A content analysis of state legislative responses to educator assault

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A CONTENT ANALYSIS OF
STATE LEGISLATIVE RESPONSES
TO EDUCATOR ASSAULT

A Dissertation
Presented to
The Faculty of the School of Education
The College of William and Mary in Virginia

In Partial Fulfillment
of the Requirements for the Degree
Doctor of Education

by
Jamie Heider Arkin
October, 1999
A CONTENT ANALYSIS OF
STATE LEGISLATIVE RESPONSES
TO EDUCATOR ASSAULT

by

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Acknowledgments

Two roads diverged in a wood, and I--
I took the one less traveled by,
And that has made all the difference.
--Robert Frost

Dedicated to my parents

I came to this path later in life than many, but, perhaps, more prepared than most because of the incredible encouragement and support I received from others. I am grateful for the guidance of my committee: Dr. Robert Hanny, Dr. Thomas Ward, Jr., and especially my chair, Dr. James Stronge, whose confidence in my abilities coupled with their high expectations of excellence, spurred me to do my very best. I am also most fortunate to have the love and advocacy of friends and family whose support sustained me over the years it took to make this journey: my father, James C. Heider and my sister, Anne Heider, both of whom have always encouraged me most by believing in me; my children, Kenneth and Joshua, who cheerfully made many a "yellow" dinner and unselfishly allowed me to pursue my goals; my close friends, Faye, Judy, Jinx, Kay, and Pam, whose faith in me never wavered despite my sometimes crazed and obsessive moments; my dog Murphy, who, from under my desk, warmed both my feet and my heart with his unflappable demeanor of total devotion, even when I read him unedited sections at 2 AM; and lastly, but certainly most importantly, my husband, Danny, who has always been my most vocal personal, private, and public cheerleader: You unfailingly tended my path, removing every stone so that I wouldn't stumble. Thank you for walking with me, holding my hand, and knowing when to let go. I could not have done this without you.
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A CONTENT ANALYSIS OF STATE LEGISLATIVE RESPONSES TO EDUCATOR ASSAULT

Abstract

Educators increasingly find themselves having to rely on laws for protection from threats or attacks, and educator assault laws reflect the diverse and unique needs of the individual states. This study sought to determine if the state legislatures in each of the 50 states have created legislation punishing educator assault and to compare, contrast, and analyze any existing statutes by using content analysis methodology. Currently, 37 states possess educator assault legislation. Specific features within each law were examined: its protected recipient, the prohibited action, identification of the aggressor, any limiting or qualifying statements, and the stated penalties. Several trends emerged; specifically, most educator assault laws carry enhanced penalties as compared to the general assault statutes of each state. Second, less than half the states have legislation which clearly prohibits students from committing educator assault. Third, incredible variability exists in the penalties for educator assault as written in the state laws. A final research question attempted to identify a relationship between ranked state crime data and ranked state penalties for educator assault. No relationship was discovered. Implications of this study include the acute need for better educator awareness and training so that legal options are more well-known and used; the need for state legislatures to collaborate, share information, and strengthen penalties for educator assault; and the demonstration that content analysis is a useful research tool for examination of education-related laws.

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A CONTENT ANALYSIS OF
STATE LEGISLATIVE RESPONSES
TO EDUCATOR ASSAULT
CHAPTER 1: THE PROBLEM

When teachers and students are more concerned about being victimized than about education, they cannot concentrate on teaching and learning.

Mary Hatwood Futrell, Former President of the National Education Association (Futrell, 1996, p. 4)

Introduction

Our forefathers considered American public schools to be a critical element in the perpetuation of both individual and collective freedom. Schools were the great societal equalizer, for both rich and poor could enter and learn and take advantage of the many opportunities that possessing an education could bring. Holding such a revered position in our country's core values, schools and their teachers were respected, trusted, and obeyed (Berger, 1991).

Today's society does not overwhelmingly share the same philosophy as our forebears. Education is still prized, but many recognize the public schools as a system to be manipulated and taken advantage of rather than an institution where one learns cooperation and collaboration. Sharing and caring for the common good has been replaced with a greedy "each man for himself" attitude. The dissolution of the traditional family unit, poverty, increased mobility, changing demographics, race and ethnic tensions, and fluctuating economic conditions have created citizens who are more skeptical and less trusting of others (Miller, 1979; Nye, 1997; Palermo, 1994; Weisberg, 1996; White, 1994). Adding to this mix, the easy availability of guns...
and drugs and the glorification of violence in the media help create a societal pressure cooker (Derksen & Strasburger, 1996; Futrell, 1996; Garofalo, 1990; Petersen et al., 1996; Rosenberg & Mercy, 1991; White, 1994).

Unfortunately, societal violence permeates school environments. "Public schools are a microcosm of society. As society's problems increase, they are mirrored in the public schools." (Day, 1994, p. 4; also Crews & Counts, 1977; Gottfredson, 1997). "When there is violence in the community, it will impact the school. The demarkation line between school and community is difficult to draw" (Lamplugh & Pagan, 1996, p. 13); therefore, school violence problems cannot be controlled nor solved by the schools alone.

The majority of teachers and law enforcement officials believe that major factors contributing to violence in public schools include: lack of supervision at home, lack of family involvement in the schools, and exposure to violence in the mass media....[However, considering] the causes of school violence deemed most important by the public, we must go to the seventh on the list before we find one that attributes responsibility to the school. The schools have little control over the first six. (Elam, Rose, & Gallup, 1994, p. 43-44).

Thus, schools must look to other sources for assistance with this societal dilemma. Governmental support for controlling and eradicating school violence is one such source of aid and provides the lens through which this study's questions will be examined.

Background of the Study

School Violence Statistics

Look at how times have changed: In 1940 the top seven problems in public schools identified by teachers were talking out of turn, chewing gum, making noise in the classroom, running in the halls, cutting in line, littering and disobeying the dress
code. Compare this with what educators considered problems in 1993: assaults by students on teachers and other students, weapons in school, racial or ethnic attacks, gang disruptions, shootings, knifings and drive-by shootings. Struggling to learn and educate under such conditions create a severe emotional burden for many students and teachers.

Veronica White, in the National Conference of State Legislatures' 1994 Legisbrief (White, 1994, p. 1)

**Phi Delta Kappan** has been polling the general public on education issues for decades and has asked many of the same questions from year to year so that longitudinal attitude changes can be tracked. One question which pinpoints the public's perception of schools is "Have the public schools in your community improved or gotten worse from five years ago?" In 1988, 19% of the respondents believed their schools were worse, but by 1994 this number rose to 37% (Elam, Rose, & Gallup, 1994). In fact, when the public was asked about the nation's schools as a whole (rather than just those in the respondents' communities), the statistics were even more negative: in 1994, 51% believed the nation's schools had gotten worse from five years ago (p. 46). The 1998 Kappan poll reported that 15% of the respondents stated the "biggest problem facing local schools" was "fighting/violence/gangs," the largest single response given (Rose & Gallup, 1998, p. 51). This same response was given by only 1% of those polled in 1985 (Elam, Rose & Gallup, 1994). A nationwide survey of 700 communities issued by the National League of Cities (1994) indicated that 40% of the respondents believed violence in schools had increased noticeably within the past five years. Thus, the general public's concern over school violence has grown over the years.

Parents also believe that school violence is a serious problem. In 1979, 25% of the parents polled by Kappan said they feared for their child's safety at school; but by 1998, this figure rose to 36%—an increase of 11%. Yet, parents' fears for their children outside of school did not rise so dramatically: in 1979, 28% of parents said they feared for their child's safety in
the neighborhood, but by 1998, the number rose only three percentage points, to 31% (Rose & Gallup, 1998). Leitman, Binns, & Unni reported in the 1994 Metropolitan Life national survey that 40% of high school parents were "very or somewhat worried" about their child's safety at school (p. 5).

Students also believe that their campuses are not safe. Harris and Associates reported in the 1993 Metropolitan Life national survey that "One in every four students, regardless of their school level or achievement, feels that violence has lessened the quality of education in their school" (p. 73). The 1994 version of the same survey reported that 24% of the students polled believed that violence in their school had escalated within the past year (Leitman, Binns, & Unni, 1994). The National Center for Education Statistics [NCES] reported that between 1989 and 1995, the percentage of secondary students who avoided one or more places at school for fear of their own safety increased from 5% to 9%. In 1995, this percentage equaled 2.1 million students (Kaufman, et al., 1998). In fact, over 12% of all violent acts occur on school grounds (Gall & Lucas, 1996).

Teachers also believe that schools are becoming places of violence. "More than one-tenth (11%) of America's public school teachers say they have been victims of acts of violence that occurred in or around school" (Harris & Associates, 1993, p. 7). In the same survey, 19% of teachers felt that violence in the schools had increased in the past year. Unfortunately, these fears created additional problems: of these 19%, nearly half took precautions against being a victim of a violent act by carrying mace, and, even more frightening, 2% reported having carried a weapon to school at least once. According to a 1996 NCES report, the percentage of public school teachers reporting physical conflicts among students as either "moderate or serious problems" in their schools increased from 30% in 1990 to nearly 40% in 1994 (NCES, 1996, p. 1).

Rossman and Morley (1996) summed up the problem when they wrote "School crimes in earlier decades were depicted as relatively isolated events, virtually limited to troubled urban..."
environments. Such difficulties are currently acknowledged as permeating all types of communities—including urban, suburban, and rural school districts—regardless of demographic conditions, such as population, size, ethnic or racial diversity, economic vitality, or regional location" (p. 399). Schools have been increasingly losing their status as sanctuaries, places "set apart from larger societal concerns and traumas" (Vestermark, 1996, p. 101). "The issue of personal safety for students and teachers alike looms large as a compelling concern among school leaders, teachers, students, and their parents" (Hughes, 1994, p. 7). No community is immune; school violence is a nationwide problem.

**Governmental Responses**

Both the federal government and individual state governments have taken notice of this problem. The federal government has long recognized that "schools cannot be expected to reverse their communities' problems" (Gottfredson, 1997, p. 5-3) and has passed legislation and funded initiatives and programs to help combat school violence. For example, in fiscal year 1995, the federal government allocated over $605 million for various school violence initiatives to address both prevention and deterrence strategies (Gottfredson, 1997).

State legislatures also fund their own educational programs, and many states have structured their own special programs and initiatives which focus on school violence prevention. The amount of state dollars spent on school violence varies from state-to-state. However, because both education and criminal law functions are primarily state responsibilities, one response that states possess is the ability to create and implement laws to deter certain actions. A major advantage of legislation is that it is relatively cost-free (at least compared to annual big-budget programs) as laws do not require annual renewal and appropriation. Therefore, the creation of state laws which specifically address elements of school violence could be considered a cost-effective way to add additional support to the deterrence of school violence. The federal
government has required states to pass certain anti-violence legislation as a prerequisite for receiving dollars through the Safe and Drug-Free Schools and Communities Program (Gottfredson, 1997), but most states have recognized the benefits of tightening laws and have begun to pass school violence-related legislation as part of their responses to school crime.

**An Area of Neglect**

While federal and state efforts continue to address various aspects of school violence, one specific part of the problem has not received much attention: attacks and threats against educators. Both student and teacher victimization has garnered much interest, but typically analyses separate the two categories of victims only for statistical purposes, and any programs or interventions do not single out the possible need for responses tailored to the specific differences among school violence victims. While all victims of school violence deserve assistance and attention, educators are at special risk because they are the persons who are to maintain control and authority in the school setting. Therefore, attacks against educators take on a special meaning above and beyond an attack on a student or other person in the school building.

Unfortunately, violence committed against educators remains a serious problem; in fact, levels of threats, verbal abuse, and intimidation committed against educators are rising (Baumann, 1977; Petersen et al., 1996; Shen, 1998). This fear of imminent harm, defined here as assault, was the focus of this study. Because educators are public employees under the authority of the state, an argument can be made for the need for separate and unique responses to violence committed against educators. State laws already exist to protect all citizens against assault; adding additional legislation to specifically protect educators is a relatively low cost form of supplemental protection which would acknowledge educators' need for special safeguards in the workplace. Therefore, this study examined the existing state laws of all 50 states to determine if
states have drafted responses which specifically define, prohibit, and/or penalize assault of educators.

Purposes of the Study

The purposes of this study were 1) to determine if the state legislatures in each of the 50 states have created legislation punishing educator assault and 2) to compare, contrast, and analyze any existing educator violence-specific statutes.

Research Questions

By seeking to address the broad purposes listed above, the study was designed around the following specific research questions:

1. What laws exist in the 50 states to protect educators from assault?
2. What are the emergent features of educator assault legislation from the applicable states?
3. What are the major similarities and differences among state laws regarding educator assault?
4. Is there a relationship between the consequences for educator assault as defined by state laws and U.S. government data which ranks states by frequency of aggravated assaults?

Significance of the Study

This study of state legislative responses to educator assault was exploratory and descriptive in nature, a policy analysis which hopes to provide guidelines for lawmakers,
educators, and all citizens within the states of the U.S. As a result, this study should be of interest and benefit to anyone who has a stake in the safe and successful operation of public schools in the U.S.

The results of this study may be of particular interest to several groups. First, education is primarily a state function, and as such, reflects the unique and individualistic perspective of each state. While the federal government does have broad power over certain aspects of education (civil rights, for example), the main job of education resides with the state. As a result, state legislative response is a critical element of any educational issue. The creation of protective law is just one response to educator assault, but it is an important indicator of the scale and seriousness of the problem, and one piece of the many that are needed to curb school violence. Currently, each state reacts as it deems appropriate; thus, there is no nationwide coordination, only piecemeal reactions. Yet, school violence is not an isolated problem; it is a national problem which is oblivious to jurisdictional borders. Providing legislators with the results of this study may help bring improved decision-making into the states regarding how they deal with the problem of educator assault.

Secondly, from an educator perspective, the existence of such laws communicates an important message of support and assistance from governmental authorities. Educators who are assaulted in the course of performing their duties can know that the majority of society supports them and is willing to punish those who violate state mandates. Law "is not merely a piece of information about the Ought of order. It has been enacted...with the intention that it be heard and obeyed by the members of society" (Pascal, Babin, & Corrington, 1991, p. 45). Beleaguered educators from any state should be able to compare and contrast the state laws summarized in this study and use the information in assessing and communicating their needs to their elected state representatives.

Thirdly, society's long-term stability relies on citizen compliance with the laws. Weinberger (1991) believed this system created exchanges of equal value. For example, citizens
of a state provide safe and civil treatment for educators in exchange for the educators' expertise in teaching the state's youth. People who commit crimes directed toward educators upset that balance, and in essence, threaten society's equilibrium. In response, society attempts to re-balance the equation by creating additional laws and protections in the needed area. Thus, mandating compliance through laws is one way that society maintains its stability. Therefore, citizens of the states should benefit from reading this study and understanding the behavioral expectations that are placed upon them in order to guarantee society's continued existence.

Ultimately, the most important reason to protect teachers is to have peaceful schools for the students. It is hoped that the results of this study can positively impact the creation of safer school environments.

Definition of Key Terms

A major problem which casts a haze over any study of school violence is the lack of consistent definitions for key terms (Goldstein, 1994; Goldstein & Conoley, 1997; Miller, 1994). Laws, surveys, statistics, government documents, and professionals in the field often use different and sometimes conflicting terminology. For example, verbal threats, abuse, assault, harassment, verbal attacks, and menacing are all terms used interchangeably in the literature. Particularly troublesome is the clarification of the difference between assault and battery. Mellinkoff (1992) wrote that assault and battery are "sometimes loosely considered...the single operation of inflicting unlawful injury...and the two words are sometimes treated as synonyms" (p. 36). American Jurisprudence (1963) agreed, noting, "The courts are often perplexed in their attempt to discriminate between what is, and what is not, an assault" (p. 8-9). Since clear definitions are critical to limiting and circumscribing the problem, the following terms are operationally defined.
Assault: An intentional or overt unlawful attempt to put a person in fear of bodily harm (Baumann, 1997; Gall & Lucas, 1996; McCarthy & Cambron-McCabe, 1992) which creates "well-founded fear of imminent peril" (Black, 1968, p. 147), "whether or not contact results" (Mellinkoff, 1992, p. 36). Thus, assault includes words and/or actions which engender fear in the recipient.

From a legal standpoint, an assault must have an element of intent and immediacy in order to be legitimate. Thus, threatening words and/or actions up to, but not including physical contact with the victim, can be considered assault.

Precise clarification is essential to this study, and a few points must be elaborated so that the data make sense. States are free to define their crimes in any way they wish, and most define assault within the parameters set above. However, a few states (Massachusetts, North Carolina, Rhode Island, South Carolina, and Virginia) have chosen to use the common law definition of assault rather than specifying their own definitions in their criminal codes. According to American Jurisprudence (1963), the common law definition of assault is frequently defined as "any attempt to commit a battery, or any threatening gesture showing in itself or by words accompanying it an immediate intention, coupled with a present ability, to commit a battery" (p. 9). Each of these common law states has further refined its definition of assault based on court challenges over the years. Any significant definition variations from the definition given above were noted where appropriate in Chapter 4.

In addition, a few states have chosen to define assault to include unlawful touching, which is generally accepted to be battery (see definition below). In these cases, the states typically have created other statutes which embrace the definition of assault given above. Intimidation, threat, harassment, or menacing are comparable to this definition of assault in a few states. A
portion of the analysis in Chapter 4 compared the selected statute with the state's assault statute, but in these particular states, the best fit definition was used and was noted where appropriate.

**Battery**: The act of unlawful touching "or other wrongful physical violence or constraint inflicted on a human being without his consent" (Black, 1968, p. 193). Battery may be accompanied by assault, but not necessarily. For example, striking a sleeping person would be battery without assault (Mellinkoff, 1992).

In a very simplistic form, then, *assault* describes the nature of the intent while *battery* describes the result of the act (Mellinkoff, 1992). Most states use this distinction; exceptions noted when critical to interpretation.

**Educator**: Any employee of a school district or private school. It includes, but is not limited to, teachers, administrators, and support personnel. State laws vary in their definitions of what kinds of educators are protected by special legislation. These variations were a category of comparison and were noted when applicable.

**Assumptions**

There are at least two reasons why it is important to make schools safe. First, violence places both educators and students at risk of injury or even death. A society that values its citizens cannot tolerate a climate in which they are placed at such risk. Second, violence impedes the teaching and learning process.
Schools are not battlegrounds. They serve very specific functions for society—as places where teaching and learning take place and where our social system begins.

