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School Violence: A Case for Stronger Parental Liability

Syed Fahad Saghir

Although other liabilities may be effective as precautions, a stricter parental liability may prove the most potent force against future violence in schools.

If you are reading this, my mission is complete. Your children who have ridiculed me . . . are dead . . . Do not hide behind my choices. You need to face the fact that this comes as a result of YOUR CHOICES. Parents and Teachers, you f—ed up. You have taught these kids to be gears and sheep. . . . YOU ARE IN THE WRONG. I may have taken their lives and my own—but it was your doing. Teachers, Parents, LET THIS MASSACRE BE ON YOUR SHOULDERS UNTIL THE DAY YOU DIE.

This was the suicide note emailed anonymously to police from Eric Harris, one of the two assassins in the Columbine High School shooting on 20 April 1999. Exactly how responsible are Harris’s parents for his shooting spree? Did the violent media inspire his actions? Was the school district responsible? This note revitalizes an old question: who should be held accountable for juvenile actions?

Violence at schools today has become a serious concern for parents and educators. This matter gained national recognition for the first time in 1978 when the Safe School Study Report was presented to the United States Congress. The study reported that over 5,000 teachers and faculty members were

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physically assaulted each month. A recent study showed that from 1 July 1997 through 30 June 1998, sixty school-associated deaths occurred. In addition, at least one serious violent crime was reported at ten percent of all public schools from 1996–97, and the percentage of schools reporting such crimes tended to be higher in cities than in towns or rural areas. Congress, in attempt to alleviate this problem, passed The Gun-Free Schools Act in 1994, which requires public schools to expel for at least one year students found with weapons. However, incidents of students’ frenzy killings continue to make headlines.

A dilemma arises regarding the prosecution of juveniles guilty of committing horrendous crimes. In many states it is difficult to try them as adults. However, liabilities can be placed on individual adults or institutions associated with the juveniles’ violence in school. This raises an important question: should the liability be imposed on the media that inspires such acts, the schools for not protecting students, or the parents of the child? Although other liabilities may be effective as precautions, a stricter parental liability may prove to be the most potent force against future violence in schools.

A potential liability holder could be the Video Game Manufacturers (VGM). The concern about media and video games is not new. In 1999, Senator Joseph Lieberman condemned the prevalent violence in the American media:

If we want a safer, saner culture, we have to clearly and loudly ask the people who shape it how many more kids must be slaughtered before we wake up to our shared responsibilities to protect them from harmful influences, on screen and off. We have to ask them... how they are serving the public interest by flooding them with conscienceless killing and demeaning sleaze. We have to ask them how many more sadistic,

3 Ibid.
blood-soaked video games will be marketed to teenage boys and how many more porn stars will be featured on MTV before someone draws the line.6

Evidence suggests that violent video games may have stimulated a shooting incident in West Paducah, Kentucky.7 On 1 December 1997, fourteen-year-old Michael Carneal opened fire on a group of students, killing three. Attorney Jack Thompson filed a lawsuit against VGMs on behalf of the families of the victims. He alleged that although the fourteen-year-old shooter had never fired a handgun before, he seemed very experienced in his “methodology” of killing, suggesting that violent games such as “Mortal Combat,” and first-person shooting games “Doom” and “Quake” inspired and prepared Carneal for the killing.8

In order to hold the VGMs liable, the plaintiff must establish that the games were (1) defective, (2) unreasonably dangerous to the user, and (3) the defect was a substantial factor in the plaintiff’s damage.9 Even though it is hard to define the product as defective, a recent government study found that over seventy percent of “M” (Mature) rated games appropriate for seventeen-year-olds were marketed to an audience younger than that.10 In addition, using the word “game” hides the potential violence and abuse in the video games.11 These facts can be used against VGMs in the courts. However, it would be hard to prove that the video games were unreasonably dangerous to children. It would be much harder to prove that those defects (if the court chooses to accept them as defects) were actually responsible for engendering the massacre. After all there are millions of other juveniles who play those games without such severe consequences.

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8 Ibid., 815.
9 Ibid., 835.
10 Ibid., 818.
11 Ibid., 838.
The same reasoning used with the video games can also be applied to TV and movies. According to the American Psychological Association, an average twelve-year-old has seen 8,000 murders and 100,000 acts of violence on network television. In 1998 the Center for Media and Public Affairs estimated that five of the ten most violent movies were rated PG-13 and that fifteen of the twenty most violent TV series were PG. Even though it is possible that violent media affects the youth adversely and may even contribute to the violent outbreaks, it remains difficult to establish that the media was responsible enough to be held liable. Media should become safer for children but still cannot substitute parental protection.

Alleging that school districts failed to protect their children at school, families of victims are also suing school districts. Some families want to hold the schools liable for the “state-created danger” theory. As with case of Wideman v. Shallowford Community Hospital, Inc., organizations can be held liable under the state-created danger theory for intentionally placing an individual in a dangerous position by stripping him or her of self-defense.

Courts traditionally have been hesitant to hold organizations liable. No school has intentionally tried to place its students in danger, and it makes sense for schools to have complete immunity from such lawsuits. It is reasonable that schools should take extra precautions to prevent students from coming to school with weapons. Nonetheless, if school districts can easily be held liable then we can anticipate a deluge of frivolous lawsuits, resulting in a big drain in school funds.

