School Crime and Violence: Achieving Deterrence through Tort Law

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Days in school with dedicated teachers and eager students struggling to master their lessons have given way, all too often, to disorder and a gripping fear by teachers and students. The true genius of the American legal system—indeed of our entire system of government—is its evolutionary capacity to meet new problems. Legal institutions change as they respond to new challenges. The serious challenge of restoring a safe school environment has begun to reshape the law. Chief Justice Warren E. Burger

INTRODUCTION

Urban public schools have a serious problem with crime—they are embroiled in violence. In many schools children and staff are victims of a variety of crimes including murder, rape, robbery, arson, and extortion. It is commonplace for administrators to discover students carrying weapons. The pathology of the American public school has grown and festered for many years. Yet, the violent character of inner-city schools remains unchanged.

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2. Although violence occurs in many schools across the country, violence is a more serious problem in most inner-city public schools. Both teachers and students tend to be victimized more violently in the larger cities. Violent crimes in school are relatively more common in cities of more than 500,000 population than in smaller communities. NATIONAL INSTITUTE OF JUSTICE, U.S. DEP'T OF EDUCATION, VIOLENCE IN SCHOOLS (Dec., 1986) [hereinafter VIOLENCE IN SCHOOLS].


4. The violent crime victimization rate for all teenagers in general has remained essentially unchanged since 1973. BUREAU OF JUSTICE STATIS-
To be sure, conciseness is to be strived for and prolixity avoided in the provision of statistical findings. But there comes a point where findings reveal such a serious social problem that a somewhat detailed statistical description is essential.

Government statistics reveal that each month almost 282,000 students are attacked in American public schools. That amounts to well over three million attacks each year. Students are not the only victims of violence in our schools. About 5,200 teachers are attacked each month. For example, during 1983, thirty percent of Boston's public school teachers were victimized. In Los Angeles, sixty percent of area teachers reported that they are afraid on their school campuses.

The following generalizations can be made about the character of the problem: Students are more likely to be the victims of violence than teachers; male students are more likely to be assaulted or robbed than female students; junior high school students are twice as likely to be victimized as senior high school students; and, minority students are more likely to be victims than white students. By all available measures, it is clear that students commit the overwhelming ma-
The deleterious effect of violence in schools is well established.\textsuperscript{18} A safe and orderly school environment is required for students successfully to focus their attention on learning. Violent crimes arouse destructive fears among students, teachers, and parents.\textsuperscript{14} For example, four percent of all secondary school students in public schools reported that out of fear they remained home from school at least once a month. Moreover, in the largest cities, seven percent of senior high school students and eight percent of junior high school students stayed home out of fear each month.\textsuperscript{18}

No matter how excellent the teachers or the material to be taught, learning is hindered when teachers are forced to teach and students are forced to learn in an atmosphere of fear of crime and violence. The effectiveness of the learning process varies with the quality of the learning environment.\textsuperscript{18}

\textsuperscript{11} Statistics report that 74 to 98 percent of all offenses for which offender information was available were committed by current students at the school in question. Aggregate National Crime Survey (victimization survey) data for the years 1973 to 1977 show that in 76 percent of the total personal crimes reported to have occurred inside the nations' schools, the victims were between 12 and 17 years old. McDermott, \textit{Crime in the School and in the Community: Offenders, Victims, and Fearful Youths} 29 CRIME & DELINQUENCY 270, 272 (1983). Violent crimes against youth ages 12-18 generally are committed more often by other teenagers than by adults. By contrast, offenders age 21 or older committed 70 percent of the violent crimes against adults. \textit{Teenage Victims}, supra note 4, at 2. The most reliable statistics available provide hard evidence that more crime and violence is committed in the middle grades than anywhere else. \textit{School Crime}, supra note 10, at 8.