(NEA, 1996, p. 5)

Two assumptions guided this study. First, all children are required to attend school under compulsory attendance laws, and as such, society is obligated to keep them safe and secure. Schools are special environments which must have a higher standard of protection than society as a whole for the sake of the children who are required to be there.

Second, while all persons within the school environment require protection, it is the educators, themselves, the adults mandated to operate the schools and facilitate the learning of the children, whose authority cannot be challenged if schools are to survive. Threats to educators not only impact the safety of the entire school but also show a blatant disregard for the rules and order of society. Therefore, educators are a class of citizens who require special protections above and beyond those afforded the average citizen. Both of these assumptions underscore the importance of having special laws to protect educators from assault.

Limitations of the Study

State laws are complex legal documents. This study did not attempt to explain why states have such statutes nor did this study attempt to ascertain how the states arrived at passing such legislation. The laws were taken at face value and examined for their content. This study was only concerned with the collection of the pertinent state laws and the resulting analysis of existing laws.

Another limitation arose from the sheer volume and diversity of state statutory law. Throughout the study, a consistent effort was made to be thorough in the research and selection
of laws for this study, but states do not share a uniform indexing procedures for their statutes. Key search terms worked differently from state-to-state; in some states the statutes literally had to be read page-by-page in order to find pertinent laws. Complicating this factor even further, educator assault laws were classified under criminal code in some states, under education code in other states, or both in some states which had multiple statutes. Thus, the unique nature of each state's laws meant that organizational differences may have inadvertently led to omission of pertinent laws from this study. Thus, not by design, but by volume and categorizing and indexing differences among states, some applicable laws may have been unintentionally omitted from this analysis. The procedure for research and verification of the laws is described in detail in Chapter 3.

Delimitations of the Study

This study examined state laws that pertain only to assault of educators. Any statutes that protect educators from intimidation, abuse, threats, menacing, or insults were included by definition in this study. However, battery of educators was not examined because battery implies unlawful touching and is easier to prove in a court of law. The intent of this research endeavor was to examine assault because statistics show a growing problem with threats and verbal attacks. Each state uniquely interprets and creates laws that suit its needs; therefore, little uniformity exists from state-to-state as each struggles with fair but legally-binding legislation. As a result, a major delimitation of this study was the restriction of the study to educator assault.
CHAPTER 2: REVIEW OF THE LITERATURE

Though schools should be in the education business, when they are placed daily in the life or death situation of making decisions to protect teachers and students, their focus on education is bound to suffer.

(Pipho, 1998, p. 726)

The occurrence of violent crime in school zones has resulted in a decline of quality of education in our country.

(Violent Crime Control and Law Enforcement Act of 1994, Section 922(q), Paragraph F)

The tragedy of teacher assaults extends beyond the personal suffering of any teacher because such assaults destroy the trust upon which the student-teacher relationship rests.

(Crews & Counts, 1997, p. 6)

Introduction

Violent crime used to be a problem limited to the core urban areas of this country, but no longer. Schools used to be safe havens, but no longer. Teachers used to be almost universally respected and trusted, but no longer. Time has brought changes to our society, and not all of the changes have been positive. Because violence has permeated every aspect of our culture, our society's traditions of just a few decades ago have seriously eroded. The resulting changes have meant that people are less inhibited and more willing to challenge authority figures. Some
disagreement is considered healthy for our society, but increasingly aggressive, abusive and hostile challengers threaten the very fabric of law and order. As societal problems have become more complex, legislators have added additional layers of protection by creating new laws defining, describing, and limiting various kinds of violent acts. Schools and school personnel have not been immune from these societal problems. It is within this context that violence directed toward educators will be examined.

School Violence

Reflection of Society

Many believe that school violence mirrors the problems of society as a whole (Amette & Walsleben, 1998; Crews and Counts, 1977; Day, 1994; Gable, Manning, & Bullock, 1997). "What has been coined 'school violence' is nothing more than societal violence that has penetrated the schoolhouse walls" (National Association of School Boards of Education, 1994, p. 4). Lamplugh and Pagan (1996) agreed that the community affects the schools within its boundaries. "When there is violence in the community, it will impact the school. The demarkation line between school and community is difficult to draw" (p. 13). Thus, societal problems like crime and violence become school problems, as well.

Between 1953 and 1986, violent crime in America rose 600%, according to Dr. Arnold P. Goldstein of Syracuse University's Center for Research on Aggression (Hearing on School Violence, 1994, p. 2). Fortunately, the trend has been curbed. In fact, violent crime in the U.S. declined 10% from 1994 to 1995 after being essentially unchanged since 1992. From 1994 to 1997, arrests for aggravated assault declined 16% (Snyder, 1998). This is good news "not only because violence injures and kills, but also because it imposes other high costs on American society" (New York State Education Department, 1994, p. 5). For example, it is estimated that each reported assault costs $16,500 in both direct and indirect costs.
Unfortunately, schools have yet to see the same decrease in violent behavior; in fact, school crime has increased (Henneberg & Price-Greer, 1997). For example, from 1981 to 1997, juvenile arrests for simple assault mushroomed 135%—and juveniles make up school populations (Snyder, 1998). While societal violence appears to have slowed, school violence has not, and whether examined from the viewpoint of teachers, students, administrators, parents, or the general public, current studies point to a significant school violence problem.

**School Violence Statistics**

The National Center for Education Statistics [NCES] has examined teacher opinions about school violence for over a decade. In the 1987-88 school year, 26% of secondary teachers reported physical conflicts among students as either moderate or serious problems, but by the 1993-94 school year, this percentage jumped to almost 40% (NCES, 1996). Parents are worried about their children: in the 1998 Phi Delta Kappan survey, 36% of parents said that they feared for their child's safety at school, whereas only 25% said as much in 1979 (Rose & Gallup, 1998).

Unfortunately, these perceptions seem to be well-warranted. During the 1996-97 school year, U.S. public school principals reported over 190,000 physical attacks or fights without a weapon and over 11,000 incidents of physical attacks or fights with a weapon. All in all, 74% of all middle schools and 77% of all high schools reported one or more violent incidents where police or security officials were notified. Forty-five percent of the nation's public elementary schools also reported at least one violent incident (Heaviside, Rowand, Williams, & Farris, 1998). According to Gall and Lucas (1996), 12.1% of all violent victimizations in the U.S. occurred inside school buildings or on school property. Whether caused by broader societal issues or circumstances that are specific to the school environment, experts point to several reasons for such current high levels of violence.
Causes of School Violence

Societal Beliefs

Societal values that not only accept violence but celebrate it create much of the problem. American society historically has honored its more violent events, such as the Revolutionary War, the freeing of the slaves, and the establishment of frontier America. "The patriot, the humanitarian, the nationalist, the pioneer, the landholder, the farmer, and the laborer (and the capitalist) have used violence as a means to a higher end....Violence is clearly rejected by us as a part of the American value system, but so great has been our involvement with violence over the long sweep of our history that violence has truly become part of our unacknowledged (or underground) value structure" (Brown, 1970, p. 14-15). Goldstein and Conoley (1997) agreed, writing, "Both collective and individual aggression have long been prominent and recurring features of life in the United States" (p. 3). Further, aggression in U.S. society is "pervasively modeled, widely imitated, and richly rewarded" (p. 16; also Brown, 1970), particularly in the sports arena. "Sports violence is not some relic from a past age. It is still very much part of entertainment in America today....Such behavior expresses our obsession with winning, our machismo fierceness...it's frequent goals: intimidation, gaining respect, showmanship" (Goldstein, 1996, p. 96). While many might argue that such displays are socially-acceptable ways to "let off steam" and release aggressive tendencies, in fact, "aggression, if it succeeds, causes more, not less, aggression" (Goldstein, 1996, p. 96). Mary Hatwood Futrell, former president of the National Education Association, agreed that today's society reveres aggressiveness and violence "whether at sports events or in the movies. Our children....are products of the culture and society that we have created. It is little wonder they exhibit violent behavior in school" (Futrell, 1996, p. 12). Thus, our country's long association with violence and its history of celebrating and rewarding violent acts greatly contribute to today's widespread acceptance of aggression.
Societal Change

Fast and unpredictable societal change dissolves trust and contributes to violence (Palermo, 1994; Petersen et al., 1996). The 30 year downward spiral of public trust has its roots in four societal trends, two of which revolve around change: changing values and fears about economic change (Nye, 1997). Global markets and competition have changed the face of American capitalism by providing plentiful overseas low-cost labor. "This particularly depresses the wages of the unskilled and leads to increased inequality, which in turn burdens the political system" (p. 11). In addition, technically-demanding jobs like those in the computer industry also contribute to the public's anxiety over keeping up with fast-paced change. Regardless of the reasons, economic conditions such as these create a certain amount of turmoil. "If people sense a loss of control of their lives because of larger competition in the world, that becomes a reality in and of itself" (p. 11).

Another change is the decline of social capital, which is defined as "the ability of people to work together. It is the trust, norms, and networks that facilitate coordinated action" (p. 13). One such indicator is the decreased participation in voluntary community organizations. Even organizations which appear to be thriving in today's society increasingly rely on isolated participation--people mail in checks for dues, read newsletters on-line, and rarely see other members in person. This lack of face-to-face interaction breeds an artificiality to membership that does nothing to contribute to positive feelings of community and belonging.

Fast-paced change makes people feel insecure and facilitates the belief that societal rules do not apply to them, thus allowing them to justify questionable actions in a guilt-free way (Nye, 1997; Thomas, 1998). "Everybody has a right. There used to be a set of basic human rights about which people were in broad agreement. Now people seem to be claiming a right to everything, from a pension to a vacation. We have created a society of entitlements" (Nye, 1997, p. 14). This self-serving attitude was also pinpointed as being problematic in the recently-released study by the National Commission on Civic Renewal. The report concluded that the
decline of civic culture in the U.S. is due, in part, to people's overemphasis on self-expression and personal choice rather than on personal sacrifice and moral obligation to others. Every aspect of American civic life has been touched by these trends, including the public schools (Fletcher, 1998).

Changes in Family Structure

Years ago, the household was the principal welfare institution of society. Families were expected to take care of their own, and they did, to a large degree. Elderly parents, orphaned nieces or nephews, unmarried siblings, and other needy relatives were ensconced within households. "Dependency was absorbed by the family and its extensions" (Coleman, 1987, p. 33). However, due to increasing specialization in the workplace and women's growing roles outside the home, families could no longer successfully take on such tasks, which led to the creation of mechanisms for societal support. "Welfare has moved outside the extended family, into the larger society" (p. 33), leading to decreased familial responsibility. With growing pressure for the year-round institutionalization of children (via public education and after-school and summer daycare programs), increasing governmental responsibility for funding college educations, and eroding parental authority, many families have all but abdicated responsibility for their youth.

The shattered myth of the stable, two parent American family has also contributed to the cycle of violence in our society, especially in the lack of appropriate supervision for children in the home. Whether caused by single-parent families, two-parent careers, or increasing time demands on parents, adults suffer from guilt and stress and children suffer from neglect (Kopka, 1997; Petersen et al., 1996) when parents do not spend adequate time interacting with their children. Marion Wright Edelman, a premier authority on children's issues, believed that absentee parents add to the epidemic of hopelessness which ultimately fuels violence (Hearing on School Violence, 1994, p. 2).
Families that have little or no time for their children often fail to instill moral development in their children. Palermo (1994) wrote, "it's the development of character--self-esteem, virtue, values, good choice-making for self and others, being a good citizen...[that] is no longer taught in school nor families" (p. 227). Harried parents do not have the time to practice firm and consistent discipline that results in development of responsibility and moral character in children (Dykman, 1996; Kopka, 1997). Thus, family issues, particularly the lack of time that parents today spend with their children, unfortunately tend to grow into larger societal issues in the form of violent behavior.

Dysfunctional home environments add further fuel to the fire by breeding many problems, such as children who learn to be violent because of abusive domestic relationships (Fletcher, 1998; Hearing on School Violence, 1994; Kopka, 1997; Palermo, 1994; Petersen et al., 1996; Rosenberg & Mercy, 1991; Rossman & Morley, 1996; Stone & Boundy, 1994). "Research has shown that we can place much of the blame on parenting that never happened, or happened too inconsistently, harshly, or even abusively....For some children, the lessons they learn early in life are lessons about pain and punishment from other human beings, and thus their bonding to their own species largely fails to take place" (Goldstein, 1996, p. 35). While a definite causal link between home violence and school violence has not yet been demonstrated due to a number of factors, including unclear definitions of violent events, the fact remains that physically abused children are more likely to be aggressive than nonabused children (Haugaard & Feerick, 1996). Such learned behavior can clearly impact school environments and contribute to violence.

Poverty

"According to U.S. Census Bureau data for 1990, one in four children in the U.S. live in poverty. The significance of this statistic is that poverty often dictates living conditions that include low-income neighborhoods characterized by consistent violence....Such exposure has a major impact on how these children respond to chronic violence" (Coleman, 1996, p.207). Lack of resiliency, the inability to care about others, and little motivation to do well in school may
surface among children in poverty situations. These feelings are not easily understood by mainstream society, which further exacerbates alienation. Long-term poverty conditions eventually breed frustration, hopelessness, and violence (Nye, 1997; Rosenberg & Mercy, 1991; Stone & Boundy, 1994). Social programs of the 1960s sought to eliminate poverty and were somewhat successful. Poverty levels in this country were reduced to 12% by the early 1970s, but due to fluctuating global economic instability, the figure has slowly increased back up to 20%, thus once again enlarging the gap between the "haves" and the "have nots" (Hearing on School Violence, 1994, p. 2). "America continues to have the most productive economy, the highest standard of living, and the best scientific research in the world. But poverty rates are higher...than in the other countries surveyed" (Bok, 1997, p. 63-64). A most critical side effect of poverty is the long-term negative effects it creates on people, particularly children. Poverty diminishes "youths' ability to envision productive, secure futures" (Rossman & Morley, 1996, p. 400) and results in depression, anxiety, and rage--fuel for violence (Kopka, 1997).

Substance Abuse

"The connection is absolutely clear: Alcohol and aggression are very close companions" (Goldstein, 1996, p. 44). Intoxication decreases an individual's attention to long-term consequences, lowers the capability to think of alternative solutions, and inhibits the ability to verbalize and think abstractly, all of which promote the likelihood of aggressive responses. With inhibitions lowered, drunk individuals are more prone to respond to a situation with boisterous aggression and belligerence. Studies have clearly demonstrated that alcohol abuse and violence go hand-in-hand (Goldstein, 1996). Despite such warnings, alcohol abuse among young people remains high (Arnette & Walsleben, 1998).

Likewise, drug abuse also negatively affects society by increasing violent behaviors (Kopka, 1997; Rosenberg & Mercy, 1991; Stone & Boundy, 1994). Drug abuse impacts the user physically, mentally, and emotionally--often with permanent results even from a one-time use. U.S. high school students perceive substance abuse to be one of the most serious problems facing
their schools today, and the easy availability of alcohol and drugs appear to play a large factor in students' concern (Arnette & Walsleben, 1998). Why?

Often it is violence—including extortion, theft, prostitution, or drug dealing—that supports their habitual substance abuse...With the encroachment of the drug subculture onto school campuses, many young people fear that they may succumb to peer pressure and end up addicted to drugs, thereby subjecting themselves to physical, mental, and emotional harm; risking the loss of opportunities to succeed; and compromising their long-held goals (p. 10).

Thus, while substance abuse is clearly linked to negative societal outcomes, it continues to plague the schools of this country. Violence is clearly fueled by drug and alcohol abuse.

**Media Influence**

Negative journalism and the pervasive nature and amount of violence portrayed in the media also contribute to the problem (Derksen & Strasburger, 1996; Fletcher, 1998; Leitman, Binns, & Unni, 1994; Hearing on School Violence, 1994; Kopka, 1997; Nye, 1997; Petersen et al., 1996; Rosenberg & Mercy, 1991; Rossman & Morley, 1996). Vestermark (1996) wrote that "public anxieties about crime appear to be rising...[fueled by] the almost obsessive contemporary mass media interest in reporting crime and violence" (p. 117). The media's use of attention-grabbing sound bites and their focus on violence reinforce the public's worst fears. Heard enough times, people begin to take on the same doubting and questioning attitudes that are broadcast into their homes (Arnette & Walsleben, 1998; Crews and Counts, 1977; Nye, 1997; Thomsen, 1993). The proliferation of television programs which use videotaped episodes of real-life violent acts add to the perception that violence is not only everywhere, it is exciting and newsworthy, and hence, acceptable, even admirable.

Viewing television violence and aggression have been causally linked with desensitization toward violence since the 1960s (Garofalo, 1990). Goldstein and Conoley (1997) estimated that by age 16, the average adolescent has seen 33,000 murders or attempted murders.
on television shows. "The heavy diet of violence offered by television appears to contribute substantially to both the acquisition of aggressive behavior and the instigation of its enactment" (p. 5). "Media violence may facilitate the learning of aggressive and antisocial behavior and desensitize viewers to violence...the effect is subtle and ingrained over time by repetition of images and stereotypes that offer children distorted information about...violence as an acceptable means of conflict resolution" (Derksen & Strasburger, 1996, p. 62). Thus, the media images that people are constantly exposed to have long-term effects on their attitudes and expectations regarding violence. One result of this constant negative barrage of images and ideas may be "an increase in fearfulness, mistrust, and self-protectiveness" (p. 5).

Decline in Public Trust

"Confidence in the government has declined. In 1964, three-fourths of the American public said that they trusted the federal government to do the right thing most of the time. Today only a quarter of Americans admit to such trust" (Nye, 1997, p. 1; also Dickenson, 1985; Weisberg, 1996). For example, as part of an annual Florida Policy Survey Poll, residents were asked how much of the time they could trust the government to do what is right. In 1990, 6.8% of the respondents said that they could never trust the government, but by 1996, the figure had almost doubled, to 12.1% believing that they could never trust the government to do the right thing (Florida Annual Policy Survey, 1990; 1996). "Too many Americans have become cynical, passive, and disengaged" (Fletcher, 1998, p. 1); lack of trust appears to be a pervasive problem which has plagued our society for some time (Nye, 1997; Pauker, 1980; Petersen et al., 1996). "Suspicion of government is a time-honored strain of American political culture" (Orren, 1997, p. 78).

Expectations of the average citizen have contributed to the decline in government trustworthiness. Entitlement programs have bred generations of citizens who believe that government should do and supply all. Unrealistic beliefs that government can solve everyone's problems are eventually replaced with displeasure and resentment which undermines respect for
the government (Miller, 1979; Nye, 1997; Weisberg, 1996). Further, when the citizens conclude that the government is inefficient and unresponsive, deeper ruts are carved into the public trust. This is especially true if the dissatisfaction persists over a long period of time (Miller, 1979; Nye, 1997).

