

**TESTIMONY OF
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BEFORE THE
FEDERAL COMMISSION ON SCHOOL SAFETY**

**Washington, DC
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Good afternoon. My name is Troy A. Eid. I served as Colorado's 40th United States Attorney appointed by President George W. Bush. At the time of the tragedy at Columbine High School in 1999, I was the Chief Legal Counsel to Colorado Governor Bill Owens. Thanks for the opportunity to testify.

The important work you have undertaken matters both professionally and personally to me and my family. I grew up and attended public school in the same district as Columbine High School and have been a resident of Jefferson County for 48 years. Our two children have attended the Jefferson County Public Schools; daughter Emily is currently a sophomore at nearby D'Evelyn High School.

The afternoon of April 20, 1999, as the Columbine tragedy was still unfolding, I accompanied Governor Owens from the State Capitol to Leewood Elementary School, the staging point to which Columbine students were evacuated. Using my cellular phone and a walkie-talkie, my makeshift role was to

relay messages between the Jefferson County Sheriff's Department, led by the late Sheriff John Stone, to the Governor and various state law enforcement officials.

In the chaos that day, there was no central dispatching and no effective on-site incident command. Many of the responding jurisdictions' emergency radio systems did not interoperate. Governor Owens subsequently tasked me with leading the State's conversion of its entire public safety communications system from microwave to an 800 Megahertz Digital Network so that state, local, tribal, and federal first-responders could talk with each other on the same frequency during emergencies.

The Columbine Review Commission

Governor Bill Owens charged the Columbine Review Commission ("Columbine Commission") with learning and publicizing practical lessons from Columbine in order to prevent or mitigate similar tragedies. Under the leadership of our chairman, the late William H. Erickson, Chief Justice emeritus of the Colorado Supreme Court, my colleagues and I interviewed or met with hundreds of people involved with the tragedy, along with numerous experts in law enforcement, threat assessment, violence prevention and anti-bullying, mental health, and other fields. The Columbine Commission also reviewed thousands of

pages of documentary materials and other evidence concerning the two perpetrators of the attack, Columbine students Eric Harris and Dylan Klebold, before releasing our final report in May 2001.

At the risk of oversimplification, the Columbine Commission's recommendations fall broadly within three categories:

- (1) The need for police to engage active school shooters immediately to neutralize their threat to others, and to establish unified on-site incident command to support all first responders.
- (2) The importance of strengthening collaboration and information-sharing between schools and law enforcement in a manner facilitated, instead of being discouraged or prohibited, by federal and/or state law.
- (3) The challenging yet essential task of developing effective threat-reporting, detection, assessment and early-warning systems to shield students, faculty and staff from potentially dangerous individuals who might otherwise threaten public safety in school settings.

All three of our recommendations directly bear on the crucial work that you are doing here. Let me address each.

1. The Need to Engage & Neutralize Active School Shooters.

The Columbine Commission's report sparked immediate national attention for its recommendation that first-responders no longer treat mass-shootings as hostage situations where time is often on law enforcement's side. This was

controversial back in 2001, but subsequent events attest to the necessity of what has become an international shift in police tactics and strategy.

On April 20, 1999, the Jefferson County Sheriff's Department and other first-responders waited for SWAT to assemble outside the school. Forty-seven minutes passed before law enforcement entered the building and begun sweeping room-by-room. That was 34 minutes *after* Harris and Klebold had murdered 12 students and taken their own lives. Meanwhile, a teacher, David Sanders, was bleeding to death in a classroom even as students held up makeshift signs to the windows begging for help. Medical personnel knew where Coach Sanders was but were not permitted to enter the building until nearly three hours after Harris and Klebold had died.

As to why the two killers committed suicide 13 minutes after entering the school, the evidence suggests they believed law enforcement would storm the building at any moment. Harris and Klebold had already failed by that time to detonate the two 20-pound propane tank bombs they had devised and positioned in the cafeteria in a manner calculated to cause the collapse of the classrooms above on students gathered for lunch, a death toll experts estimated might have exceeded 1,000 students, faculty and staff. The killers mistakenly thought their

demise was imminent, when in fact no law enforcement officer entered the school building for more than half an hour.

In the 25 or so active-shooting school tragedies since Columbine, law enforcement response times to engage active shooter have been reduced dramatically. This is thanks in part to the Columbine Commission's push for changes in police training and tactics, unified on-site incident command governing all first responders, and schools' development of protocols and systems to alert law enforcement immediately of such attacks. According to a 2013 report by the Federal Bureau of Investigation, in three-quarters of the school tragedies since Columbine, law enforcement entered the school and engaged the shooter to end the stand-off. As a result, two-thirds of those attacks ended in 13 minutes or less. Ironically, that is the same time it took Harris and Klebold to turn their weapons on themselves when they mistakenly believed they had run out of time.

On September 27, 2006, Colorado experienced its second school-shooting: At Platte Canyon High School in rural Park County, the jurisdiction just west of Jefferson County. I was Colorado's United States Attorney at the time and, with the support of U.S. Department of Justice, our office worked with Park County Sheriff Fred Wegener to assess how the Columbine Commission recommendations were used to save lives.

Platte Canyon was attacked not by a student or former student, but by 53-year-old Duane Roger Morrison. Morrison, a drifter with no known previous connection with the school and was reportedly camping out of his car nearby, entered the building with multiple weapons and took six female students hostage, sexually abusing them. He then released four hostages, warning that his backpack contained C-4, an explosive. Law enforcement entered the school three minutes after receiving the report. Morrison immediately withdrew and barricaded himself in a classroom. Morrison tragically murdered one hostage, Emily Keyes, before taking his own life as officers used an explosive device to gain entry and end the stand-off.