\textsuperscript{12} The likelihood of a youth experiencing a crime at a particular time or place is related to the daily activities of the potential victim. Because youth spend a significant amount of time in school they are more likely to be victimized there. (In California, for example, 46,088 assaults or attacks occurred during the day as opposed to only 726 at night on the school property. \textit{California Department of Education Report to the California State Legislature on the School Crime School Reporting Program: July 1, 1985 to June 30, 1986} 8 (1987).) Most notably, because students are unsupervised or minimally supervised upon dismissal or before class, the majority of violent attacks occur during these periods. \textit{Teenage Victims}, supra note 4, at 2.

\textsuperscript{13} \textit{Violence in Schools}, supra note 2, at 2.

\textsuperscript{14} \textit{See generally A. Goldstein, School Violence} (1984).


Ideally, our schools prepare students with the skills necessary to become knowledgeable and productive citizens. They also contribute substantially to the socialization process. In addition, good schools help students develop a healthy self-concept and, in turn, good citizenship. In other words, the quality of our schools, to a great extent, determines the quality of our society. More precisely, "If schools succeed, society will succeed. If schools fail, society will fail." While the effective remedy, may vary, educational experts concur that school violence must be substantially abated if educational improvement is to occur.

Schools alone cannot be blamed for the high levels of crime in schools. The problems of school crime and violence are pervasive and multifaceted. They represent complex social and cultural issues inextricably linked to the family. Changes in traditional family structure contribute to educational problems, including school crime.

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21. State and federal governments stress the importance of "educational reform." But as educational administrators correctly remark, "Reform can only occur on school campuses that are safe, secure and peaceful." School Crime, supra note 10, at 8; see also The Scope of Crime and Violence in Schools and on Proposed Initiatives to Combat Juvenile Crime in the Schools Before the Subcomm. on Juvenile Justice of the Senate Comm. on the Judiciary, 98th Cong., 2d Sess. 98-488 (1984).


23. Professor James Coleman of the University of Chicago confirms this assertion noting that changed parental lifestyles and dysfunctional families are the deeper problem. See J. Coleman, High School Achievement (1982); J. Coleman & T. Hoffer, Public and Private High Schools: The
Given the relationship between the child, family, and youthful misconduct, any attempt actually to eliminate the causes of school violence and crime would require social engineering of incredible magnitude and expense. The challenge would be to develop a comprehensive program of supportive services for the child and family which seek to address the causes of sociopathy. Indeed, violent acts committed by school children are often manifestations of pathological disorders. In the words of Earnest Boyer, former U.S. Commissioner of Education and President of the Carnegie Foundation for the Advancement of Teaching, "[T]he ultimate challenge will be whether schools whose students face these pathologies can in fact become more stable." Administering a little "good old fashioned discipline" or summarily dismissing children experiencing behavioral disorders is unlikely to have a positive impact upon troubled youth. Much touted public school reform leaves urban schools unimproved because such "reforms" totally neglect the deeper causes of academic failure and school crime. There is no quick solution to complex social pathology.

25. Is Getting Tough the Answer?, supra note 3, at 58.
27. A school administrator wielding a baseball bat and bullhorn is not likely to have a positive impact on troubled youth. What is required is the "patience and perserverance" to implement creative solutions to school crime and violence. See Caring, Discipline Give Phoenix Junior High an Edge on Drug, Other Problems, The Christian Science Monitor, March 7, 1988 at 1, col. 1.
28. According to education experts, the educational reform movement is having no effect on urban schools, which in many cases are continuing to deteriorate. Carnegie Foundation for the Advancement of Teaching, An Imperilled Generation: Saving Urban Schools, 1988; Carnegie Panel Calls for Urban School Reforms, L.A. Times, Mar. 21, 1988 at 2, col.1; "What now passes for reform has been an especially empty gesture when it comes to our most disadvantaged students and schools." The school reform movement has become a "cruel hoax in the devasted environment of our urban centers." Shanker, President American Federation
While education is the responsibility of local government, local governments already strapped for funds cannot be expected to bear alone the costs of efforts to diminish school crime without leadership at the federal level.