American public schools have not been immune to this lack of trust, either. Each year, Phi Delta Kappan publishes a poll on the condition of American schools and solicits wide-ranging opinions from the general public on educational topics. In 1998, respondents were asked, among other things, how much confidence they had in various public institutions. More than half (55%) responded that they had only "very little" or "some" confidence in the public schools (Rose & Gallup, 1998).

Because many of the questions in the Kappan survey were asked each year, some trend analyses can be examined. One repeated question was, "Have the public schools in your community improved or gotten worse from five years ago?" In 1988, only 19% of the respondents felt that the public schools had gotten worse, but by 1994 that figure grew to 37%. When respondents were asked about the nation's schools (versus community schools), the negative responses were even higher: in 1994, 51% responded that the country's schools had gotten worse (Elam, Rose, & Gallup, 1994).

Questioning of Authority

Another permutation of this lack of trust results in the increasing tendency to question authority, which makes it more difficult for school administrators to maintain control (Nye, 1997; Pauker, 1980; Petersen et al., 1996; Williams, 1979). Many view this trend as a direct result of the expanding rights of children. Whereas once children could be suspended or expelled quite easily, today, "greater due process for students accused of misbehavior gives unruly students better protection against teachers and principals" (Toby, 1990, p. 265). In one of the landmark Supreme Court cases regarding student discipline, Tinker v. Des Moines (1969), Justice Black wrote in the dissenting opinion, "If the time has come when pupils of state-
supported schools...can defy and flaunt orders of school officials to keep their mind on their own school work, it is the beginning of a new revolutionary era of permissiveness in this country fostered by the judiciary" (p. 518).

Unfortunately, Justice Black's fears appear to have largely come true. For example, one of the Kappan's poll questions in 1997 asked, if a school official reported a discipline problem at school, would the respondent take the school's side or the child's side. Only 57% of the respondents reported that they would support the school (Rose, Gallup, & Elam, 1997). Toby (1990) believed that society has demythologized teachers and their authority, which results in less prestige and respect. Pik (1987) agreed: "Many of the props which supported the idea of automatic obedience to the teachers have disappeared over the past two decades. Increasingly, children are aware of themselves as people with power, rights and privileges who are entitled to respect" (p. 153; also Toby, 1990).

This focus on individual rights often runs counter to the smooth, orderly, and safe functioning of the schools. Emotions run high when individuals feel challenged or threatened, resulting in hostile and potentially violent conditions in the schools (Henninger, 1987). One possible result of these negative feelings may be less restraint or inhibition when confronting educators, which may translate into physical or verbal attacks. Virginia's Education Summit on Violence in Schools (1992) found that "School staff traditionally have not been trained to handle the growing frequency of incidents requiring more law enforcement skills than teaching and educational management skills" (Violence in Schools, p. 3). Hughes (1994) concurred, writing educators need "skills that will prepare them to handle the challenge of increasing violence in schools" (p. 7). Thus, school leaders are no longer trusted, which results in greater potential for conflict and violence.

**Failure and Frustration**

The pressure to keep students in school longer has also added to the problem.

Compulsory attendance laws have forced students who might have otherwise dropped out to stay
in school longer (Toby, 1990). Yet, these students, in large part, are expected to be successful in
the regular school program, hardly a reasonable assumption. Even special programs that cater to
the distinct needs of the potential drop-out are not always successful. When they are not,
frustration and failure are created—the seeds of violence. According to Stone and Boundy
(1994), schools have often ignored the social conditions which have created failing students and
have assumed that failing or dropping out is a result of individual defects. Thus, it is no wonder
that narrowly-defined programs which do not consider outside societal influences do not
adequately address the drop-out problem. Further, schools are faced with cultural diversity now
more than ever before in our history, yet schools' failure to adequately take into account cultural
differences when planning and implementing educational programs can also increase failure and
frustration on the part of the students. While many of these students may be content to quietly
withdraw from the public schools, the anger and frustration that such alienation generates has the
potential to increase violence. Even if potential drop-outs remain in school, they are often
categorized among the lowest achieving groups. Such conditions result in student apathy—
students who just do not care. These feelings of apathy can fuel episodes of disruptiveness and
lead to possible violence (Rossman and Morley, 1996). Thus, failure and frustration both
contribute to a climate that supports school violence.

Inappropriate Educational Placement

Many schools practice tracking, a placement technique which groups students for
instruction by ability, grades, or effort. While tracking has been demonstrated to have a slight
benefit to upper ability students, academically deficient groups showed no effect by this type of
grouping (Kulik & Kulik, 1982). Gamoran, et al. (1995) stated that grouping students "is not
neutral" (p. 700); that is, ability grouping tended to reinforce the social and economic differences
that students brought to school. While this effect may be strictly unintentional, it is problematic
(Braddock, 1990). "Tracking amplifies rather than narrows the gap between high-achieving and
low-achieving students" and leads to student frustration and feeling locked out of opportunities
(Stone & Boundy, 1994, p. 455). Oakes (1985) agreed, writing "students placed in average and low-track classes do not develop positive attitudes. Rather than help students to feel more comfortable about themselves, the tracking process seems to foster lowered self-esteem among these teenagers...Lower-track students are more alienated from school and have higher drop-out rates" (p. 8-9). Inappropriate classroom placement and irrelevant instruction create conditions ripe for discontent and violence (Blount, 1986; Gable, Manning, & Bullock, 1997). Toby (1990) took the equation one step further, suggesting that the natural process of competition results in good schools getting good students and no problems while poor teachers, students, and administrators tend to gravitate together in pockets. Whether based in reality or perception, groups that feel unfairly treated will react with frustration and anger, fueling conditions that may spawn violence (Pauker, 1980).

Alienation from School Community

Overcrowded school buildings, high student-teacher ratios, and insensitivity to student diversity lead many students to feel alienated and not a part of the larger school community, which can have negative repercussions (Dykman, 1996; Gable, Manning, & Bullock, 1997; Goldstein & Conoley, 1997; Rossman & Morley, 1996). Students from dysfunctional families often become "double victims" because they are mistreated at home and then ignored and alienated at school (Stone & Boundy, 1994, p. 455). Petersen et al. (1996) suggested that effective violence elimination needs to start with schools taking on the role of an alternative family for these disenfranchised youth.

The failure to promote school climates which engender a sense of family or community is a large part of the alienation problem. Many researchers point to the lack of effective school leadership as a missing key piece which prevents some schools from diffusing violent conditions (Goldstein & Conoley, 1997; Rossman & Morley, 1996).
Summary of School Violence Causal Factors

In conclusion, school violence has multiple causes, some of which originate in the context of the larger society in which the school resides. Broader societal issues such as fast-paced change, poverty, the breakdown of the traditional family, drug and alcohol abuse, the erosion of public trust, and the negative effects of the media all contribute to school violence problems. School-specific issues such as the questioning of authority, compulsory attendance laws, homogeneous grouping, and student feelings of alienation all compound what is already a difficult and complex problem. The focus now needs to sharpen as violence that is specifically directed at educators is examined.

Educator-Directed Violence

The study of school violence often focuses on students, but teachers and other school personnel are just as much at risk, if not more so. Shen (1998) wrote, "When we discuss school violence, students are usually the center of concern. Given the increasing severity of verbal abuse of teachers, educators also deserve our attention" (p. 19).

Historical Context

Although the acquisition of an education has always been valued in this country, teachers have sometimes found themselves the targets of criticism. As early as 1791, a report from Delaware said that teachers were deficient, and in two separate reports in the early 1900s, teachers were criticized for having inferior intellects (Thomsen, 1993). Along with the general lack of respect afforded them, teachers found themselves the targets of violence throughout this country's history. For example, during the Colonial Period, the main teacher qualification was the ability to maintain order. It was not unusual for teachers to have to physically fight students.
for control of the classroom. By the late 1800s, it became commonplace for teachers to have to deal with parent complaints in the form of disruptions, arguments, and assaults (Crews & Counts, 1997). However, in light of today's more extreme types of violence, these seemingly rough beginnings pale in comparison to what some educators face today.

In American public education for the many decades preceding the twentieth century...aggression apparently was infrequent in occurrence, low in intensity, and-at least in retrospect-almost quaint in character, "misbehavior," "poor comportment," "bad conduct," and the like in the form of getting out of one's seat, insubordination, throwing a spitball, sticking a pigtail in an inkwell, or even the rare breaking of a window seem like and truly are, the events of another era, events so mild in comparison to the aggression of today that is becomes difficult to conceptualize them as the extremes of a shared continuum. (Field Hearing on Violence in Our Nation's Schools, 1992b, p. 55).

One of the earliest studies on teacher violence (conducted in the 1950s) reported that 28% of all teachers in large cities had experienced at least one act of physical violence committed against them by students within the past 12 months (Williams, 1979), but nationwide, teachers were not worried or disturbed by violence. These statistics were seen as a grim reality for urban educators but not a realistic reflection of the profession as a whole. During the 1960s, that attitude changed, and teachers everywhere began to feel more like victims. Low pay, little autonomy, and a lack of respect began to eat away at the positive image of educators (Crews & Counts, 1997).

By the early 1970s, teacher assault was on the rise: from 1970 to 1973, assaults committed on teachers rose 77%, fueled, in part, by dramatic societal crime increases. No longer was the violence confided only to urban areas--even the former safe havens --suburban and rural areas--were affected. The 1980s brought even grimmer statistics; in 1986-87 nearly 20% of a
representative sample of urban, suburban, and rural teachers surveyed in a school violence study reported that they had been threatened by a student at some time (Crews & Counts, 1997). The 1990s brought little relief.

**Educator-Directed Violence Statistics**

Teachers have reported threats or personal attacks in numerous studies. Petersen et al. (1996) reported that 27% of educators nationwide felt "concerned or very concerned" about their safety while at school (p. 7). Sixty-three percent of respondents indicated that they had been verbally threatened or intimidated within the past two years and 9% had been physically attacked. The study's results "suggest that if these actions remain constant, school personnel have a greater than 50% chance of being verbally attacked within the next 2 years" and "more than one in ten will be physically attacked within the next 2 years" (p. 16).

Kaufman et al. (1998) reported that from 1992 to 1996 teachers were victims of 619,000 violent crimes (which included aggravated assault and simple assault). Middle and junior high teachers were more likely to be victims than high school or elementary school teachers. In 1993-94, 12% of all elementary and secondary teachers were threatened with injury by a student and 4% were attacked, equaling about 341,000 teachers who were victims of threats and 120,000 teachers who were victims.

Mersky (1983) studied stress factors on classroom teachers. "Threatened by personal injury" ranked seventh and "target of verbal abuse by student" ranked ninth out of 36 items (p. 8). Eleven percent of teachers reported being victims of violent acts near or at school (Harris & Associates, 1993).

In the New York City Public Schools, violence involving staff members has escalated at alarming rates. The number of violent incidents where educators were the victims jumped almost 85% from 1988 to 1997. Even more dramatically, assault, harassment, and reckless
endangerment involving educational staff increased 116.9% over the same time period. Approximately nine New York City school employees are injured each day, with one typically requiring hospital care (Baumann, 1997). While New York City schools may not be representative, using their data does highlight the seriousness of violence directed at school personnel.

The Bureau of Justice collects statistics on workplace violence and published their compiled data from the years 1992-1996. Teachers averaged over 149,000 violent victimizations per year and were identified as a class of workers where higher numbers of crimes were expected. To put this number in perspective, for the same years, nurses averaged around 70,000 violent victimizations and convenience/liquor store clerks averaged around 61,000 crimes (Warchol, 1998).

Students and administrators concur that teachers are often targets of violent acts. Bastian and Taylor (1991) found that 16% of the students they polled reported witnessing an attack or threat toward a teacher within the previous six-month period. Principals believe that the verbal abuse of teachers is on the rise. In 1990, 17% of the principals in large (1000+ students) high schools indicated that the verbal abuse of teachers was a moderate or serious problem, but by 1996, that percentage had jumped to 26% (Heaviside, Rowand, Williams, & Farris, 1998). In a year-long study of 2 high schools in North Carolina, 51% of the students had reported seeing a teacher threatened by a student, and more than 16% reported seeing a student attack a teacher (Kenney & Watson, 1996).

Accuracy Issues

Despite these statistics, some researchers believe that educator-directed violence is underreported. Reasons given for this viewpoint include differences in definitions of crimes, inadequate record-keeping, reluctance to report violent activities in the belief that it is a poor reflection on self or school, an unwillingness on the part of educators to admit that a problem exists, fear of retaliation by the perpetrator, and political pressure to suppress information--
including threats of job loss (Baumann, 1997; Crews & Counts, 1997; Goldstein & Conoley, 1997; Miller, 1994; Portner, 1995; Rapp, Carrington, & Nicholson, 1992; Trump, 1997; Vestermark, 1996). Yet, by not reporting crimes, educators undermine their own rights to protection under the law and contribute to the public’s view that the problem is not serious (Blount, 1986). Denial of the problem may actually “facilitate the growth of the problems by communicating to students that they can operate in an environment free of consequences” (Huff & Trump, 1996, p. 499). Thus, in the long run, educators may be contributing to their own problems with violence.

**Repercussions of Educator-Directed Violence**

**Psychological**

The repercussions of educator-directed violence breeds more ugliness. In Kenney and Watson’s study (1996), “44% of the school’s teachers admitted that they had hesitated to confront misbehaving students for fear of their own safety at least once or twice during the school year.” (p. 450). Harris and Associates (1993) reported that teachers who had taken some form of precaution against being a victim of a violent act most frequently carried mace (44%) but two percent reported having carried a weapon to school at least once.

The long-term effects of violence on teachers’ psyches has not been documented, but Wilson (1995) wrote that many teachers "present symptoms of psychological and psychosomatic disorders that could be characterized as traumatic in origin....as a consequence, these important adults in their [students’] socialization network are often less motivated, less engaged, and less helpful because of their own psychological turmoil" (p. 4). Foley, quoted in Crews and Counts (1997) agreed, noting “Psychic violence against teachers—intimidation and verbal abuse—is unmeasured but nevertheless present in the classroom. This kind of violence causes many teachers who are new to the system and who do not have much invested to give up and quit” (p.
Above all, teachers who fear that they will be targets for violence become less willing to uphold high standards and believe that administrators won't back them up (Futrell, 1996), thus undermining important educational goals.

Social

Increasing litigation has become problematic for educators, as well (Portner, 1995). Laws have become the vehicle to solve many conflicts which formerly would have been resolved by other means, and schools have not been immune from this trend (Nicholson, 1985). Students and parents are more willing to challenge educators' decisions by filing lawsuits, and when educators lose the challenge, it undermines the effectiveness of the teacher (Nolte, 1985). Petersen et al. (1996) reported that in their nationwide study, over 35% of the administrators surveyed indicated that legal costs had increased or greatly increased over the past two years.

School Responses to Educator Violence

"Although school violence has become a growing concern to school administrators, boards, and the public at large in recent years, most legal aspects of the problem have not changed very much. After all, violent acts of any kind are clearly violations of both criminal and civil law as well as of school rules and carry penalties under each of these parts of our legal system" (Gluckman, 1996, p. 123). One civil recourse that educators possess is the duty to protect.

Civil Court Responses

A primary concern is whether school districts have a duty to protect their employees from harm. A 1947 case, Lillie v. Thompson (332 U.S. 459, 68 S. Ct. 140, 92 L. Ed. 73), held that employers must provide and maintain a safe environment for employees, including being liable for damages when workers are victimized by non-employee third persons (cited in Rapp,
1998, p. 12-275). Although this case did not specifically address school environments, Zirkel and Gluckman (1991) agreed that "school employees who are victims of school violence typically have legal recourse to worker's compensation and other fringe benefits, as well" (p. 105). But the issues are not often so clear-cut once a case lands in court.

Some courts have supported educator claims, particularly "if the employment increases the worker's risk of injury above that to which the general public is exposed" (Rapp, 1998, p. 12-277). For example, a lawsuit won by a New York City teacher supported the notion that the City's Board of Education had a "special duty" to offer teachers security in schools because the teachers' contracts included wording which required every school to have and enforce a safety plan (Bradley, 1993, par. 2).

However, other courts have disagreed. Some have interpreted Workmen's Compensation to cover only hazards normally expected to be present in the workplace, classifying violent attacks as atypical situations and, therefore, not covered (Rapp, 1998). Other "courts uphold the notion that protecting teachers from criminal acts is no more than a general duty owed to all citizens to protect the safety and well-being of the public at large" (Rapp, Carrington, & Nicholson, 1992, p. 63), thus emphasizing that no special duty to protect educators exists.

A school district's duty to protect employees from harm, therefore, is not a clear-cut given in the civil courts. Within the criminal justice system, educators can look to school disciplinary codes and criminal prosecution as other sources of support for attacks. Traditionally, however, educators have responded differently to perpetrators depending upon whether they are students or outsiders.

**School Disciplinary Code Responses**

Disciplinary code responses are limited to student perpetrators. Student attacks on teachers are unique situations because of the status differences between the two parties. Students who initiate such attacks demonstrate a "flouting of the authority system of the school as well as a prohibited act of violence" (Toby, 1990, p. 262), which makes incidents like these potentially...
damaging to educators' ability to maintain control of a school. Disciplinary codes within the
schools typically handle such incidents (Leitman, Binns, & Unni, 1994); the advantage being that
such rules "do not need to be as detailed as criminal codes, as a consequence of the wide range of
unanticipated conduct with which school officials may be faced" (Day, 1994, p. 23).

**Criminal Court Responses**

If educators feel that school consequences are not enough, they can choose to pursue
charges through the criminal justice system, as well. However, Gluckman (1996) reported that
"victims of juvenile assault...are plagued by the impracticality of pursuing a remedy" (p. 124),
for the courts are often too busy to pursue criminal prosecution and civil prosecution cannot
 guarantee any results. Complicating the situation, courts are increasingly sympathetic to
individual rights and have been accepting cases which review educators' decisions in discipline
matters. "The results of all this is that for some educators, the extension of legal rights to
students is being perceived as a new factor which makes it even riskier to try to teach or run a
school" (Vestermark & Blauvelt, 1978, p. 318). Thus, despite two avenues of adjudication,
educators who are attacked by students often find no easy solutions to their problems.

Outside perpetrators can be prosecuted under criminal law. As Toby (1990) noted, these
attackers fall into two distinct categories: criminals who are alien to the school and persons who
have some connection to the school but no legitimate business at the time.

