every day and it was the same day, he did the same things, and it had the same outcome. The movie went on and on for two hours until, at the end, something different happened. That is what we have been doing here for the last three or four years.

We've been talking about our positions. The Assembly has a position, the Senate has a position. They are similar, but they are not the same. We talk about it, pass our bills, the Session ends, we do it all again the next year, and then again the following year. This year, we have to make sure

that we go to conference committee and, with the help of the Lieutenant Governor, work out our differences and pass those things that we know will not make New York State immune from violence—because there is no law that you can pass to make a state or school district immune from violence—but will make it much less likely that a Jonesborough, or a Littleton, Colorado, could happen in New York State.

I am prepared and anxious to work with the Lieutenant Governor and my good friend Randy Kuhl toward that outcome. I thank you all for being here.