Yet, the likelihood of a comprehensive federal program to eliminate crime and violence among youths seems slim at best.\(^2\) Instead, we are forced to develop less comprehensive ways to address the problem of school crime. One method of confronting school crime, although not a remedy, would be to require schools to adhere to a higher legal standard of care — to use tort law as a method of addressing this social problem.

Requiring schools to adhere to a higher standard of care will, in effect, prompt schools to provide increased supervision during those periods when violence is likely to occur.\(^3\) The likely effect of increased supervision on the school ground is that some violence will spill into the streets. This is a tragic and unfortunate consequence. Yet considering the importance of a peaceful school environment, the current political gridlock over additional social programs, and the fact that needless human suffering occurs daily in many urban schools, administrators should be legally required to increase supervision to improve school safety.

This article will review the standard of care imposed on public school officials and recommend a logical extension of that legal duty. It will show that this legal duty consists primarily of a common law duty to supervise. This duty is, however, limited. One limitation allows schools to claim that no duty arises when children are not engaged in a school activity such as athletic practice or class. Significantly, some courts do not consider the period just before or after school a "school activity." Hence, some schools may limit or curtail supervi-

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\(^3\) For example, in Harlem's Central Park East Schools, increased supervisory programs have attained some success in curtailing violence and crime. Telephone interview with Deborah Meir, Administrator of East Park Schools, in New York City (Feb. 8, 1988).
sion before or after school. As stated above, however, national statistics reveal that it is during these excepted periods when the majority of violent attacks occur.

The argument set forth proposes that limiting a school's duty to supervise only during school activity or class contradicts the logic of the common law duty to supervise. It will show that analogous duties exist which are not illogically limited.

The article concludes that the deterrent effect of expanded tort liability can encourage socially desirable behavior. If tort liability is logically extended to require schools to exercise a higher standard of care, many unsafe and unhealthy educational environments will be improved. The legal change proposed relies for its justification on the belief that liability should extend to periods when children are most at risk. Indeed, those entrusted with the care of public school children should maintain careful watch over them until they are safely off the premises or in the hands of other caretakers.

I. SCHOOL LIABILITY: THE CONTEMPORARY STANDARD

At one time, public schools enjoyed immunity from tort actions while acting in their official capacity by reason of sovereign immunity. Substantial exceptions to sovereign immunity have increased to the extent that the doctrine is virtually obsolete as applied to schools. Increased emphasis has been placed on the legal responsibilities of agencies serving children. A school can be sued like any other person where no special relationship exists. The standard to which schools are


32. The doctrine of sovereign immunity has been considerably modified, and its application drastically limited within the education context. The policy reasons supporting government immunity do not apply to the activity of public schools. For a discussion of several cases where it was held that certain governmental officials are entitled to qualified immunity and for the policy reasons supporting that immunity, see Gomez v. Toledo 446 U.S. 635 (1980). For a history of the development and limiting of immunity in the common law see Jaffe, Suits Against Governments and Officers: Damage Actions, 77 Harv. L. Rev. 209 (1963).

held is "that degree of care which a person of ordinary prudence, charged with comparable duties, would exercise under the same circumstances." The majority of school liability cases today allege that a school failed in its duty to supervise.

Schools have a duty adequately to supervise their students so as to prevent, where possible, harm and injury to the child. This duty is applied in two contexts. First, a duty exists not to create danger by one's own conduct. Thus, providing dangerous machinery with inadequate instruction or allowing an unsafe building condition to exist without a reasonable attempt to remedy the hazard would constitute a breach of duty. The other context in which a duty is imposed upon schools involves a requirement that schools act affirmatively to prevent foreseeable perils created by others.

In the latter context, the legal duty is based on the reasoning that a duty to supervise should exist where custody or control deprives a person of her normal power of self protection or the presence of those who will protect her. The Restatement of Torts embraces the common law rule stating:

One who is required by law to take or who voluntarily takes the custody of another under circumstances such as to deprive the other of his normal power of self-protection or to subject him to association with persons likely to harm him, is under a duty to exercise reasonable care so as to control the conduct of third persons as to prevent them from intentionally harming the other.