Campuses seem to attract "the worst of today's antisocial behaviorists, many of whom
are not part of the student body, but who savor the opportunity to play the role of the wolf among
the campus flock" (James, 1994, p. 190). Criminals like these have inspired many of the
proactive security responses that most schools now have in place--limited access, security
guards, and monitoring systems.

But, offenders who are not strangers to the school cause the most concern. "Another
problem that schools are experiencing in the 1990s is random selection for public aggression"
(Crews & Counts, 1997, p. 106). Disgruntled employees, students, or family members who have
no legitimate business on the school grounds but knowledge of the school's design and routine
can quickly gain access and literally destroy lives within seconds. Furthermore, the age of such
perpetrators has dramatically decreased in recent years (Crews & Counts, 1997), as the school

**Summary of School Responses to Educator Assault**

The bottom line is that no matter who commits the crimes, educators cannot afford to
ignore attacks of this nature. Options open to educators who seek restitution for crimes
committed against them include filing criminal charges, seeking anti-harassment injunctions,
suing the perpetrator in civil court, obtaining Workman's Compensation benefits, and putting
pressure on the school district to provide a safe working environment (Washington Education
Association, 1994).

Certainly, the problem of school violence has been noticed by those outside of education.
"The public's growing concern about violence in the schools has, and will continue to have, legal
ramifications for school districts and their administrators" (Gluckman, 1996, p. 130). Increasing
violence in schools heightens the need for responses outside of the traditional school disciplinary
code and may include civil and/or criminal prosecution. "Once principally civil in nature, school
law has become increasingly more attuned to criminal law" (Nolte, 1985, p. 48). Anecdotal
evidence of a growing problem exists: increasing numbers of alternative schools for disruptive
students at all levels and the "flurry of legislative activity over the last two years," including
raising penalties for assaults on school personnel (Dykman, 1996, p. 18). Thus, an examination
into the broader purposes of law and its meaning in our society will be fruitful, for one of the
central assumptions of this study is that laws are created to control and deter undesirable actions.
Intervention Strategies

Salus populi suprema lex esto. The safety of the people is the supreme law.

(Day, 1994, p. 1)

Rights have costs, and some people pay a price for the expansion of the rights of others.

(Nye, 1997, p. 14)

"There are three general ways in which the criminal justice system can attempt to reduce violent crime. They involve the concepts of deterrence, rehabilitation, and incapacitation" (Greenwood, 1990, p. 339). School safety requires all three to be successful (Trump, 1997). Although this study of laws will focus on deterrence, some brief information about rehabilitation and incapacitation is useful background knowledge.

Rehabilitation includes all aspects of crime prevention and is the focus of many current programs targeting school violence. Law enforcement officials have realized that preventing a problem from occurring in the first place is an important part of an effective solution (Rosenberg & Mercy, 1991; Schulhofer, 1997). Peer mediation, violence prevention initiatives, and other such programs form part of a school's response to crime and violence committed against educators.

Incapacitation includes penalties such as incarceration and also figures prominently into school violence reduction. However, "broad, automatically punitive responses [to school violence] are wasteful.....Lower level cases [such as assault] certainly need a serious response.......[but] offenders of this sort do not necessarily need to spend several years in state prison" (Schulhofer, 1997, p. 443). Stiff penalties, called "targeting" (Schulhofer, 1997, p. 444),
have not succeeded in reducing nonfatal crime rates (Rosenberg & Mercy, 1991). Thus, incapacitation is also only part of the solution to attacks on educators.

**Deterrence**

Simply stated, deterrence is keeping someone from committing a crime in the first place. "The whole purpose, the very point of prescribing a punishment is to deter others from committing acts in violation of the law" (Blount, 1986, p. 11). Deterrence can be accomplished by "increasing the probability of arrest, conviction, or incarceration, or [by] increasing sentence lengths" (Greenwood, 1990, p. 339). Thus, the basis for order and security in society comes from deterring potential offenders through the creation of laws that punish certain actions. Deterrence cannot solve the problem of educator-directed violence alone, but it is an important part of the total solution (Rosenberg & Mercy, 1991; Schulhofer, 1997). Understanding the theoretical constructs of law can help flesh out the framework for understanding the importance of deterrence. The following sections address where law came from, why society needs laws, and how society has enacted a formal process for creating laws.

**Moral Foundation of Law**

Even before the existence of any organized society, man held moral beliefs about right and wrong. Kohlberg (1984) called them "universal moral rights" (p. 179) because they seemed to be consistent regardless of time, place, or person. Ideals such as honesty, kindness, and fairness became guiding moral principles for many diverse cultures around the world; it is precisely because they were such widely shared values that Kohlberg labeled them *universal*. Given that individual moral beliefs were largely shared by most and implicitly agreed upon, each individual's morality ultimately affected not only himself as an individual but the collective society, as well (Gierke, 1958; Lewisch, 1995; McCoubrey, 1997; Rehbinder, 1983; Tyler, 1990; Weinberger, 1991). Kohlberg (1984) saw the connection between self and society as an
important link: "An individual's commitment to basic morality or moral principles is seen as preceding, or being necessary for, his or her...accepting society's laws and values" (p. 178).
Thus, collective morality is formed from the essential core beliefs of society and is the wellspring from which law originates (Boehm, 1983; Ebenstein, 1969).

Societal Creation of Law

If society had remained simplistic, morality alone would have sufficed as man's only guide to right and wrong. However, society grew complicated, and survival meant that laws had to be created. Law is the formal written behavioral rules that are created by and supported by members of the group (Carter, 1907; Gruter, 1991) and has its roots in early man's recognition that survival depended upon stable social groups. Nearly 100,000 years ago man exhibited rule-making and rule-following behaviors such as ostracizing or punishing non-compliant group members. As society became more diversified and sophisticated, man had to develop logical and rational social and political structures to ensure compliant behavior, and hence, survival (Gruter, 1991; Weinberger, 1991). Because man is an imperfect creature, there would always be at least a few errant members of society, men who "never grow to maturity but need social pressures, energetic reminders, and ultimately the threat of force to keep them on the straight path" (Pascal, Babin, & Corrington, 1991, p. 61). Therefore, laws would always be needed to assure compliance.

Rules set the standards of expected behavior among a group's members (Gruter & Bohannan, 1983; Lewisch, 1995; McCarthy and Cambron-McCabe, 1992; Pascal, Babin, & Corrington, 1991), particularly for those matters deemed "by the community to be too important to be left to such sanctions as ostracism, social disapproval, or ridicule" (Jones, 1969, p. 188). Compliance with the laws serves the public good because it helps preserve society as a whole and helps define acceptable limits within the society (Gruter, 1991; Silberman, 1976; Tyler, 1990).
Law acts as the mediator to dispel hostility and render a solution. "Law is a cultural means of controlling social relationships in such as way as to reduce physical aggression or solve the unacceptable results of aggression" (Bohannan, 1983, p. 157). According to Pascal, Babin, and Carrington (1991), law enforcement is necessary for three reasons: 1) to eliminate disobedience, 2) to bring swift conclusion to disruptions which could endanger society's survival, and 3) to ensure compliance by those individuals who need the threat of force to keep them law-abiding. Acts of non-compliance which are detrimental to even one person have the potential to be detrimental to everyone; thus, society is right to punish certain actions (McCoubrey, 1997; Paternoster, Saltzman, Waldo, & Chiricos, 1983; Tyler, 1990).

The smooth running of society depends upon compliance by the majority of its members. Voluntary compliance is achieved when citizens recognize the legitimate authority of the decision-makers, and compliance is valued because it does not demand time or resources from the authorities. The roots for compliance rest within the individual as core moral values and outside the individual as group pressure to conform (Gruter, 1991; Kohlberg, 1984; Pascal, Babin, & Corrington, 1991; Paternoster, Saltzman, Waldo, & Chiricos, 1983; Tyler, 1990). People shape their behaviors in response to incentives and penalties; thus, "the threat of punishment is believed to contribute to the development of morality and respect for the law" (Silberman, 1976, p. 443). The perception of swift and severe punishment will deter most people from committing crimes (Ebenstein, 1969; Paternoster, Saltzman, Waldo, & Chiricos, 1983; Silberman, 1976). In fact, "knowledge of the moral consensus of the majority...enables an individual to predict with some degree of accuracy the consequences of a particular choice" and is essential for laws to be effective (Gruter, 1991, p. 10). Thus, society's perpetuation depends upon its members' implicit agreement to abide by whatever rules are created. In complex societies, rules and processes have been set up to select those persons who will be the official lawmakers—that is, those who will decide what laws are needed to deter deviant behavior.
Law-making Process

Traditionally, the lawmaking process is "an instrument for securing the substance of order" that is essential in society (Pascal, Babin, & Corrington, 1991, p. 24). Legal rules are constructed with two duties: "1) you shall behave in a given manner; 2) if you do not, a compulsive measure will be taken against you" (Ebenstein, 1969, p. 83). The governing body must balance public support against effective regulation of behavior. Legal authorities are concerned with "resolving conflicts in a way that will both maximize compliance with the decision at hand and minimize citizens' hostility" toward those making the decisions (Taylor, 1908, p. 25; also Carter, 1907). If a new problem arises, legislators must create a law, which they do based on their own experience and a careful examination of the problem. Law-making groups typically fashion "coalitions of influence in an attempt to determine what values governments will authoritatively implement" (Wirt & Kirst, 1997, p. 232), thus assuring compliance by the majority. It is important for that decision to be socially acceptable, for if it is not, then compliance will not be high (Rehbinder, 1983). "There is an implicit belief that...low levels of confidence in authority will lessen compliance with the law" (Tyler, 1990, p. 26), for laws "are of little practical importance if people ignore them" (p. 161).

"It may be asked why all social offences [sic] should not be punished by some legal penalty. The answer is that legal penalties should be inflicted only where it is necessary" (Carter, 1907, p. 242). "In the true sense, crimes are those grave departures from custom which disappoint expectation, excite resentment, and produce revenge, and directly involve society in disorder and violence" (p. 252).

Crimes against public servants like educators certainly fall within this realm. Increasing levels of violence committed toward educators mean that society must respond to the problem by changing itself. Ultimately, "the order of a society...must be discovered...It requires improvements and must be adapted to changing circumstances" (Pascal, Babin, & Corrington,
1991, p. 43). Laws created to protect educators from assault are a legitimate and reasonable societal response because of the potential for disequilibrium and disruption that they can cause.

**Summary of Alternative Intervention Strategies**

Rehabilitation, incapacitation, and deterrence are three methods the criminal justice systems uses to control and eliminate violent behaviors. Laws that are created to protect educators from attacks fall into the realm of deterrence, which has its roots in morality and group survival. Without laws, chaos would rule, so behavior norms are enforced by governmental bodies in exchange for citizens' compliance. Yet, because man is an imperfect creature, "the threat of punishment may have different deterrence value for persons with differing perspectives on the law, morality, and/or the threat of punishment itself" (Silberman, 1976, p. 443). It is precisely because of man's contrary nature that laws are necessary. Deterrence through the creation of specific laws is clearly a key part of any solution to educator-directed violence. Accepting this underlying theory about law and deterrence provides a conceptual base for examining current governmental responses to educator assault.

**Governmental Responses to School Violence**

Government can run schools, but if parents cannot run families well, government is not going to do very well on schools. Yet government is going to get much of the blame. People are not going to say, "I did a pretty lousy job as a parent, so I will not blame the schools or the government." They are more likely to say that the government is letting us down.

(Nye, 1997, p. 14)
Federal Level Policies, Legislation, and Litigation

"The authority for the establishment and control of American public education is grounded in law" (McCarthy & Cambron-McCabe, 1992, p. 1), but it is the states, not the federal government, who have this power. "The U.S. Constitution is silent regarding education, leaving that area to the states, by virtue of the Tenth Amendment" (Menacker, 1987, p. 12). Thus, the role of the federal government in education is more indirect. According to the report Violence in America (Committee on Law and Justice et al., 1994), the federal government has both long-term and short-term roles in the delivery of education, particularly as it relates to school violence. The long-term roles include addressing the underlying societal and economic problems "that foster conditions in which violence thrives." Short term roles include "improved management of federal law enforcement programs and information about promising initiatives that could be tried at local levels and financial assistance that allows maximum local flexibility" (p. 7). In many ways, then, the federal government's role in school violence is over-arching--providing financial assistance to states and localities in the forms of grants or initiatives as well as passing specific legislation to target ancillary issues that relate to school violence. While there are no laws, mandates, or initiatives focusing specifically on educator assault at the federal level, many of their school violence responses do help frame this issue.

Federal Level Legislation

The federal government's role in controlling and defining a problem is mostly symbolic. "When we say that a problem is national and worthy of serious attention, it focuses people on the issue" (Hearings on Guns in School, 1995a, p. 4). While federal dollars may also follow, the importance of the federal government's acknowledgment and support of a particular issue is a large part of how they best serve education. When the federal government speaks, states sit up and listen, particularly when funding is involved.
"Congress has the power...to enact measures to ensure the integrity and safety of the Nation's schools" (Violent Crime Control and Law Enforcement Act of 1994, Section 922(q), Paragraph I). Recent efforts in the arena of school violence have combined both the sanctions and rewards to ensure the support of the states.

Federal Level Policies

Goals 2000: Educate America Act (1994). The purpose of this legislation is to promote educational reform. Section 703 is the Safe School Provision, which supports National Education Goal 7 concerning school violence. It states that "Every school in the United States will be free of drugs, violence, and the unauthorized presence of firearms and alcohol and will offer a disciplined environment conducive to learning" (U.S. General Accounting Office, 1997; also quoted in Futrell, 1996, p. 4; Rapport, 1995, p. 305; Stone & Boundy, 1994, p. 458). This broad goal has implications and funding for several other federal mandates, such as the Gun-Free School Act. The 1995-96 school year was the first year of implementation.

1994 Safe and Drug-free School & Community Act. This legislation is an updated version of the 1986 Drug-Free School & Community Act. Funding in this program is given to states for the purpose of beefing up security, violence prevention curricula, and training in peer mediation and conflict resolution (Cooke, 1996).


1994 Violent Crime Control and Law Enforcement Act. Although not specifically aimed at education, this act indirectly supports crime efforts by funding more police officers, stiffening
penalties for certain crimes, and expanding federal assistance for community-based crime prevention (Kopka, 1997).

Other Related Mandates. "In fiscal year 1995, 70 federal programs were authorized to provide either substance abuse-prevention or violence-prevention services or both to the youth they serve...appropriating at least $2.4 billion. Most programs (48) came through the Department of Education, the Department of Health and Human Services, and the Department of Justice" (U.S. General Accounting Office, 1997, p. 8).

Federal Level Litigation

Laws continually evolve through revision, often reflecting the changing political climates of the legislatures or mandatory reinterpretations by the courts (McCarthy & Cambron-McCabe, 1992; Valente & Valente, 1994). Once statutes are created, challenges to them may appear in the form of court cases. It is then up to the courts to settle the dispute and determine the appropriateness of the given law. Because legislation pertaining to the schools has increased dramatically since the middle of this century, courts have taken on heightened roles in both interpreting the law and initiating solutions (McCarthy & Cambron-McCabe, 1992; Wirt & Kirst, 1997). The Supreme Court, the highest level federal court in the nation, has acknowledged that "preserving an appropriate educational climate [is] an important, delicate, and discretionary function" (James, 1994, p. 193). Therefore, any rulings on cases concerning assault on school personnel would have nationwide implications. To date, no case has surfaced either at the Supreme Court level or any of the other federal-level courts; thus, no single national authoritative case law precedent exists in this area.

Summary of Federal Level Responses to School Violence and Educator Assault

The federal government cannot supply all the answers to school violence problems, and most certainly not problems with educator assault. Legislation and initiatives enacted at the federal level act primarily to support state and local efforts, but the federal government's power to enforce sanctions by withholding federal dollars is also a critical piece of the solution. No
current court cases regarding educator assault have been tried in the Supreme Court or any of the other federal-level courts.

Governmental agencies recognize the complex interdependence of different jurisdictional responses and its critical importance in tackling some of the most complicated societal problems, like school violence. For example, "the problem of guns in schools has grown into a crisis that calls for efforts really at every level--local, State, and Federal" (Hearings on Guns in School, 1995b, p. 6). The U. S. General Accounting Office (1997) noted "the importance of acknowledging local difference in defining measurable goals and objectives--differences reflecting local needs" (p. 2). Finally, the federal government has also recognized some of the pitfalls that such an approach brings: it is "problematic for the Federal government to collect data from the states....variability in state data collection efforts may prevent some states from providing the desired information" (p. 18) necessary for compliance.

In summary, school violence issues, particularly issues regarding educator assault, cannot be solved by the federal government alone. Problems as complex as school violence do not respond to a "one size fits all" approach. Therefore, since education is primarily a state function, responses by state governments reflect the unique circumstances and challenges presented there. State responses to educator assault are a key part of the framework.

**State Level Policies, Legislation, and Litigation**

State governments are not only responsible for education within that state, but are also responsible for most crime enforcement. As a result, state legislatures create laws to regulate the operation of schools as well as the operation of the criminal justice system, and educator assault sits squarely at the intersection of both arenas; therefore, educator assault can be seen as primarily a state issue. Policies, legislation, and litigation will vary tremendously from state to state because each state responds individually as it sees fit. Recognizing the diversity of state
responses, the following discussion is general in nature, based on what most states do most of the time. Exceptions can and do exist, but the intent here is to provide some general background.

**State Level Policies**

"A state's policy structure will reflect both national and state influences, and then secondly, influences special to that state, as peripheral preferences" (Wirt & Kirst, 1997, p. 208-9). This is an important consideration, for state departments of education do not operate in a vacuum—they act as a link between the federal government and the localities as well as respond to the dictates of the state legislature. As such, they are bound by many parameters.

State level departments of education perform several functions. One important function is the determination of how federal funds will be allocated to localities, for much of the federal dollars must pass through the state first. This is a significant effort in the area of school violence, for the federal government provides much financial support. Many school violence initiatives are handled by the states strictly as the flow-through from the federal government to the localities. Because many states fail to add their own monetary support, when funds are cut or threatened, safe school programs suffer. In addition, complicated funding formulas and implementation requirements set by the federal government add layers of bureaucracy, for the states are typically the jurisdictions required to verify compliance with federal regulations (Grady, Krumm, & Losh, 1997).