In his after-action debriefing to the Colorado Law Enforcement Coordinating Committee, Sheriff Fred Wegener credited the Columbine Commission's recommendations for informing how his department and the school prepared for and responded to Morrison's attack. Engaging Morrison most likely saved life of at least one hostage and possibly avoided a much larger tragedy at Platte Canyon High. The school had already revamped its security protocols post-Columbine and was able to immediately report the threat to law enforcement via a "Code White" notification system. Officers arriving at Platte Canyon established an on-site incident command structure – another lesson

learned from Columbine – to coordinate interaction across the multiple responding jurisdictions, and among law enforcement and other first-responders such as medical personnel.

2. Closer Coordination and Information-Sharing Between Schools and Law Enforcement.

A second key lesson from Columbine is the need for school officials, law enforcement and social services professionals – including mental health experts, social workers and other “wrap-around” service providers – to report and share information with each other about potentially violence-prone students and others who pose a threat to our communities. The Columbine Commission determined that school officials generally did not share their concerns about Harris and Klebold with law enforcement. Nor did the Jefferson County Sheriff’s Department tell educators and administrators at Columbine what law enforcement knew about the future killers. As the Columbine Commission concluded:

Both Harris and Klebold had had significant encounters with Jefferson County’s juvenile justice system, in the course of which they in fact flagged their dangerous potential. The pair had been arrested for theft after breaking into an electrician’s van, and had been suspended for from school for hacking into Columbine High School’s computer programs. Because of their youth and lack of prior records, the two were placed in a diversion program, which they completed successfully in the opinion of the officials administering it. They also were accused of making dangerous threats against a fellow student. On several occasions while they were being dealt with by Jefferson County authorities, the two gave overt indications that they were dangerous;

regrettably, a failure among authorities to share the information they had about the two allowed the pair to cloak their deadly intentions from law enforcement officials, prosecutors, and school teachers and officials. (Columbine Commission Report, p. 21.)

In the wake of the Columbine massacre, Colorado state law and school district policies were retooled to facilitate interdisciplinary teams to monitor and evaluate possible threats. A statewide toll-free phone and Internet reporting tip line have further strengthened these efforts. It is the considered judgment of both law enforcement and educators that such collaborative approaches, which are now widespread across our country, have prevented numerous plots which might otherwise have resulted in school violence.

This Commission can further enhance collaboration and information-sharing among school officials and law enforcement by working with the Congress to reform the Family Educational Rights Privacy Act, 20 U.S.C. Section 1232g, and its implementing federal regulations. According to this legislation, Congress enacted FERPA “to protect [students’] right to privacy by limiting the transferability of their records.” FERPA generally prohibits schools from releasing information in a student’s “educational records” without the written consent of the student’s parents. *See* Section 1232g(b)(1).

Unfortunately, FERPA has sparked needless confusion among school officials and their lawyers in districts in Colorado and elsewhere. Their perception or misperception, as the case may be, is that FERPA might expose them to liability if schools disclose student-related information to law enforcement. Such overly restrictive interpretations of this federal statute have become so widespread that Colorado's Attorney General, Cynthia Coffman, last January issued a written opinion seeking to reinforce schools' ability to disclose information about potentially violence-prone students notwithstanding FERPA. The Commission should investigate this situation and, if it determines this problem is widespread, encourage Congress to clarify it immediately.

3. Developing More Effective Threat-Assessment & Early-Warning Systems.

Finally, the Columbine tragedy exposed the need to develop more accurate systems and methodologies to detect potentially violent behavior and intervene effectively before it occurs. We face no greater or more urgent challenge than this today in order to make our schools safer.

The Columbine Commission heard extensive testimony from FBI criminal profilers and other experts who urged the creation of predictive models to screen potentially violent and anti-social behavior so as to identify what our federal criminal laws have labeled a "true threat": A pledge or promise to commit one or

more acts of violence accompanied by the means actually to carry out the specific harm threatened. As a former federal prosecutor, I have made criminal-charging decisions in true-threat cases, including threats made against both Senator John McCain and Senator Barack Obama during the 2008 Presidential campaign. A true threat is a very significant standard for law enforcement and investigators to meet. It requires the development of a substantial quantum of admissible evidence not only to prove the threat, but the means to carry it out at the time.

This Commission might wish to revisit whether the true threat standard is still appropriate in protecting our children and young people from potential acts of violence in school settings and other places where innocent and typically defenseless people gather. Threats of violence are not typically protected under the First Amendment, which would permit the Commission to consider a more inclusive standard by which school officials and law enforcement could intervene when threats are reported.

Tough as it may be to have this conversation, it would benefit us to discuss rebalancing our existing laws to take a more cautious and less dismissive approach to possible threats, including those made by juveniles. Civil detention for investigative and monitoring purposes should be carefully considered so that an individual making a threat is removed from settings where he or she might

hurt themselves, their peers, or faculty and staff. This last point is crucial:
Students sometimes threaten to kill teachers as 17-year-old Karl Pierson did at
Arapahoe High School in Colorado in 2013.

It is essential that inter-disciplinary teams have the tools needed so that
those suspected of making threats or contemplating violence against others be
removed from school settings until they are professionally evaluated, including by
mental health experts as well as law enforcement. Of course such students
detained in such a manner must have the right to counsel and otherwise be
afforded due process. Yet our society has the right, and also the responsibility, to
act sooner to assess risks that might otherwise threaten our communities.

Thank you and I am prepared to offer the Commission my continued
assistance as you complete your important work.