It seems clear that in the urban public school setting where children are deprived of their normal power of self-protection, and are subjected to association with persons likely to harm them, a school's duty to supervise appropriately obtains. Schools do, in fact, have a duty adequately to supervise students to prevent any harm which may come to them at the hand of another. "[C]ase law is replete with instances of schools, principals and teachers being required to reasonably fulfill their duty to supervise students. . . . [A]

36. Id. at 117.
37. See generally W. VALENTE, LAW IN THE SCHOOL 357-59 (1980).
38. RESTATEMENT (SECOND) OF TORTS § 320 (1965).
negligent failure to act in carrying out this duty of the school is actionable."

Even though courts recognize a school's duty to protect the safety of students, in some states this duty is extinguished when the bell rings. For example, in *Pease v. Milcreek Township School District,* the court noted that once the school day ends, "[s]upervision after school . . . must fall upon the family or a social agency." In the New York case *Hill v. Board of Education,* school authorities were similarly vindicated of any duty to supervise dismissed children who remained on school grounds to await transportation. Yet where supervision or security is not provided for children remaining on the school campus after class, violence and injury often result. Failure to provide supervision during these periods despite the likelihood of harm does not seem to constitute reasonable care.

The legal reality of the school violence situation may be this: if there is no duty to provide supervision during certain periods of the day, no matter the potential for injury or harm during those periods, most schools do not respond. Apparently, violence and the resulting human injury in our schools are "treated as a cost of production, like the breaking of tools or machinery." At a time when school violence pervades most inner-city public schools, limiting the common law duty to supervise by time or other arbitrary criteria has the effect of permitting unchecked incidents of violence.

41. *Id.* at 380, 195 A.2d at 108.
43. *Id.* at 406, 18 A.D.2d at 955.
44. In a New York public school liability case, for example, the court found that "[t]he Board of Education has the obligation to supervise . . . during school hours." *Lauricella v. Board of Education,* 52 A.D.2d 710, 381 N.Y.S.2d 566, 568 (1976) (emphasis added). In *Pease v. Milcreek Township School District* where a student was injured after school, *while on school property,* the Pennsylvania Supreme Court held: "Schools have no duty to supervise students . . . after school." *Pease v. Milcreek* 412 Pa. 578, 580, 195 A.2d 104 (1963).
Recalling that the common law duty of care and supervision was established because a student is deprived of his normal power of self protection or is subjected to persons likely to harm him, it seems illogical to limit liability according to the clock on the wall. At the end of the school day, a child is not automatically ejected from the presence of those desirous of harming him or her. To the contrary, when the bell rings, as statistics confirm, the likelihood of personal harm is greatly increased.

Some courts recognize the arbitrary nature of liability limited by time which does not account for foreseeable incidents of violence. A good example of correctly applied tort law principles is provided in the case of *Broward County School Board v. Ruiz*. 46

In *Ruiz*, the Court of Appeals of Florida correctly understood the precise issue involved: whether, in a school plagued by violence, the common law duty to supervise should be limited by time. On November 13, 1980, three youths attacked and brutally beat Jose Ruiz, then a sophomore at Hallandale High School in Fort Lauderdale, Florida. The attack occurred after school and on school premises. While Ruiz waited on a bench just outside the doors to the school cafeteria, three other students struck Jose from behind with a garbage can and then beat him.

At trial, the school principal testified that no one was specifically instructed to watch the group of students who routinely congregated in the cafeteria area while waiting for the bus or rides. 47 Ruiz argued at trial that the school had a legal duty to supervise students; in failing to supervise, the school breached that duty; this breach gave rise to, or was the proximate cause of, Ruiz's injury. Most significantly, Ruiz argued that the duty to supervise is not extinguished when the bell rings. The trial court found for Ruiz. On appeal, the Florida Appeals Court for the Fourth District accepted the Ruiz argument and affirmed the trial court decision. Embracing the lower court's reasoning, the appeals court held that a school has a duty to provide supervision after school, notwithstanding the absence of any school-sponsored activity. So long as children must attend school and are allowed to congregate on the premises after classes while awaiting rides, schools are required to provide "some sort of security in this