State departments of education also provide important assistance to localities in the form of information dissemination. For example, states often sponsor conferences and workshops, offer curriculum materials, and create special programs in areas of need. They must "toe a fine line between telling and not telling local districts what to do" (Grady, Krumm, & Losh, 1997, p. 65). In the area of school violence, state departments of education concentrate on informing localities of new initiatives and opportunities for funding as well as promising practices (Grady, Krumm, & Losh, 1997).
Another function of state departments of education is to evaluate what is working and what isn't within the state educational structure. This area in particular is where most states fall short except for what the federal government may require to demonstrate compliance (Grady, Krumm, & Losh, 1997).

Policy initiatives through state departments of education generally do not specifically address educator assault. Their responses are framed in the larger issue of school violence, as a whole.

State Level Litigation

State level litigation provides an important framework for viewing the problem of educator assault, as "the judiciary...occupies a powerful position in shaping the law through its interpretive powers" (McCarthy & Cambron-McCabe, 1992, p. 16). However, "it is important to observe that a court cannot act on its own initiative...If nobody wishes to complain about a breach of education law or court policy, the court must remain passive" (Menacker, 1987, p. 15). Thus, courts are limited to ruling on what is presented before them, which is more of a reactive rather than proactive role.

Still, the law is inseparably tied to nearly every aspect of school safety. "The law identifies what must be done and defines the parameters of what teachers and administrators may do to make the campus safe" (Hughes, 1994, p. 7). James (1994) agreed that "the law complements the good-faith efforts of school officials to provide a safe and effective learning environment" (p. 203). In fact, because the courts tend to defer their opinions to the educational authorities, "diverse standards across states and local school districts" are encouraged, even nurtured (McCarthy & Cambron-McCabe, 1992, p. 20).

Many state courts have spoken out on the issue of educator assault in the form of court rulings over state statutes that sought to remedy attacks on teachers and other educational personnel. A primary issue in this discussion centers around defining assault in a legally-binding way and evaluating when insults and/or threats are protected free speech versus when...
they become fighting words. In nearly every case, the courts have reaffirmed a person's right to free speech. Because First Amendment protections are so basic in our society, the right to freedom of speech supersedes most restrictions that school authorities may attempt to impose due to the special environment of the school. "Appropriate channels for airing of supposed grievances against the operation of the school system must remain open" (Martin v. Kearney, 1975, p. 283). In other words, the public has a right to complain based on First Amendment (free speech) and Fourteenth Amendment (due process) rights. While one might argue about what constitutes "appropriate channels," the ruling in Martin v. Kearney makes it clear that the public has liberal rights in expressing discontent. "One of the crosses a public school teacher must bear is intemperate complaint addressed to school administrators...about the teacher's conduct in the classroom" (p. 283). Thus, the courts not only have supported the public's right to complain, but also have said, in essence, that school personnel must endure these complaints, valid or not.

"The function of legislation and the function, indeed, of all government are the same, namely to mark out the sphere in which the individual may freely act in society without encroaching upon" others (Carter, 1907, p. 253). Law "tilts in favor of individual freedoms" (James, 1994, p. 191).

From 1975 to 1991, a few states attempted to protect school personnel by enacting specific statutes designed to restrict verbal abuse of school employees. The courts recognized the good intentions of such laws, but most of these statutes did not hold up in court due to excessive vagueness in definition of key terms such as abuse, insult, and upbraid, as explained in the next sections.

Because these are state-level cases, the precedents have not been clear. The following discussion of related court cases is separated into statutes that were found unconstitutional and statutes that withstood constitutional muster.

Legally sound statutes. One case in which a school-specific statute was upheld was The People of the State of Illinois v. Dunker (1991). A state statute prohibiting battery of school personnel was upheld as constitutional, where battery was defined as making “physical contact
of insulting or provoking nature" (p. 499). In this case, an angry parent poked his finger in a teacher's chest and said insulting things. Because battery involves unlawful touching, it was easier to prove in a court of law and less open to interpretation than spoken words.

A second case in which a school-specific statute was upheld as being constitutional was Walker v. State of Florida (1987). Florida Statute §231.06 (1985), allowed enhanced penalties for assault and battery committed against school personnel. In finding the statute constitutional, the court said that the statute "deters outsiders from disrupting the educational process" (Walker v. State, 1987, p. 157), which is a legitimate state interest. However, the challenge to this statute was only pursued through the charge of battery, leaving unanswered questions about the constitutionality of the assault portion of the statute.

Unconstitutional statutes. Numerous cases reflect the problems with defining teacher assault in a legally binding way. An earlier version of Florida law, prior to the 1985 statute mentioned above, said, in part, that anyone who "upbraids, abuses, or insults any member of the instructional staff on school property" (§231.07 Florida Statutes, 1975) is criminally liable. McCall v. State of Florida (1978) challenged this statute in the Florida Supreme Court, where it was found unconstitutional due to vagueness. The court determined that the statute did not satisfactorily set time, place, and manner restrictions on expression and, therefore, it "includes within its prohibition constitutionally protected words" (p. 870).

A Kentucky statute was also found unconstitutional due to excessive vagueness. KRS 161.190 used almost identical wording to the Florida statute. The court concluded that the words "insult, upbraid, and abuse...do not sufficiently inform a person of what actions are prohibited" (Commonwealth of Kentucky v. Ashcraft, 1985, p. 231). Thus, statutes must be sufficiently specific in defining time, manner, and place restrictions in order to be considered legally-binding.

In California, Ketchens v. Reiner (1987) challenged California Education Code §44811 and §44812, which prohibited insulting and abusing a teacher in the presence of students. The
statutes were found unconstitutional because they were overly broad and vague and did not “provide explicit standards for those who applied them” (Ketchens v. Reiner, 1987, p. 471).

A similar court decision was rendered in State of Washington v. Reyes (1985). Washington Statute RCW 28A.87.010 prohibited insulting or abusing school personnel. In this case, however, the court recognized that all speech is not protected, and one such category of unprotected speech is “fighting words” (p. 1158), words that are likely to risk a breach of peace. Many insults are not fighting words and, therefore, would be constitutional. The court concluded that this statute “bans all insults by any person, whether these insults tend to disrupt school discipline or not” (State of Washington v. Reyes, 1985, p. 1160), which is unconstitutional. In a further criticism of the statute, the court determined that the word “abuse” was also too vague and therefore unconstitutional.

Summary of state level court cases. A key finding from these court cases is the necessary distinction between insults, abuse, and assault. Every state has statutes protecting all citizens from assault, but the above statutes have attempted to protect school personnel from lesser forms of assault-like behavior such as insults or verbal abuse. As indicated above, some statutes have failed constitutionality tests because they were not sufficiently clear in defining time, place, and manner restrictions. Breaching First Amendment rights is clearly taken seriously by the courts; outsiders are given broad freedoms to speak as they please to school personnel. Thus, litigation in this area has shaped and framed how the individual states have responded to educator assault. States that have chosen to protect educators with special legislation have had to ensure that resulting laws are clear and not an infringement on First Amendment rights (Rapp, 1998).

Laws that protect school personnel reflect one part of a state’s response to the school violence problem. They are an important indicator of protections afforded that state's public servants. Viewing the problem through the lens of state law can clarify what states value by
identifying what they protect and how they protect it. The next section will address the
importance of state legislative responses to this problem.

State Legislation

Each state is free to create, design, and implement governmental rules and regulations
that express its own philosophy. This results in tremendous variability between states on any
given issue. "Each state has provided, with varying degrees of specificity, for a state system of
public education" (Menacker, 1987, p. 13) which "reveals a wide range of format, from a few
general designations in some states to a large number that are rather specific in other states"
(LaMorte, 1993, p. 12). As a result, state reactions to educational problems are both more
individualized and more responsive than federal government reactions (Wirt & Kirst, 1997).

School violence. School violence has received much attention from state legislators in
the last few years. "Education was once of limited interest to legislators, but since the 1970s
they have taken a strong hand in education standards and school violence" (Wirt & Kirst, 1997,
p. 235). McCarthy and Cambron-McCabe (1992) agreed, noting that "since the mid-twentieth
century, legislation relating to schools has increased significantly in both volume and
complexity" (p. 20).

Some of this heightened interest resulted from increased federal involvement,
particularly regarding school violence issues. Unfortunately, not all states feel that federal
government involvement in the area of school violence has been positive. For example, all states
have complied with the federal mandate to establish Zero-Tolerance Weapon Zones, but recent
problems indicate that hard-nosed legislation which offers no exceptions to the rule may not be
the answer. Some "lawmakers in a handful of states say reforming state law is necessary to
make sure that school officials only boot students for serious infractions and not innocent
mistakes" (Portner, 1997, par. 12). Other state officials believe that federal laws are not
necessary in this area. Spoke one district attorney at a federal hearing, "I have adequate criminal
statutes in my State to handle this type of crime as well as most others. Even in the absence of a
specific statute, there are other provisions of the law that I can use to gain a similar result" (Hearings on Guns in School, 1995c, p. 22). Other testimony included a statement from Jerry Kilgore, former state cabinet member from Virginia, who said "Crime is an issue best handled at the State and local level....It is entirely possible for States and localities to handle gun-related crime without the interference of the Federal Government" (Hearings on Guns in School, 1995d, p. 25).

Yet, others would disagree. "Prior to [passage of the Gun-Free Schools Act in 1994] state legislation was not nearly so specific with regard to student discipline and control and....most states used the event to strengthen and add new state laws" (Pipho, 1998, p. 725). Government involvement has "motivated various state legislatures to enact statutes designed to control and hopefully, eliminate the various manifestations of crime and violence in schools" (Menacker & Mertz, 1994, p. 2). Finally, others recognize that variability in state laws can be problematic. "State laws can help address this national problem, but not every State has a law, and not every State law is adequately drafted to do the job" (Hearings on Guns in School, 1995a, p. 4).

The bottom line is that all levels of government need to work together to solve school violence problems. Both federal and state legislatures have responded to the problem by setting increased disciplinary standards and requiring school districts to comply (Roskiewicz & Stump, 1996). However, educator assault extends beyond the parameter of school disciplinary codes, for students are the only persons held to their rules, and students are not the only perpetrators of violent acts committed against educators. How have state legislatures responded in this broader arena?

**Educator assault.** Not all states have laws that specifically prohibit educator assault, and some experts argue that such laws may not be necessary. In the absence of special laws to protect educators, "perpetrators of attacks on school personnel have been convicted of offenses such as juvenile delinquency or assault and battery under the general state criminal codes"
(Zirkel & Gluckman, 1991, p. 102). Yet Modzeleski (1996) believed that consistency is a key to successful deterrence by "ensuring that violations of laws that occur inside schools are enforced no differently than violations that occur outside schools" (p. 422), thus acknowledging the dual standard that has previously existed--treating students differently than outsiders. Since most students are juveniles and most perpetrators are adults, treating both the same way signals a willingness to recognize the seriousness of the problem.

Some states have elected to create laws which provide enhanced penalties for assault directed against school personnel (Kopka, 1997; Portner, 1995; Rapp, 1998). Torbet and Szymanski (1998) noted this trend toward more reliance on deterrence as opposed to incapacitation or rehabilitation. These enhanced penalties can be in the form of criminal or civil actions. "Several states have laws on the books that make it easier for school employees to file civil lawsuits against assailants and exact monetary damages....In Utah, civil suits against students have quadrupled in the past few years, partly because...school employees are increasingly aware of their legal rights" (Portner, 1995, par. 16).

Any laws that protect educators from assault will be useless unless educators are aware of their existence and use them when necessary. In order for deterrence to work, people must be aware of the consequences of their actions. The "very threat of compulsion...constitutes the essential features of the legal norm" (Ebenstein, 1969, p. 85).

Portner (1995) concurred that teachers must be willing to take perpetrators to court to show them that their actions have consequences. "Educators, when assaulted, should pursue every legal means possible against the assailant and force the attacker to face the consequences of violent behavior" (Crews & Counts, 1997, p. 114).

Summary of State Level Responses to School Violence and Educator Assault

State responses to educator assault focus in the areas of state department of education policies and practices, state-level court cases, and state laws. While states have highly individualistic responses to any problem, some consistency in the area of school violence has
been achieved due to federal mandates which have tied school funding to compliance. In general, states hold both positive and negative beliefs about the federal government's role in school violence issues, but the bottom line is that the issue is too large for any one jurisdiction to singly solve.

Because both education and law enforcement are primarily state issues, educator assault is best viewed through the lens of state response. Previous court cases have limited and defined the issue, specifically regarding free speech rights. Increasing levels of violence in schools have caused some states to further examine the protections they offer public school employees, but unanswered questions remain.

Critical Issues and Unanswered Questions

Whole sectors of society deny responsibility for school violence, leaving the schools with the entire problems as well as the blame for not being able to solve it single-handedly.

(NEA, 1996, p. 1)

If crime exists in our schools, it is there because we have chosen to permit it. Crime will cease to be a problem when we elect to end it.

(Blount, 1986, p. 3)

(continued on the next page)
Critical Issues

Violence remains a serious problem in our public schools today. A complex problem of this nature cannot and will not be easily solved, but "there is no doubt that the conditions we find our schools in tomorrow will be the direct result of today's decisions" (Blount, 1986, p. 9). While we may not know enough to have all the answers, it is clear that inaction is no solution, either. Continuing to seek solutions at all levels is imperative if school violence trends are to be curbed.

Furthermore, reliance on any one solution to school violence and educator assault is short-sighted. "Americans pragmatically improvise and blend experiences to meet perceived needs" (Vestermark, 1996, p. 113); thus, it is no surprise that educators face a myriad of programs, initiatives, and laws regarding school violence. School authorities should increase cooperation and coordination by developing guidelines that will focus their responses to school violence (Blount, 1986). In other words, educators would be wise to gather as much information as possible and determine what makes the best fit before cobbling out their policies (Roskiewicz & Stump, 1996). Success at controlling school violence may be enhanced "when combinations of singly-successful interventions are simultaneously targeted toward the different sources...responsible for school violence" (Field Hearing on Violence in Our Nation's Schools, 1992b, p. 61).

Another critical issue is accurate information dissemination. If people are not aware of what rules exist, then they will only follow them by chance. School districts should develop and disseminate "a summary of laws pertaining to school disorder" to parents, students, community members, and personnel to help "ensure uniformity and consistency" for everyone (Stephens, 1997, p. 80). Goldstein (1990) agreed that conveying accurate information to all necessary parties is an important way to enhance current efforts and ultimately reduce violence.

Within state legislative arenas, it is important to realize that good solutions will take time. Implementing laws that maximize benefits take concentrated effort and sometimes
multiple attempts before success is achieved. As Joseph Fernandez, Chancellor of the New York City Public Schools said in federal testimony, "I know how the legislative process works. We can't get it all done at once, obviously. We need to do it in pieces" (Field Hearing on Violence in Our Nation's Schools, 1992, p. 22). Statutes are typically "subject to ongoing revision and updating by successive legislatures" (Valente & Valente, 1994, p. 7). Therefore, examination of current needs and comparison with remaining problems provides the best shot of coping with this issue. There will be no one right answer, no magic solution, only on-going study, revision, and testing of the best solutions at any particular time. Laws, by nature, change to meet the evolving needs of society (Pascal, Babin, & Corrington, 1991). However, laws are a key component of any plan to curb school violence and educator assault. Focusing specifically on what has been done in state legislative arenas raises some questions which remain unanswered

Unanswered Questions

Little prior research exists in the area of state legislative response to educator assault. Menacker and Mertz (1994) studied state laws pertaining to school violence. They studied 36 states for legislation on key school violence issues; assault and battery of school personnel was one category. Sixteen states in their sample were found to have statutes that addressed violence directed toward educators: Alabama, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Illinois, Indiana, Kentucky, New Jersey, New Mexico, South Carolina, Tennessee, Texas, and Washington.

Of those states, a few were found to have enacted enhanced criminal penalties for assaulting school personnel: Arizona, Illinois, New Jersey, California, Florida, and Hawaii (Menacker & Mertz, 1994). People v. Hanson (1972) set the precedent that allowed certain classes of citizens higher levels of protection from violent crimes. This case upheld that persons who commit crimes against police officers (or other designated classes of public servants) can receive tougher sentences than persons who commit the same crimes against regular citizens.
This trend "has been upheld against equal protection and other constitutional challenges" (Rapp, 1998, p. 12-134).

Menacker and Mertz's study also found that some states created laws which addressed differences between perpetrators. For example, Texas, Arkansas, Colorado, Indiana, Kentucky, and Tennessee required suspension or expulsion of student offenders, yet these same states had no penalties for offenders other than students. Tennessee was a lone exception, providing for treble civil damages in cases of educator assault and battery. Other states in their sample (Alabama, Connecticut, Georgia, New Mexico, and South Carolina) imposed no penalty of any kind for educator assault, requiring only that offenses were to be reported to school authorities and appropriate officials. On the other hand, California allowed for warrantless arrests for assaults committed on school grounds regardless of who committed them (Menacker & Mertz, 1994). These state laws demonstrate the enormous variance in state legislative response to the issue of educator assault. As Menacker (1994) wrote in another publication, "The upsurge in school crime and violence has led to a large amount of disparate legislation among states" (p. 9).

"Policies and legislation that protect school employees" can assist in reaching "the goal of reducing school violence" (Crews & Counts, 1997, p. 114), but traditional approaches may not be effective. "States are despairing of the usual ways to control school-related crime and violence" (Menacker, 1994, p. 10). Laws are one area specifically controlled by state legislators, and laws can be designed to require no budgetary support, so it is easy to see why protective legislation could be seen as a reasonable first attempt to solve the problem. State law can provide the key for a strong, unified response to school crime, particularly crime committed against educators.

Given that Menacker and Mertz's study is now five years old, an overarching unanswered question is, then, have states enacted any legislation since then to protect educators from assault? Assuming that at least some states have done so, a second question could be, what are the defining features of any existing legislation? Additionally, a third question can also be
asked, are there common elements, themes, or trends that emerge when looking at all the existing legislation? Finally, since laws are created to respond to real or perceived societal needs, will there be a relationship between state crime data and the existence of laws? These questions form the framework for this study.

Summary

People tend to view problems globally—reduce all violence, which is unrealistic. In so doing, they create a situation where no solution seems viable and then they feel hopeless. Instead, break large problems into smaller ones—and when taken together, small solutions can attract support and reduce resistance to future efforts.

(Weick, 1984)

School violence is a tremendously complex problem that requires the combined efforts of all governmental jurisdictions. By looking broadly at the many facets of school violence and educator assault, this literature review has identified the scope of the problem. In the same vein, by narrowing and concentrating on one single piece of the problem—state legislative responses to educator assault—questions can perhaps be answered which will lead to future solutions.