To be able to hold a school liable for school violence, the plaintiffs must be able to show that the violence was reasonably anticipated. Most of the shooting incidents were in suburban towns where such violence was not expected. Holding the school district liable for these shootings would be difficult, and also wrong, because school shootings are a fairly recent phenomenon. In the case of Littleton, some officials were aware of the potentially violent nature of Harris. However, it was not enough to warrant

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13 Wideman v. Shallowford Community Hospital, Inc., 826 F2d 1030, 1035–36 (11th Cir. 1987).
installation of metal detectors or surveillance cameras. Furthermore, other students who were also flagged as dangerous did not resort to such drastic means.

School districts therefore should not be held liable for the victims’ losses in prior shooting cases. Schools should take necessary precautions; however, it should be up to the state or the school district to decide what the security regulations should be. Schools should be held liable if they fail to pursue a potential perpetrator (one who has been overtly threatening) or if they fail to comply with security regulations.

Another potential liability holder could be the parents of juveniles responsible for school violence. The New York case Steinberg v. Cauchois established the precedent of parental liability. It decreed that parents would be held liable if a parent (1) allows a dangerous instrument into the hands of the child, (2) allows an instrument, which can be used dangerously because of the child’s known propensities, and (3) fails to restrain the child from a conduct that harms others. The Steinberg ruling has been used in many cases, namely Agnesini v. Olsen, Zuckerberg v. Munzer, and Carmona v. Padilla. In each of these cases the court found that the guardian was aware of the minor’s aggressive tendencies and had been negligent in preventing the minor’s use of a potentially violent instrument. Thus, the guardians were found liable for the minor’s actions.

A common problem with the Steinberg ruling is that the plaintiff must prove that the defendant’s parents were negligent. In the case of Adolf E. v. Linda M., the court found that there was not enough proof of negligence on the part of the parents. In this case, the defendant was charged with sexual misbehavior with a child she babysat. The parents were not held liable even though they knew of their daughter’s tendency. If the Steinberg ruling is used to judge liability on parents of juveniles responsible for violence in schools, plaintiffs must prove that those parents were indeed negligent.

15 Steinberg v. Cauchois, 293 NYS 2d 147 (1937).
18 Ibid., 446.
19 Ibid., 449.
On 20 April 1999, Harris and Klebold walked into their school and committed one of the bloodiest school killings in history. In order to apply the Steinberg test in this case, we have to determine whether the parents provided the teenagers with the weapons used for the massacre in addition to whether the parents could have stopped their children from the killings.

Harris and Klebold belonged to the “Trenchcoat Mafia,” an organization of social outcasts. This group had gained some infamy in 1997 when an alleged member killed his stepfather and then himself. For a video production class, Harris and Klebold made a tape that simulated an assassination of the school’s jocks. One of the boy’s essays was brought to the attention of the school’s guidance counselor. Their teacher Cheryl Lucas had warned the administration of the potentially violent nature of the boys. The two were known to immitate the Nazi culture and wear swastikas. The boys had been arrested once for stealing tools from a van. Harris’s website threatened to kill a fellow student, and this matter was brought to Harris’s parents attention by the threatened student’s parents. Also, the police found a sawed-off shotgun in plain view in Harris’s room and a tape in which Harris admits that his father saw a pipe bomb in his room.

We do not yet have enough information to suggest that the Klebolds were as aware of their son’s behavior as the Harrises were. However, as responsible parents the Harrises and the Klebolds should have been more vigilant in monitoring their children’s activities. In many court rulings such as Sherri v. Gerwell, the court assumes that the parents and children are separate and that if the parents do not know very specifically of their children’s intentions, they are not liable for their children’s actions. This creates a culture in which parents can give their children unlimited freedom. As long as parents are not aware of their children’s intentions, they are not liable. As a result, parents are more reluctant to look into their children’s lives. If the

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20 Ibid., 472.
21 Ibid.
22 Ibid., 473.
23 Ibid.
24 Ibid., 475.
25 Ibid., 477.
26 Sherri v. Gerwell 691 NYS 2d 145.
court were more strict in the Steinberg test, it would cause parents like the Harrises to be more involved in their children's life. Ideally, government should not have to tell families what to do at home, but when families forget their duties, government must take action.

Therefore, it seems most reasonable that the courts should be more strict in holding parents liable for delinquent children's actions, rather than other influences. Knowledge of this would encourage parents to be more aware of their children's activities. Parents are inherently in a better position to understand their children's mental state and make better judgments about appropriate intervention. Many societal problems we see today such as crime and low educational achievement are rooted in the disintegration of the American family. In *The Kansas Journal of Law Public Policy*, Louis Sullivan, M.D., talks about ways of dealing with the family problem, claiming that the restoration of "the family . . . will largely depend upon a national strengthening of our family values" and that "we must recapture the spirit of the family that nurtures, protects and strengthens our children."²⁷ A powerful way to promote good family values would be for the courts to reassert the responsibility that parents have over their children. If parents are more involved in their children's lives, violent video games and movies will not have as great effect in encouraging violence. Children of vigilant parents will be less likely to resort to violence. Although juveniles are responsible for their behavior, parents should be given greater liability.