47. *Id.* at 476.
area to prevent incidents from occurring." The court specified the circumstances under which such a duty might arise: "This duty includes responsibility for a centrally located part of the school which students regularly occupy with the school's consent and knowledge during the hours immediately after the end of classes."49

The court, aware of the most critical periods giving rise to school violence, noted, "The school's duty to provide supervision does not end when the bell rings. If anything, the time period immediately after the end of school presents the greatest danger of misconduct by students who have been restrained all day in a disciplined setting."50 In sum, the court in Ruiz adopts the view that the school's common law duty to supervise should logically extend to periods before and after school.

II. ANALOGOUS DUTIES

Analogous duties can be found in other contexts which apply similar logic to that employed in the Ruiz case. For example, employers have a duty to provide workers with a safe workplace and adequate supervision—a duty which arises when workers enter the premises and is extinguished only when they have safely departed.51 If an employee is attacked in a poorly-supervised parking lot or is injured while walking on a poorly-maintained path, the employer's liability is not extinguished merely because the factory whistle sounded before the accident.

Similarly, amusement parks incur a duty to "exercise all proper precautions, skills, and care commensurate with the circumstances to make the place as little dangerous as such a place can reasonably be made and to maintain and supervise the place and every part of it."52 For example, when a patron is injured by a tram when leaving the amusement park at closing, that business cannot validly claim its duty to exercise reasonable care expired the minute the park closed.

The criteria applied in analogous situations is not only the measure of time. Rather, the foreseeability of harm and

48. Id. at 477.
49. Id. at 477-78.
50. Id. at 477 (emphasis added).
52. Sergermeister v. Recreation Corporation of America, Inc., 314 So.2d 626, 639 (1975) (liability of owner of amusement park to patron).
the fact that the premises have been made available for the presence of others to work, recreate, or learn are the controlling, logically-consistent considerations.

A logical application of the standard of care, as expressed in the Restatement, requires that school officials take affirmative, reasonable steps to ensure the safety of children on their campuses regardless of time. Present limitations applied in some courts contradict the logic of a common law duty to supervise.

Courts should accept the serious challenge of restoring a safe school environment and require increased supervision so that remuneration will be available to children harmed as a result of a school's negligence, so that schools will improve the quality of care and supervision, and ultimately, so that violence-ridden schools will become safe.

The proposed legal change anticipates that schools will improve supervision because of the deterrent effect increased liability will pose. The following section examines the deterrent theory of tort law and concludes that imposing increased liability on schools will, in fact, prompt school officials to improve supervision and perhaps even to implement programs designed to address violence and other crime in schools.

III. THE DETERRENT EFFECT OF EXTENDING SCHOOL LIABILITY

This article does not view the goals of tort law in a limited, parochial sense—that tort law's purpose is only to compensate victims of accidents. Here, tort law is viewed more broadly. Tort law is seen as a method of addressing a pervasive educational and societal problem, a problem that itself is not the result of a school's failure to supervise. Tort law is viewed as a method of achieving socially desirable behavior. Using tort law to accomplish a variety of societal goals, however, is not a novelty. Tax laws, for example, have been used as an adjunct to criminal law enforcement.

53. Supra note 38.
54. The purpose of tort law was generally described as intended to provide remuneration for the injured party and to "satisfy the ethical or moral sense of the community, its feeling of what is fair and just." F. Harper & F. James, The Law of Torts 743 (1956).
Here, we are concerned with making our urban schools safer. As noted at the outset, it is unequivocally admitted that we would do much better to address the problem directly rather than through use of tort law. But taking the "better" approach depends upon its political feasibility and the availability of limited resources.56

In short, we turn to tort law aware of the slim possibility that a comprehensive program to address the problem of violent youth will be implemented any time soon, aware of appallingly high levels of violence in our public schools, and assuming that increased liability will have a "deterrent effect" on unsafe activity thus making schools safer.