Why study laws? "The function of criminal law is to preserve society from violence, for violence...threatens the existence of society" (Carter, 1907, p. 241-242). Americans have always respected the rule of law that promotes peace and "has as its highest value the protection of human life" (Rosenberg & Fenley, 1991, p. v). Focusing the cross-hairs of scrutiny on laws prohibiting educator assault affords the opportunity to closely examine how states have responded to the problem and what common elements appear in the laws of the states. With the
information supplied in this literature review, the key facts have been laid out and the purpose of this study has been clarified.
CHAPTER 3: METHODOLOGY

Introduction

This research fits within the broad parameters of school violence. Assaults and threats committed on educators are escalating at alarming rates (Baumann, 1997; Petersen et al., 1996; Warchol, 1998), and educators increasingly find themselves having to rely on protective legislation to combat verbal attacks and threats.

Since states differ in the ways they uniquely define and implement what best suits their needs (LaMorte, 1993; Valente & Valente, 1994), laws may differ broadly from state to state. Thus, any existing laws on educator assault reflect the diverse and unique needs of the individual states.

This study examined legislation in all 50 states pertaining to educator assault using a mixed design approach. Because laws are written documents, the primary methodology used in this study was content analysis, which is a research methodology that systematically analyzes the content of communication and draws inferences based upon such analysis (Gall, Borg, & Gall, 1996; Schwandt, 1997). Specifically, identification of primary semantic features of the laws led to the development of categories of comparison, and then occurrences of these key features in each law were tallied and analyzed both quantitatively and qualitatively.

In addition to content analysis, a second methodology used correlation analysis to see if laws do indeed reflect real societal conditions. In order to determine statistical significance, one set of the law data was correlated with U. S. Government crime data that is ranked by state.

Each methodology is addressed in a separate section; following those is a chart detailing the data analysis methods and which research questions were answered by which methodologies.
Because content analysis is the primary methodology and correlation was only used for one research question, most of the discussion focuses on content analysis.

Research Questions

The following specific research questions drove the study:

1. What laws exist in the 50 states to protect educators from assault?
2. What are the emergent features of educator assault legislation from the applicable states?
3. What are the major similarities and differences among state laws regarding educator assault?
4. Is there a relationship between the consequences for educator assault as defined by state laws and U.S. government data which ranks states by frequency of aggravated assaults?

Content for Review

The existing laws in each of the 50 states regarding educator assault was the information base for this study. Since state laws are public information and readily available, all essential information was accessible. Therefore, no sample needed to be selected.
The primary data gathering for this study was to search each state's statutes for the following information: 1) the definition, regulation, and punishments for assault; 2) the hierarchy of crime classifications and related penalties; and 3) any protections specifically naming educators or school personnel and prohibition of assaults as defined in Chapter 1. Thus, state laws were the artifacts examined in this study.

Given that state laws can and do change with every legislative session, the search took place in the late spring and early summer after most active state legislative sessions had ended. To assure standardization, all laws were accessed during a two month period. Because researching laws is complex and time-consuming and because accuracy is paramount to a successful study, a third-year law student with expertise in statute research in all 50 states was hired to assist with data gathering. As a law student within a semester of graduation and internship experiences with major law firms in the area, her perspective and skills were valuable assets to the data collection.

State laws are published both on paper and, for many states, electronically on the internet. Most states have full copies of their statutes posted on internet websites, but there are some drawbacks to using websites alone. First, such information comes with warning disclaimers suggesting that the posted documents may not be the most current or accurate versions. Second, lack of standardization in website construction among the states means that some state statutes are presented in formats that are easily searched and accessed, while others state sites are nearly impossible to navigate without specific title or statute numbers. On the other hand, traditional print sources such as statute books have easily scanned indexes and clear verification dates. Statute books are usually located in one area within a law library, and access is made easy with the states presented in alphabetical order. However, a major drawback of print
information is that updated information can take months to produce and disseminate. Thus, both sources possess limitations; therefore, both sources were accessed and double-checked against each other to assure the most accurate and up-to-date state law information. Discrepancies between print and electronic sources were resolved by using the source with the most recent date. In addition to educator-specific statutes, the general assault statute for each state and the state's definitions and categorization of crimes against persons was obtained, for this information added critical elements to the later analysis.

Because of the enormous quantity of information that was collected, organizational protocols were created. For paper information, binders were set up with a section for each state so that print copies and worksheets could be kept together. For electronic information, separate folders on the computer were created for each state's data. During active data collection, back-ups of the electronic information was made daily. Original electronic files were never altered; they were copied before any manipulation began.

The starting point for each state search was the state's electronic database on the World Wide Web. All but a few states have their full-text statutes on line, although the content and design of the databases varied tremendously from state to state. To assure standardization among a variety of search engines, the statute chapter titles were first examined to narrow the choices before using key word searches. The two most frequently used chapters were education and crimes against persons (or equivalent). Using the key words assault, menace, threat, harass, insult or abuse, reckless endangerment, educator, teacher, school employee, and other related words, specific references within the state code were found, captured electronically, and printed out. To ensure consistency, all states were searched using the same key words, and the "finds" for each key word were noted on the state's individual form.

Once the laws were found electronically, they were researched and photocopied from the actual statute books at a law library. While using the texts, careful attention was given to locate any supplements or pocket parts which contained the most updated information.
As a third verification process, state education associations (affiliates of the National Education Association, of which the researcher is a member) were contacted by phone and/or fax and asked to verify the statute information. Because these organizations intimately work with teachers and employment issues, their legal departments are generally familiar with relevant state laws in this area. Twenty-one of the state education associations responded.

In addition, two other sources were used to cross-check for pending or recent legislation concerning educator assault. The National Conference of State Legislatures annually compiles state legislative actions regarding school violence; both the 1998 and 1999 versions of this material were used. *Education Law* (Rapp, 1998) also provides annual updates of state legislation in areas of school violence and student discipline. The 1998 update was used as another cross-check for pertinent statutes.

Finally, in the event that no specific mention of educator assault as defined in this study was found in a particular state either electronically or in print form, the researcher contacted the Attorney General's Office of that particular state for verification.

**Other Sources**

Additionally, U.S. government crime data were used for analyzing Research Question 4. The source for the needed data was the latest available statistics from the Department of Justice. Currently, the most recent year available is 1996, included in the *Bureau of Statistics Sourcebook of Criminal Justice Statistics- 1997* (Maguire & Pastore, 1998).
Methodologies

Content Analysis Methodology

Content analysis is a research methodology for textual analysis that involves comparing, contrasting, and categorizing data from communication (Schwandt, 1997) in a systematic and objective manner (Berelson, 1971). The analyses typically involve "classifications or tabulations of specific information" (Gall, Borg, & Gall, 1996, p. 357), determined by the researcher and driven by the purposes of the research endeavor, typically to "reflect attitudes, interests, and values of population groups" (Berelson, 1971, p. 90). Purposes for using content analysis include to describe both trends and patterns of communication (Holsti, 1969), as well as to draw inferences from the communication (Weber, 1990). This study of state laws fit all of these purposes.

According to Berelson (1971), there are three general assumptions about content analysis: that 1) there is a relationship between the intent and the content of the message; 2) the study of the content is meaningful in that the communicator, the analyst, and the audience all share a "common universe of discourse" (p.19); and 3) the categories for analysis produce meaningful descriptions. All three assumptions were met in this study. First, laws are messages clearly linked to societal intents. Second, laws specifically define and specify what is prohibited so that all audiences interpret the message in the same way. Third, careful attention was paid to the selection of categories for analysis so that meaningful data were extracted.

Appropriateness of Methodology

Content analysis can be used to investigate many different types of written, oral, and visual communication and has been used to study subjects as diverse as song lyrics and political campaign platforms (Weber, 1990). Although no previous legal studies have been found that use content analysis as the methodology, Krippendorf (1980) wrote "virtually the whole spectrum of the humanities and the social sciences, including efforts to improve the political and social
conditions of life [emphasis added], is concerned with symbols, meanings, messages, their functions, and effects" (p. 9)—source material appropriate for performing content analyses. He added in a later chapter, "within social organizations the right to use a particular channel of communication is regulated and whatever data one obtains in such contexts, they reveal what an institution deems permissible" (p. 47). Laws certainly fit the criteria of being documents that are regulated and whose primary purpose is political and social improvement.

Legal research of statutes has been previously undertaken in three different ways: 1) by using the index to look up descriptive words or phrases; 2) by using the table of contents to look up topics; and 3) by using the name of the statute as the source (Scott, 1988). While this study used these methods to locate appropriate statutes, it went beyond what has traditionally been done in other studies (Jingeleski, 1996; Kareck, 1997; Kincaid, 1990; Scott, 1988) by applying a formal methodology to statute analysis. Thus, it is hoped that this study added a unique and important development to the way that educational law can be investigated and ultimately understood.

In addition to the formal application of a specific research methodology, another way that the results of this study can be used to extend the knowledge base is to link it to models or theories already in existence. Riffe, Lacy, and Fico (1998) produced a communication model which fits the framework of this study. Their model demonstrates "why content analysis can be an important tool in theory building about both communication effects and processes" (p. 8-9) and is reproduced in the following graphic.

(continued on the next page)
ANTECEDENT CONDITIONS
a) individual psychological/professional
b) social, political, economic, cultural
or
other contextual factors

that are assumed or demonstrated to affect

COMMUNICATION CONTENT

which is an antecedent/correlate of

a) assumed or demonstrated
b) immediate or delayed
c) individual, social, or cultural
EFFECTS

According to Riffe, Lacy, and Fico (1998), descriptive studies may be valuable in their own right, but it is through direct connection to conceptual frameworks that theory-building can occur, something that these authors believe does not occur enough in content analysis research. In this study, the organization of Chapter 2 provided a framework for understanding how laws prohibiting educator assault fit into the broader contexts of schools, laws, and society. Placing that Chapter 2 progression into the model above clearly shows a sequence. School violence and deterrence theory (to name two) are social and political antecedents, the laws are the communication content, and the social effects are the results of the laws, which are discussed later. As Riffe, Lacy, and Fico (1998) summarized, "content analysis is crucial to any theory dealing with the impact or antecedents of content" for without content, "questions about the processes generating that content or the effects that content produces are meaningless" (p. 32). Thus, subscribing to their theory reinforces the cause and effect links demonstrated in Chapter 2 and sets the framework for the implications and inferences that were drawn from this study's analysis.
In conclusion, this study brought a fresh perspective to the analysis of laws in two ways: by employing a methodology previously unused in this arena, as well as by linking key concepts of the study to an existing communication model. Ultimately, state laws do fit the criteria for content analysis in that they are legitimate societal documents that can be examined and classified on different features, and after such examination, inferences can be drawn. Thus, content analysis was an appropriate methodology for this study.

Procedure

Upon collecting all pertinent state laws regarding educator assault, the methodology of content analysis was employed. According to Riffe, Lacy, and Fico (1998), the key elements in designing a content analysis include

I. Design
   Define relevant content; specify design; create coding sheets and protocols; specify population and sampling; pre-test and establish reliability

II. Analysis
   Process data by establishing reliability and code content, apply statistical procedures, interpret and report results (p. 47).

For content analysis research conducted for the U. S. Government, four planning steps are recommended: defining the variables (categories of comparison), selecting the material to be analyzed, defining the recording units, and developing an analysis plan (U.S. General Accounting Office, 1996). Krippendorf (1980) listed data making (including determining the coding units, sampling, and recording), data reduction, inference, and analysis as the key components of content analysis.

Although these three sources vary on some issues and wording, some commonalities also emerge. The key procedural points for conducting this content analysis included:

1. Determination of the coding unit
2. Definition of the categories or variables
3. Creation of protocols through the development of coding sheets, including dealing with emergent categories and test coding

4. Statistical analysis, which addresses reliability, validity, and data reporting

Each is addressed below.

**Determination of the coding unit.** A critical step was deciding what unit of written language will be studied. Weber (1990) suggested six possible options: word, word sense, sentence, theme, paragraph, and whole text. Thinking about the laws to be examined and the kinds of data expected to be collected guided this decision. For example, one category of comparison was the recipient—who is being protected by the law. A single word category was too limiting, for one such possible datum would be "all public school teachers." Yet, using sentence, theme, or any larger description threatened validity by taking in too much information and risking the same datum being able to be placed in multiple categories. Therefore, word sense was designated as the coding unit—that is, single words with potentially multiple meanings, proper nouns, or other phrases that constitute a semantic unit (Weber, 1990).

**Definition of categories or variables.** This is the essence of content analysis: to determine the specific aspects of the document to be examined. As Berelson (1971) wrote "since the categories contain the substance of the investigation, a content analysis can be no better than its system of categories" (p. 147). Holsti (1969) elaborated that the categories must reflect the purposes of the research, be exhaustive, mutually exclusive, and independent. Reflecting the purposes means being closely aligned with the research questions. Exhaustive means that "all relevant items...must be capable of being placed into a category" (p. 99). Mutually exclusive means that "no content datum can be placed in more than a single cell" (p. 99). Independence means that "assignment of any datum into a category [will] not affect the classification of other data" (p. 100).

In this study, the following categories of analysis were used: recipient, action, aggressor, penalty, and qualifiers. Each is described in detail in the Data Analysis section. Each
category of analysis is closely linked to one or more of the research questions. Because each addresses a different element of a law, each is considered exhaustive, mutually exclusive, and independent.

Within each category, the number of unique responses may vary tremendously, and if the list is long, it becomes cumbersome to report and analyze. Holsti (1969) agreed that it is compromising to have too many items. If initial numbers of unique responses become unwieldy and threaten to compromise the study, the technique of clustering can be used to reduce final items to a more manageable number. Krippendorf (1980) described it as a way "to group or to lump together objects or variables that share some observed qualities" (p. 115). The use of clustering techniques and resulting analysis were recorded and reported where necessary.

Coding logbooks and protocols. The importance of maintaining accurate records cannot be emphasized enough. A logbook or codebook should contain information such as definitions of variables; protocols for coding; and each document's unique number, date coded, and problems encountered (Riffe, Lacy, & Fico, 1998; U. S. General Accounting Office, 1996). For this study, three separate coding instruments were developed to record information. The first coding sheet was a Master List which existed on paper and displayed each state and the status of the research on the laws for each state (Appendix A). It provided at-a-glance overall progress. The second coding sheet was the State Identification Record and also existed on paper (Appendix B). One record was used for each state and was kept at the front of each state's section in the binder. It included information on the date the law(s) were researched, the reference source, a list of the pertinent statute numbers and a brief description for each, and record of the most recent update. The third coding sheet employed the use of a database to keep track of information so that searches and other types of electronic manipulation could occur; thus, it was maintained on a computer rather than on paper. This Statute Coding Record contained the essence of information for the content analysis. Each law had a separate coding record; therefore, states with more than one applicable statute had more than one coding record.
Each coding record contained information such as identification of the state, the statute number, the content of the law itself, the actual word sense data from each variable or category, information about the general assault statute of the state (or its equivalent for some states), reference information, and any specific comparison notes. Appendix C is a copy of the actual database screen with explanatory information entered in each field instead of actual law data. An additional screen was developed to facilitate the actual content analysis. This screen contained the key words used to identify features within each category of the law, and it allowed search capabilities (see Appendix D).

**Emergent categories.** Because of the careful linkage of category assignment to the research questions, it was unlikely that new or different categories would be needed. However, it was possible that some themes could emerge from the data as the study progressed, particularly in the form of single occurrences in individual state laws. The collected data were exhaustive, that is, were able to be placed in categories, with one exception. The analysis of qualifiers within the laws required the use of a "special conditions" category to capture all important data. Therefore, emergent categories were only used once.

**Test coding.** In order to be sure that the developed framework accurately fit the study, 10 applicable statutes were coded on a trial basis by the researcher. This practice enabled the researcher to alter or amend categories or procedures prior to implementing the full study. In order to check for reliability, the researcher used the third-year law student research assistant to test code the same information using the guidelines, definitions, and coding sheets created by the researcher. High agreement between the researcher and the law student occurred; the sample was coded with 91% agreement. Stringent guidelines were used in assessing discrepancies; each point of disagreement was actually counted twice: once for the researcher and once for the law student, resulting in a stricter penalty and a lower agreement score than would result if each discrepancy only counted once. Thus satisfied that test coding was successful, the researcher proceeded with the full study.
Statistical analysis. Content analysis can include statistical comparisons in that an analyst can classify text into categories that "are treated like numerical data in subsequent statistical manipulations. The statistical analysis permits the analyst to draw conclusions about the information in the text" (U.S. General Accounting Office, 1996, p.52). Categorization of state law data generated descriptive data in the form of counts, percentages, and frequencies for specific words and/or phrases within each state's statute(s).

Reliability of the methodology. The three types of reliability pertinent to content analysis methodology are stability, reproducibility, and accuracy (Krippendorf, 1980).

Stability is a form of consistency and checks for accuracy within each coder over time. Although it is considered the weakest form of reliability, stability was checked by re-coding several of the first laws after completing about 75% of the data set. Furthermore, continual reference back to previously-coded laws ensured that similar new data were coded in a consistent manner.

Reproducibility is inter-coder reliability and checks for accuracy between coders under varying circumstances. Krippendorf (1980) cautioned that reproducibility must be conducted independently; any discussion or joint decision-making between coders threatens the strength of reliability. Reproducibility was checked (as noted in the Test-coding section) by having a law student code 10 sample laws from the data set using the instructions and protocol used by the researcher. Ninety-one percent agreement occurred.

Accuracy is the highest standard of reliability and relies on standards and norms. It is rarely able to be met in content analysis due to the highly individualistic nature of most data analysis. Accuracy was not be able to be achieved for this study due to the unique nature of the data and the lack of previous research endeavors in this area. Thus, the reliability for this study was demonstrated by using stability and reproducibility.
Quantitative Statistical Methodology

In addition to descriptive statistics such as frequencies, counts, and percentages, this study employed the use of a quantitative statistical analysis technique for Research Question 4. This research question hoped to discover a relationship between the levels of consequences for educator assault in individual state laws and U.S. Government crime data ranked by state. The crime data used was from 1996, the most current year available, which ranked states according to their rates of aggravated assaults per 100,000 general population. The levels of consequences for the state laws were drawn in two ways: one, from the stated fines for each statute, and two, from the stated incarceration limits for each statute. Both of these categories were rank-ordered based on each law’s specific fine and each law’s specific imprisonment. For example, the statute with the highest fine was ranked number one, the next highest fine was number two, and so on. Some states shared the same penalty; in which case the ranks were averaged. The student discipline data were not used for this comparison as it had no penalties that could be rank-ordered. The general population laws with no enhanced penalty portions were also excluded from this comparison because many of these laws had either no fine or no imprisonment listed. In addition, because the crime data were based on aggravated assault, it made sense to use the educator statutes with the strongest penalties—the enhanced penalties. These data were as up-to-date as possible, reflecting any legislative changes made as late as July, 1999. The intent of the correlation analysis was to determine if a strong inverse relationship existed between the penalty data and the crime data. In other words, states that had strong penalties for educator assault (a small number indicating a high ranking) would be expected to have low crime rankings (a larger number indicating not as much crime). The purpose of exploring this possible linkage was to examine deterrence theory: to see if a relationship existed between the penalties within educator assault laws and the numbers of crimes committed.
Since the entire population was accessed, a true picture of the hypothesized relationship between the variables was obtained. In order to facilitate correct interpretation, a scatterplot of the data was produced to determine the form and shape of the data. All data were rank-ordered, and, therefore, ordinal. Kendall’s Tau was the statistical test used for correlation because there were only 23 laws to examine. The confidence level was set at 95%. A strong negative relationship between the variables would be considered to be -.60 or more. A correlation analysis was computed in three different ways: 1) the state crime rankings and the state law fines; 2) the state crime rankings and the state law imprisonment sentences; and 3) the state law fines and the state law imprisonment sentences.

(continued on the next page)
Data Analysis

Table 1 included here provides an overview of each research question and how it was approached. A more detailed description of each procedure and analysis follows.

<table>
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<th>Question</th>
<th>Methodology</th>
<th>Procedure</th>
<th>Analysis</th>
</tr>
</thead>
<tbody>
<tr>
<td>What laws exist in the 50 states to protect educators from assault?</td>
<td>Content analysis</td>
<td>Record the statute numbers and types of educator protection laws that exist in each state</td>
<td>Listing, frequency of occurrence; nominal data</td>
</tr>
<tr>
<td>What are the emergent features of educator assault legislation from the applicable states?</td>
<td>Content analysis</td>
<td>Use word sense as unit of analysis; Categories: recipient, action, penalties, aggressors, qualifiers</td>
<td>Development of levels within each category to determine types or hierarchies; frequencies</td>
</tr>
<tr>
<td>What are the major similarities and differences among state laws regarding educator assault?</td>
<td>Content analysis</td>
<td>Examine each category to determine how the laws are alike and different</td>
<td>Analysis of each category, frequency and percentages for each; nominal and ordinal data</td>
</tr>
<tr>
<td>Is there a relationship between the consequences for educator assault as defined by state laws and U.S. government data which ranks states by frequency of aggravated assaults?</td>
<td>Correlation</td>
<td>Use U.S. government data ranked by state for numbers of aggravated assaults per 100,000 population to compare with levels of consequences</td>
<td>Correlation of violence data state rankings with levels of consequences data to determine if severity of penalty is related to numbers of crimes; Kendall's Tau for ordinal data</td>
</tr>
</tbody>
</table>

Research question 1. *What laws exist in the 50 states to protect educators from assault?*

This question was answered through the initial data gathering. All laws that were found and collected were categorized, counted, and displayed on a frequency chart (see Appendix A).

Some of the laws were not applicable to this research endeavor (battery laws, for example) but they were recorded anyway to give a fuller impression of the wide variety of educator protection legislation that exists. Thus, only three categories of laws were used in answering research
questions 2, 3, and 4—those laws that used this study's definition of assault, and they were classified as *assault or less, enhanced penalty*, and *student aggressor*. A further discussion can be found in Chapter 4.

**Research question 2.** *What are the emergent features of educator assault legislation from the applicable states?* This question was answered through employing content analysis using *word sense* as the unit of analysis. Laws have several key elements (categories) that were individually examined, and within each category, types or levels of responses were recorded.

The categories included

1. **Recipients** of protection, or who was protected by the law. Sample responses include "teachers," "all public school teachers," and "public school employees."

2. **Actions** that were prohibited. These were verbs, and responses included words such as "intimidate," "threaten," "assault," and "engender fear."

3. **Aggressors** of the action, or who committed the crime. Some laws specified different laws for different aggressors, such as "juveniles," or "students under the age of 14," as opposed to not identifying any specific aggressor.

4. **Penalty** of the prohibited action, or the consequence. Wide variation occurred in this category. The penalties were categorized based on four elements: the crime's classification, its monetary fine, its incarceration sentence, and whether or not the penalty indicated both fine and jail as an option. The penalties were generally classified depending on how the statute compared to the general assault statute for the state: either less than general assault, equal to general assault, or enhanced over general assault.

5. **Qualifiers** to the laws, or important additional information. Some laws specified that protections for educators only existed while "in the
performance of school duties," or "on school grounds." Other qualifiers included statements such as "only if the assailant has reason to suspect or know that the victim is an educator." These qualifications added important descriptions of time/space/manner limitations to the laws. Not all laws had qualifying words or phrases.

A frequency chart response was created for each category.

**Research question 3.** What are the major similarities and differences among state laws regarding educator assault? This research question was answered through the analysis of the types/levels of responses for each feature of the law, thus creating a different analysis for each category: recipients, actions, aggressors, penalty, and qualifiers. Frequencies and counts of each type/level was compiled and percentages were calculated.

**Research question 4.** Is there a relationship between the consequences for educator assault as defined by state laws and U.S. government data which ranks states by frequency of aggravated assaults? This research question was answered through the correlation of ranked data generated in this study with ranked U.S. government crime statistics. Deterrence theory holds that laws with strict penalties help deter crime (see Chapter 2). Therefore, states with stiff penalties in their educator assault statutes (ranked high) would be expected to have lower numbers of crime (ranked low), which is a negative or inverse relationship. Because all states do not collect statistics on educator assault law usage, the closest fit statistics were for occurrences of aggravated assault in the general population. The U.S. Government crime data was based on 1996 statistics, which was the most up-to-date data available, and the laws were based on 1999 data. Thus, this research question attempted to link laws to crime levels to see if indeed a relationship existed. Both sets of data were ordinal and the groups to be compared were 50 or less; therefore, Kendall's Tau was used for statistical calculations.
Ethical Safeguards and Considerations

The fact that the state laws are public information that is readily accessible to anyone is a natural safeguard and freed the researcher from any ethical constraints regarding the accidental dissemination of the material. A second safeguard was that examination and analysis of laws provided an unobtrusive way to examine communication (Krippendorf, 1980). It was not affected by emotions, body language, or inflection the way oral language could be. The researcher's interaction with the printed laws had no direct or indirect effect on reality. Thirdly, since this study was descriptive and exploratory in design, no interventions or treatments were necessary. The U. S. Government data are public domain information freely disseminated and available to anyone. Thus, no precautions or protections were needed.
CHAPTER 4: RESULTS

Introduction

The primary purpose of this study was to examine state laws that protect educators from threats and attacks, defined here as assualt. The following research questions drove the study:

1. What laws exist in the 50 states to protect educators from assault?
2. What are the emergent features of educator assault legislation from the applicable states?
3. What are the major similarities and differences among state laws regarding educator assault?
4. Is there a relationship between the consequences for educator assault as defined by state laws and U.S. government data which ranks states by frequency of aggravated assaults?

Given these questions, the research methodology of content analysis was undertaken, and a data collection strategy was employed. The results are presented herein.

Results of the Data Collection

The search for state laws that pertain to educator assault yielded 111 state laws that represented 46 states. As described in Chapter 3, vigorous collection and verification strategies were employed to be assured that all pertinent statutes would be found. It should be noted that the searches and verification procedures applied only to those statutes within the definition of this study. Many other laws within the broad area of educator protections were found; however,
the listing of these peripheral laws should not be construed in any way as being a complete reporting; rather, these were laws that were discovered while researching educator assault statutes (see Appendix E). The research did not discover any pertinent statutes in four states: Alaska, New York, Vermont, and Wyoming. Per methodology protocol, the researcher contacted the Attorney General’s office in each of the four states by telephone to confirm this status. In all four cases, attorneys or law librarian specialists verified the lack of appropriate legislation in the four states. Contacts in Alaska, Vermont, and Wyoming each believed that the relatively small and rural nature of the state contributed to the current lack of such legislation, but all commented that some related legislation was possible in the near future, particularly in light of the school violence incidents of spring, 1998 and 1999 (personal communications, July 14, 1999). New York was not expected to be on the list of states without suitable legislation. Neither the law student nor the researcher found any evidence of appropriate statutes in New York. The law librarian specialist in the State Attorney General’s office took time to thoroughly research it herself, double-checking with staff attorneys and police investigators familiar with education law prior to confirming the information with the researcher (personal communication, July 14, 1999).

The 111 laws were examined and entered into the researcher's database for analysis (see Appendices C and D). Once the law data were entered, the content of each of the laws was examined to determine suitability for the study. The statutes were sorted into 8 general categories based on their content: assault or less than assault, enhanced penalty for assault, student as the aggressor, battery, school property limits, educator support, authority statements, and related workers (See Appendix E). Because assault of educators was the focus of this study and not peripheral issues such as support laws or battery, only the first three categories of laws were selected for the study. Thus, the following three categories provided the content for analysis in this study:

• laws that dealt with educator assault or less than assault (such as abuse or insult);
• laws that dealt with enhanced penalties for educator assault; and
• laws that dealt with educator assault perpetrated by students.

The first two categories of laws were called *general population laws*, as these laws resided in either the criminal code or the education code of the individual states and applied to all citizens. The third category of laws was called *student discipline laws*.

Of the 111 laws collected, 58 placed in these three categories and were selected to be the content for analysis. These 58 laws appeared in the legislation of 37 states—13 states (including the original four with none) did not have laws that fit within the parameters of this study. While 13 states without pertinent legislation may seem like an unusually high number (nearly 25%), in fact, many of the 13 states possessed strong educator protection in the form of battery laws and other types of laws. More detailed information follows in the discussion of Research Question 1.

### Analysis of Educator Assault Statutes

**Research Question 1**

*What laws exist in the 50 states to protect educators from assault?*

This research question was answered by the initial data gathering. The two chief limitations found in researching the laws were the lack of standardization between states, particularly in indexing protocols, and the ever-changing nature of legislation. For example, during the course of data collection, two laws from two different states were found to have been revised only days after the initial laws were researched. Thus, the nature of law as a living, changing document created some real limitations. Nevertheless, checks and verifications from independent sources validated the accuracy of the data to be examined.

Once the 111 laws were entered into the database and examined, eight themes emerged to create the classification categories. Table 2 presents the summary information, and a brief discussion of each category follows.
Table 2. Totals of Educator Assault Laws in the 50 States by Type.

<table>
<thead>
<tr>
<th>Category</th>
<th>Number of laws</th>
<th>Percent of study</th>
<th>Included in the study</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assault or less than assault</td>
<td>14</td>
<td>24%</td>
<td>Yes</td>
</tr>
<tr>
<td>Enhanced penalty for assault</td>
<td>23</td>
<td>40%</td>
<td>Yes</td>
</tr>
<tr>
<td>Student as aggressor</td>
<td>21</td>
<td>36%</td>
<td>Yes</td>
</tr>
<tr>
<td>Battery</td>
<td>14</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>School property limits</td>
<td>16</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Educator support</td>
<td>12</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Authority statements</td>
<td>4</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Related special workers</td>
<td>7</td>
<td></td>
<td>No</td>
</tr>
<tr>
<td>Total</td>
<td>111</td>
<td>100%</td>
<td>3 categories</td>
</tr>
</tbody>
</table>

Assault or Less than Assault

Laws that were categorized here included statutes that protected educators from insults or abuse, as well as threats that engender fear of imminent harm, defined here as assault.

Fourteen statutes from 11 states grouped into this category or about 24% of the laws studied. Of the 14 statutes, nine were laws that protected educators from abuse, insults, or similar disruptions, defined here as less than assault. Thus, only five of the examined 12 statutes compared equally to assault.

Enhanced Penalty for Assault

Nearly 40% of the content to be examined was found in this category. Twenty-three laws in 23 states provided an enhanced penalty for committing assault against an educator. To determine this classification, the general assault statute of the state was used as the comparison data. The enhancement could come from any of the four parts of the penalty data, either singly or in combination: the classification of the crime, its monetary fine, its imprisonment sentence, or whether the law specified both fine and imprisonment. Further elaboration of this information is addressed in the discussion of Research Questions 2 and 3.
Four of the laws deserve mention because of special conditions or circumstances. Georgia §16-5-21 required the use of a weapon, but since it did not specify any mandatory injury from the weapon (battery), it was included. Idaho §18-916 was declared unconstitutional by a district magistrate in the fall of 1998 but has not yet been repealed, according to sources at the Idaho State Attorney General's Office (personal communication, July 20, 1999). Michigan §750.478a protected public employees from assault with an enhanced penalty. Although public employee laws were categorically eliminated from this study because of their lack of specific mention of educators, this particular law did, in an earlier form, specifically name educators. It was a later revision that broadened the law to include more classes of public servants. Thus, this law met the study criteria by intent. Finally, North Carolina §14-33(5) required the assault of educational personnel to take place either on a school bus or while boarding a school bus. While all laws have certain restrictions written into them, classified in this study as qualifiers, the clear limitation made it an important note to be included here. Qualifiers were a separate part of the content analysis and are addressed in the discussion of Research Question 2 and 3.

Student as the Aggressor

Because students are (usually) minors and covered under state compulsory school attendance laws, most states have set up unique penalties for aggression committed by underage youth in school situations. Typically, these laws clarified student suspension or expulsion procedures, but in some cases the laws pertained to discipline policy guidelines and/or requirements to file police reports for certain acts. While nearly every state had laws that defined suspension and expulsion procedures, many states chose to leave the specific conditions and descriptions for such acts to the authority of local school boards. For this analysis, only those state laws whose wording specifically included educator threats or attacks by students were included. Twenty-one laws were found, or about 36% of the content for analysis.

A few of the laws showed variation which was worth noting. Florida §230.23015 prohibited students from committing assault as stated in §784.081—the general population law.
Texas §37.007 required the use of a weapon in the assault. Indiana §20-8.1-5.1-18, North Carolina §115C-391, and South Carolina §16-3-612 included battery along with assault. Because the intent of these laws specifically addressed educator threats or attacks, they were included, although the battery portion clearly extended beyond the scope of this study. Yet, in examination of all of the state laws in this category, they more squarely fell into the category of states which specifically prohibited these actions by students versus those states which did not. South Carolina’s law was also unique in that it had a mandatory fine for students, the only state to do so.

The remaining categories of laws were not included in the content analysis and were not verified for comprehensive accuracy but did add useful peripheral information. Specific comments about each of the remaining categories follows below.

Battery

These laws gave educators protection from physical injuries. Some of the battery laws required mandatory reporting of attacks to the police or higher-level school authorities, and others offered strict penalties for injuring an educator. In some cases, the penalties were enhanced over the regular battery laws for the state (as indicated in Appendix E). It is important to note that several states (Alabama, Delaware, Kansas, Minnesota, and Rhode Island) possessed strong anti-battery laws for educators but had no other statutes which classified as a part of this study.

School Property Limits

These laws prohibited violence on school property. Some laws specifically penalized crimes occurring within school safety zones, while others were very general in prohibiting persons from obstructing or disrupting school functions. In all cases, these laws did not fall within the scope of this study.
Educator Support

Laws that were classified here included those statutes which provided assistance of any type to injured educators. Thus, they were more directly related to the battery laws than the assault laws. Several states had statutes which defined and proscribed leave and/or workmen’s compensation benefits for injured educators, but two were unique and deserved mention. Specifically, Alabama §16-28A-1 provided legal support for educators injured in the course of duty, and Louisiana §17-1684 provided college education benefits for the children of educators killed or permanently disabled because of job-related attacks.

Authority Statements

Only four statutes fit this description, but because of their unique nature, they were included as a separate category in the table. These statutes authorized power to either educators or school boards. For example, Idaho §33-1222 authorized educators to be free from abuse, and Nevada §289190 authorized school officials to carry out the purposes of school. These statutes had no penalties or fines—they were statements of control and purpose.

Related workers

All of the laws which protected special classes of educators or related workers were included in this category. Some of the laws covered public employees without any specific mention of educators, which was determined to be too broad for this study, and a few included special classes of educators. Florida §232.28, Louisiana §17.500.1, and Massachusetts §159A-31 all covered bus drivers against forms of attack. Pennsylvania §18-2712 and North Carolina §14-33(9) protected athletic officials. While many states had legislation which shielded athletic officials from assault, these two states had the only statutes that specifically named school athletic personnel. None of the laws in this category fit the parameters for inclusion in the content analysis.
Summary of Trends and Themes

The 111 laws presented a wide range information about educator assault in general. It is clear that almost every state has created protective legislation for educators in some form. Even for those states which had no applicable laws, the conversations with personnel in the State Attorneys' Generals offices indicated that this finding may not be permanent. Of the collected data in Appendix E, it is interesting to note that 13 states had only one law that fit within the parameters of this broad search: Colorado, Delaware, Maine, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Dakota, and Wisconsin; and, not all of these single statutes qualified as educator assault and thus were not included in the content analysis. On the other hand, states such as Louisiana, Kentucky, Nevada, North Carolina, and Washington had four or five laws that scattered across several categories. Further, Arizona, California, Georgia, Mississippi, and Nevada each had a law that classified as assault or less than assault and an assault law with an enhanced penalty. Yet, only one state—Mississippi—had laws that grouped into all three categories used for the content analysis. Finally, by comparing numbers of laws in the first two categories, it is clear that more states are leaning toward enhanced penalties for educator assault crimes as compared to assault or less: 23 to 14, nearly a two-to-one margin. In conclusion, tremendous variation exists among the types and numbers of educator assault legislation that exists in the 50 states.

For the purposes of this study, the 58 laws in the first three categories comprised the data for analysis in answering Research Questions 2, 3, and 4. Each of these laws was scrutinized more thoroughly by using the content analysis methodology, as described in the following sections.

(continued on the next page)
Research Questions 2 and 3

What are the emergent features of educator assault legislation from the applicable states?

What are the major similarities and differences among state laws regarding educator assault?

Research Question 2 was basically a deconstruction of major features of the laws, while Research Question 3 reconstructed the information to examine similarities and differences among the laws. Given the high inter-relatedness of the information, both research questions were addressed simultaneously for each category of analysis to present a logical flow of information and conclusions. Five categories within the laws themselves were examined: recipient, action, aggressor, qualifiers, and penalties.