The legal change proposed, although a logical extension of existing tort law, admittedly depends on the theory of deterrence for its justification. It is not unreasonable to assume that if schools are faced with increased liability, they will act affirmatively to avoid that liability. Steps designed to address student violence that might have seemed less desirable will probably be reassessed. The use of tort law to deter socially undesirable behavior, or to encourage that which is socially desired, is embraced in the well pondered subject of "law and economics."57

Guido Calabresi originally termed this effect "general deterrence."58 According to Calabresi, imposing liability will "force individuals to consider accident costs in choosing among activities . . . . it creates incentives to engage in safer activities. . . . [I]t encourages us to make activities safer."59 Similarly, Judge Richard Posner asserts that tort law does, in fact, have the ability to achieve efficient deterrence.60


56. In the distribution of scarce goods society has to decide which method of allotment to use. In so deciding, the distribution of some goods entails great suffering or even death as each decision to allot is simultaneously a decision not to allot to another, competing and needy group. G. CALABRESI & P. BOBBIT, TRAGIC CHOICES 17-28 (1978).


58. G. CALABRESI, supra note 55, at 90. Professor Calabresi advocates "cost internalizing" tort reforms that depend for their justification on their deterrent effect.

59. Id. at 69, 73.

The validity of the assumption that increased liability will promote or deter certain behavior is supported by a substantial body of legal writing, theory, and judicial experience. The deterrent effect of liability in tort is well accepted and, in most respects, axiomatic. It seems simple to predict that, when faced with the sting of expensive judgments, schools will act to improve their school safety activity.

Some tort law scholars, however, criticize the utility of tort law as an effective deterrent of unsafe activity. According to Professor Sugarman, "[the] simple deterrence model overemphasizes both the amount of overly dangerous activity that would occur without tort liability, and the amount of injury reduction achieved." Professor Sugarman argues that "[s]elf preservation instincts, market forces, personal morality and governmental regulation combine to control unreasonably dangerous actions independently of tort law." Although in other contexts Professor Sugarman's proposal may be tenable, it does not seem so when applied to the public school safety context. For example, even though public schools have experienced "bad reviews by . . . the media, to say nothing of word of mouth complaints," most consumers/students, especially in the inner-city where the majority of violence occurs, are unable to "take their business elsewhere." Public schools are not subject to the same market forces which might influence their behavior; there is no "desire to cater to current buyer preferences," as Professor Sugarman puts it, in the public inner-city school.

The assumption that governmental regulation will address the problem, thereby negating the need for deterrent tort liability measures, wanes upon closer analysis. One has only to examine the voluminous pages of hearings and reports to discover that, while decrying school violence, substantive federal and state policies designed to address the problem of school violence are virtually nonexistent.


61. Professor Sugarman advocates that recoveries for tort injuries be absorbed into a variety of social welfare programs. Sugarman, Doing Away With Tort Law, 73 Calif. L. Rev. 558, 559-90 (1985).
62. Id. at 561.
63. Id. at 562.
64. Id.
65. Often described as the "great exception," the California state legislature, befitting of this description, is considering legislation requiring all California public schools to develop and adopt a comprehensive school
In sum, given the lack of legislative proposals and the substantial likelihood that schools will act to more appropriately protect students from harm when faced with expanded tort liability, tort law should be employed to impute liability to schools—the party with greater knowledge and ability to avoid the injury. Indeed, schools may well be the "best decider" of how to make their schools safer.66

In short, the Calabresian "general deterrent"67 theory is accepted here. Schools subjected to increased tort liability costs will shift to safer activities such as increasing supervision after school. Expanded liability requiring increased supervision assumes, however, that schools have the ability to prevent violent attacks. Even if this assumption proves to be false, the general deterrence created by increased liability remains worthwhile. Even if curtailing school violence by increasing supervision is impossible or proves to be very difficult, placing the cost on schools may nevertheless bring about general deterrence in the form of a "continuous pressure" to develop an effective approach to ameliorate violence in schools.68

CONCLUSION

Increased tort liability imposed upon schools will undoubtedly present a variety of economic implications—some difficult to predict. Initially, it would seem, all schools will act to increase supervision. To the extent increased supervision prevents violent attacks on the campus, schools will become safer places.

Yet, well-meaning schools may not take steps to increase supervision even though the specter of large civil judgments

safety plan. The plan would require that each public school in California develop a strategy to combat school crime. The bill provides attendant funding for research with implementation to be appropriated through the California Department of Justice and Department of Education. Department of Justice Bill Proposal: School Safety Plan, John VanDeCamp, Attorney General (Feb. 1988).

66. Increased liability would not require specific efforts to increase school safety. Instead, increased liability would give schools the freedom to choose whether and how they would modify their supervisory and custodial activity.

67. The "general deterrent" effect of extending liability should be distinguished from the concept of "specific deterrence" which requires legally binding formal behavioral control. It is Calabresi's theory of "general deterrence" that is accepted here. See, G. CALABRESI, supra note 55.

68. Id. at 74-75.
provides an incentive to do so. Instead, many schools may simply not be able to afford the costs of improving security and supervision. Moreover, many schools in the areas of highest risk may lose their present insurance protection or find it impossible to maintain their current policy rates, given the increased potential for tort liability.\(^6\)

Schools operate in varying economic conditions. While some better-funded schools in more affluent communities may have no problem financing increased supervisory/security costs, less well-off schools (those usually in the inner-city experiencing most of the violence about which we are concerned) may be unable to incur increased costs. In effect, the increased supervision required in inner-city schools, already struggling financially, may be a prohibitively expensive requirement. Such requirements could have a totally debilitating effect ultimately requiring some schools to close.\(^0\)

Yet, in these very extreme cases, the potential economic incapacity will necessarily prompt a legislative solution.\(^7\) This worst case scenario may, in fact, provide the impetus needed to prompt otherwise recalcitrant legislatures to act.

Though often discussed, school violence remains a social and educational problem which continues to pervade many public, inner-city schools. This article has described the mag-

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69. Yet the Los Angeles United school district—plagued with violence—asserts it is not troubled with increased liability and its affect upon their ability to procure insurance. The variables are many, they report. Cox, Cities, Counties Brace for Lawsuits Without Insurance; Local Officials Watch Their Safety Net Fray While Liability Rises: The Crisis Goes Public, L.A. Daily Journal Nov. 27, 1985 at 1, col.6.

70. The insurance crisis may be exacerbated in school districts which are within jurisdictions applying the doctrine of joint and several liability. Under this scheme, an injured person can recover from any responsible party, regardless of that party's share of the blame. Where, as in most cases, inner-city school children and their families lack money, it is the school which will usually become the "deep pocket." Some schools, however, may not be able to obtain insurance.

71. Perhaps the only effective way to rectify the potentially debilitating effects of increased liability and to insure adequate expenditure on school safety measures is to restructure educational financing. In Texas, for example, the 100 top-ranked school districts spend approximately $5,500 a year for each child while the poorest ranked school districts spend only $1,800. It has long been argued in the courts and in the literature that the only way to achieve equitable distribution of educational resources is to build toward school financing reform. See Financing Public Education on an Equitable Basis, 14 The Urban Lawyer 583-642 (1982). See also Hollins v. Shofstall, 110 Ariz. 88, 515 P.2d 590 (1973); Serrano v. Priest, 18 Cal. 3d 728, 135 Cal. Rptr. 345, 557 P.2d 929, (1977); McDaniel v. Thomas, 248 Ga. 632, 285 S.E.2d 156 (1981).
nitude of the problem and articulated a basis for judicial action designed to make schools safer. The legal change proposed is not a final remedy for what is understood to be a complex social and economic problem inextricably related to the family. Nevertheless, the change proposed may give rise to increased supervision and safer schools.

As we have seen, safe and peaceful schools are required before veritable educational reform can occur. Ideally, by making schools safer today, although we defer implementation of comprehensive social programs, we will create an environment facilitating enriched education and, in turn, contribute toward eliminating the economic and social conditions that create violent children.