Recipient

The recipients were sub-categorized in two ways. First, the laws were categorized based on whether the law protected only public educators or both public and nonpublic educators (see Appendix F). Second, the laws were categorized based on the stated types of educators protected by the laws (see Appendix G). The results of the first analysis follow.

Analysis of Public Educators versus All Educators. The following trends or themes emerged from the examination of the recipients. Table 3 indicates the results of the first subcategory—whether the laws made distinctions between public and nonpublic educators. Out of the 58 laws, 39 covered both types of educators. Most of these laws simply said "educators," or "all educators," but some of them did specify and define what was meant by "public" educators and "nonpublic" school educators. The remaining 19 laws specified only public school educators as the intended recipient of the laws' protections. Thus, approximately one-third of the laws singled out public school educators alone as the recipients of protection.
Table 3. Summary of Public Versus Public and Nonpublic Recipients in Educator Assault Statutes.

<table>
<thead>
<tr>
<th>Public Educators Only</th>
<th>Public and Nonpublic Educators</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>39</td>
<td>58</td>
</tr>
<tr>
<td>33%</td>
<td>67%</td>
<td>100%</td>
</tr>
</tbody>
</table>

Further examination of the laws revealed other information. For example, 21 of the statutes were student discipline oriented—primarily suspension or expulsion laws. Would more of these statutes be restricted to public educators only? In fact, no clear evidence existed. Of the 21 laws, 10 were directed only to public school educators—just about half.

Another factor that was examined occurred between states which had two or more statutes listed. Would these states consistently identify the same recipient in each law? Twenty states had two or more statutes, and of those, 11 consistently named public and nonpublic educators as the recipient of their laws, four (Arkansas, Kentucky, Michigan, and New Jersey) consistently named only public school educators as the recipient of their laws, and the remaining five split the recipients across their laws. Of these remaining five—Georgia, Nevada, North Carolina, Utah, and West Virginia—no clear patterns emerged.

In summary, public educators clearly possessed stronger protections from these educator assault laws—100% of the laws covered them, for they received the benefits from both categories of comparison. However, nonpublic school educators did not fare as well—the laws covered them about 67% of the time. Further analysis of the specific types of educators protected, elaborated below, revealed different information regarding the recipients of educator assault law protections.

Clustering Technique for Types of Recipients. The second sub-category of analysis required the use of clustering to group similar wordings under a broader heading, necessary because of the unique and highly individual wording of the laws (Holsti, 1969; Krippendorf, 1980). The clustering technique for the types of recipients follows.
Some laws specifically included teachers and administrators by name, some used general terms like "educational personnel," and yet others listed and named specific titles of educators whom the law included. Appendix G shows the actual phrases from the laws and how they were thematically clustered together. While most laws shared very similar phrasing, some laws were worded uniquely. Those of particular interest are identified in Appendix G by state and statute number. All responses were used either as single occurrences or in combination with other terms.

**Analysis of Specific Recipients.** The second sub-category was analyzed to see what specific types of educators were covered under the laws. Appendix H displays the organized and grouped information by state and statute regarding recipients. Table 4 displays the summarized recipient information.

**Table 4. Summary of Specific Recipients According to Number of Times Included in Educator Assault Laws.**

<table>
<thead>
<tr>
<th>Type of Educator Protected</th>
<th>Statutes including this wording</th>
<th>Percent (of 58 laws)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teacher</td>
<td>32</td>
<td>55%</td>
</tr>
<tr>
<td>Administrator</td>
<td>20</td>
<td>34%</td>
</tr>
<tr>
<td>School Personnel</td>
<td>43</td>
<td>74%</td>
</tr>
<tr>
<td>Other School-Based Personnel</td>
<td>4</td>
<td>7%</td>
</tr>
<tr>
<td>Superintendent</td>
<td>3</td>
<td>5%</td>
</tr>
<tr>
<td>School Bus Driver</td>
<td>5</td>
<td>9%</td>
</tr>
<tr>
<td>School Board Member</td>
<td>7</td>
<td>12%</td>
</tr>
<tr>
<td>Volunteer</td>
<td>4</td>
<td>7%</td>
</tr>
<tr>
<td>Student Worker</td>
<td>3</td>
<td>5%</td>
</tr>
<tr>
<td>Teacher Aide</td>
<td>2</td>
<td>3%</td>
</tr>
<tr>
<td>Contract Worker</td>
<td>4</td>
<td>7%</td>
</tr>
<tr>
<td>State-level Worker</td>
<td>3</td>
<td>5%</td>
</tr>
</tbody>
</table>

*Note. Totals more than 100% because statutes often named several different recipients. Percentages rounded to nearest whole numbers.*

Clearly, the generic term school personnel had the most occurrences within the laws; however teachers and administrators also shared high percentages of occurrences. Examining other specific features of the recipient list provided more insight.
Of particular interest, teacher was the sole recipient for five laws: Louisiana §14-38.2, Washington §28A.635.010, Arkansas §6-17-106, Idaho §18-916, and North Dakota §15.1-06-16. The Idaho law was found unconstitutional by a district magistrate in the fall of 1998 but has yet to be repealed (State Attorney General's office, personal communication, July 20, 1999). The North Dakota law was just recodified in July, 1999, but according to a source in the State Attorney General's office, should have been re-written because it was clearly too vague to be constitutional (personal communication, July 21, 1999). While the actions of these five laws, the acts they prohibit, are discussed in a separate analysis, it is germane to note that four of these five statutes prohibit abusing or insulting teachers, the very language that earlier court cases in other states found unconstitutional (see Chapter 2).

School personnel obviously had the greatest number of occurrences. The terminology is broad and covered many of the other types of educators singled out in this analysis. However, when was the category school personnel not used in the laws? Fifteen statutes did not use this terminology. Of those 15, five were laws that protected teachers alone, and the remaining 10 all protected the dual categories of teacher and administrator. Two additions should be noted: Ohio §2903.13 added school bus drivers to its combination, and South Carolina §16-3-612 included six additional types of educators to its combination. Thus, teacher-administrator or school personnel was used in the phrasing of all but five of the statutes.

Although administrators, superintendents, and school board members were specifically mentioned in some laws, no law singled out administrators, superintendents, or school board members as the only protected party in the law. Thus, higher-level decision-making authorities did not receive any separate, special protections through these laws, although one could successfully argue that administrators and superintendents could be considered school personnel. Nevertheless, school board members, with seven occurrences, and superintendents, with three occurrences, had very low mention in these laws. As a curious aside, Montana §20-4-303 specifically stated that superintendents were not to be covered by their law. Given the highly
political nature of superintendencies and school boards and the sometimes explosive and volatile circumstances which can surround controversial decisions made by these individuals, it is surprising that more protection has not been afforded through legislation.

While the term *school personnel* can certainly be broad enough to encompass many of the non-teacher educator roles, it is nonetheless interesting to note what groups of employees did receive specific attention in the laws. One example was school bus drivers. Although some states had separate laws to protect these employees (see Research Question 1), given bus drivers' dual responsibilities for transportation and discipline and their daily intimate contact with students, parents, and the public, it is remarkable that only five laws specifically mentioned them for protection. The same holds true for teacher aides, specifically named in only two laws. In this age of increasing exceptional education populations and protections and that area's heavy reliance on teacher aides, one could argue that these personnel need protection just as much as teachers or administrators. The category *Other School-based Employees* became the catch-all designation for any miscellaneous personnel explicitly named only once or twice in the laws. For example, counselors were specifically mentioned only twice—in Hawaii §707-716 and Texas §22.01. Substitute teachers were listed in only one statute: South Carolina §16-3-612. This particular statute also contained the only references to custodial staff, food service staff, and school crossing guards.

For the people who work in schools but are not school district personnel, little protection existed. Student teachers were included in two laws—three, if one counts Pennsylvania §18-2702 which protected "student employees." State education department personnel were reported in three laws. *Contract workers* are those people who may sub-contract with school divisions and not work for the school division directly. Specialists such as computer repair technicians, tradespeople in areas of low demand, or consultants were specifically protected by four statutes. Four laws also protected school volunteers from attack. While the low occurrences of all of these non-employees did not signify any huge trend, their mere mention in a few laws was an
important signal that some states have recognized that people other than school district employees may need protection from assault in school situations.

Examining only those statutes which represented the student aggressors found other information. Out of these 21 laws, only three did not use the term school personnel. Louisiana §17-416 covered only teachers, Tennessee §49-6-3401 covered the teacher-administrator combination, and South Carolina §16-3-612 was the law that uniquely named many recipients, including the teacher-administrator combination. Were teachers singled out for protection more often than administrators in these laws? Yes: three times, in Connecticut §10-233g, Louisiana §17-416, and North Carolina §115C-391. Were administrators singled out for protection more often than teachers in these laws? No. Given that students deal with both teachers and administrators on a daily basis, it was surprising to note that administrators were not named as specific recipients as often as teachers were. A final point of interest was that three of the four laws which specifically named volunteers as the protected party were found in the student discipline statutes.

Summary of Recipients. In summary, analyzing the recipients of the 58 educator assault statutes showed some interesting facts. First, while public educators were protected in 100% of the laws, nonpublic educators could not make the same claims, as they were covered in only 67% of the laws. Examining the specific recipients in regard to employment position proved that school personnel was by far the most-used choice, with the teacher-administrator combination covering nearly all of the rest of the laws. Teachers were the sole recipient in five laws. Other special types of employees and non-employees were mentioned in small numbers of laws, as Table 4 showed. While 17 laws simply used the single, generic, one-size-fits-all school personnel (or some variation), the remaining 71% of the laws mentioned different types of educators by specific titles. The trend was clearly to name multiple recipients rather than single ones. Thus, educator assault laws may be becoming more specific regarding whom they protect.
Action

This category of comparison in essence drove the study, for the action was the verb or verb phrase that identified the statute as encompassing the definition of assault as delineated in this study. However, selection for inclusion in this study was not quite so simplistic. Some states did use assault as the exact wording in their statutes, but other states did not. Each law was carefully examined to determine that the verbs used in the law fit within the bounds of this study (see Chapter 1 for definitions). Because each state could word their laws any way they chose, a clustering technique was employed to group similar concepts.

Clustering Technique. The laws presented multiple verbs and verb phrases to describe the prohibited actions. Close examination of the words used in this category and the use of a thesaurus helped create the clusters of related meanings that fell under each broad term. Multiple terms were clustered in nearly every category and are presented in list form in Appendix I. While most laws used the verb alone, a few laws included phrases or adverbs that added unique flavor to the meaning. Those of particular interest are included in Appendix I. All could be used singly or in combination.

Analysis of Actions. Appendix J displays the compiled information regarding prohibited actions by state and statute number. Table 5 displays the summary of actions prohibited in the laws.

(continued on the next page)
Table 5. Summary of Specific Prohibited Actions According to Number of Times Included in Educator Assault Laws.

<table>
<thead>
<tr>
<th>Prohibited Action</th>
<th>Statutes including this wording</th>
<th>Percent (of 58 laws)</th>
<th>Occurrences in 21 student discipline laws</th>
<th>Occurrences in 37 other laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assault</td>
<td>36</td>
<td>62%</td>
<td>15</td>
<td>21</td>
</tr>
<tr>
<td>Abuse or insult</td>
<td>9</td>
<td>15%</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Threaten</td>
<td>15</td>
<td>26%</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>Disrupt</td>
<td>5</td>
<td>9%</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>With foul language</td>
<td>3</td>
<td>5%</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Battery*</td>
<td>4</td>
<td>7%</td>
<td>4</td>
<td>0</td>
</tr>
<tr>
<td>With a weapon</td>
<td>2</td>
<td>3%</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Disobey</td>
<td>1</td>
<td>1%</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

*General battery laws were excluded from this study; the student discipline laws using battery along with assault were included as a best fit.

Note. Totals more than 100% because statutes often named several different prohibited actions. Percentages rounded to nearest whole numbers.

Assault or some specific form of its wording occurred the most frequently, in nearly two-thirds of the laws. In fact, assault as a sole verb occurred 24 times, or 41% of the time. This high frequency made sense given the recognition power and strong legal history of the word. People generally know what it means; with a few exceptions, states define it similarly. As displayed in Table 5, the proportion of assault occurrences were just about equal between the student discipline laws and the general population laws.

The second most common verb was threaten, used over 25% of the time; threaten was used as a single verb seven times. Assault and threaten as a combination was found in five of the laws. The proportion of use between student and non-student laws was approximately even. Thus, assault and threaten, either separately, together, or in combination with other verbs, were contained in most of the laws.

The verbs abuse or insult brought two interesting comparisons. First, abuse or insult was used nine times within the laws, and seven of those were as the sole verb in the law. Historically, educator statutes which used this generic wording have been found unconstitutional (see Chapter 2). While the laws in this analysis are clearly still in existence, they may be
problematic if challenged in a state court. In fact, teacher as the recipient was the most-used subject with this verb (see discussion of Research Question 1 and Recipient). Examining the nine occurrences another way, eight of the nine incidences transpired in the general population laws, leaving only one student discipline law to use the same phrasing; thus, the general population laws held a much higher proportion of these laws than the student discipline laws.

Several of the low frequency counts deserved mention. Student discipline laws carried two of the three occurrences of prohibiting foul language, which was not a surprise. What was surprising is that more student discipline laws did not specify the use of obscene language to an educator as part of assault protections. The use of a weapon for intimidation was a specified condition in only two laws—one student discipline law and one general population law. The general population law, Georgia §16-5-21, elevated assaults on school personnel to aggravated assaults if committed with weapons. Disrupt was another low-use verb that was proportionally represented in the two categories. In examining the specific references which clustered under disrupt, one can see that general disturbances or interference rather than threatening actions encompassed the intent of this word, making its low use no real surprise. Disobey was the weakest verb in the group, but its use only occurred once—in Louisiana §17-416, and even then it was coupled with threaten and with foul language.

Did those states which had more than one statute use similar verbs in each law? Most of the time, no. Out of the 20 states which had multiple statutes, totally different verbs were used 12 times. On the other hand, as might be expected, only three states used the same verb in both of their laws—Florida, Maryland, and New Jersey. However, Maryland's two laws were different paragraphs of the same statute and the Florida and New Jersey laws separated out to one law for student discipline and one law for the general population. Four other states, Nevada, Tennessee, Texas, and Utah, used identical verbs in each of their laws but added one or more other verbs to one of the laws. Mississippi was the lone state which had three laws in this study and two of its
three laws matched verb usage. Thus, most states with multiple statutes identified different prohibited actions in each of their statutes.

**Summary of action.** In conclusion, *assault* and *threaten* were the most frequently used prohibited actions, one or both occurring in 51 of the 58 laws. Because of its specific legal definition and general population recognition power, *assault* was logically the prohibited action of choice. In fact, *assault* as a lone verb occurred in over 40% of the laws. Other than *abuse or insult*, which was used nine times, the remaining verb combinations received minimal use within the laws. States with multiple statutes in the study typically prohibited different actions in each of their laws.

**Aggressor**

Laws are rules that are meant to be followed by society. How the legislators chose to define the people within the society was the subject of this analysis. The aggressor was the person or persons committing the assault. Most of the laws in this study used very similar wording, but some clustering was necessary.

**Clustering Technique.** The category *person* was clustered around three distinct terms found in the laws. Most laws used the phrase "any person" or "a person," but Louisiana law §14-38.2 labeled the aggressor as "the offender," and New Mexico law §30-3-9 used the word "whoever." Thus, *person* was the most widely used word to define the aggressor, and the other terms fit within its description.

The category *parent or guardian* was used to single out those laws which specifically mentioned parents or guardians as the aggressors. In all cases, the laws used this term in addition to the broad category "person." Thus, no laws singled out parents or guardians as the only aggressors. This category was included to indicate the number of states that felt the need to name parents or guardians as specific aggressors.

The category *student* was clustered around three recurring, nearly identical, descriptions: "student," "pupil," or "child in school." The only exception in this category was Missouri
§167.17 which described the aggressor as "any person committing the act which if committed by an adult would be..." While this law clearly labels the aggressor as "any person," the intent of the law was directed at a student aggressor, as indicated by its placement with other school discipline laws and the remaining language of the law, which described suspension and expulsion procedures—clearly student-oriented outcomes.

The final category of aggressor description, *student restriction*, was created to separate out those laws which put age or grade limitations on student culpability for committing assault crimes. North Carolina §115C-391 restricted the aggressor to students who are at least age 13, and Michigan §380.1331a restricted the aggressor to students in grade 6 or higher.

**Analysis of Aggressor.** Appendix K shows the data grouped by state and statute number, while Table 6 displays it in aggregate form.

<table>
<thead>
<tr>
<th>Type of Aggressor</th>
<th>Statutes including this wording</th>
<th>Percent (of 58 laws)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person</td>
<td>37</td>
<td>64%</td>
</tr>
<tr>
<td>Student or Pupil</td>
<td>19</td>
<td>33%</td>
</tr>
<tr>
<td>Student Restriction</td>
<td>2</td>
<td>3%</td>
</tr>
<tr>
<td>Parent or Guardian</td>
<td>5</td>
<td>9%</td>
</tr>
</tbody>
</table>

*Note.* Totals more than 100% because statutes that identified parent aggressors also included person aggressors. Percentages rounded to nearest whole numbers.

This analysis was very straightforward because the identified aggressors separated out according to whether the law was a student discipline law or general population law. Obviously, if the law was a student discipline law, the aggressor was a student. Three specific points of interest did arise, however. First, *parent or guardian* was the identified aggressor in five laws, but in every case this wording was used along with the generic *person* identification. Laws are generally created as reactions to real or perceived problems, but one can only speculate as to why California, Georgia, Idaho, Mississippi, and Montana included parents as part of the specific

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aggressor in their laws. As noted earlier, Idaho's law had been found unconstitutional in 1998 but has not yet been repealed, although the problem with the law was in the actions prohibited and not with the identification of a specific aggressor. One might wonder, however, if someone might successfully challenge a law that seemingly selects parents as a special group to be prosecuted.

The second point concerned two student discipline laws, Michigan §380.1331a and North Carolina §115C-391, which both placed specific age and/or grade restrictions on student culpability for educator assault. In Michigan's law, students must be in grade 6 or higher, and in North Carolina's law, students must be at least age 13. While other state laws identified clear procedures for student suspension or expulsion for educator assault, these two states were unique in specifically restricting the level of consequences based on the student's age or level of attainment in school.

Lastly, 20 states had more than one law contained in this analysis, and most of those laws were split with one student discipline law and one general population law. In six states, however (Arizona, California, Georgia, Maryland, Nevada, and Washington), both laws were both oriented to the general population. In each of these cases the aggressors were identified as person, as would be expected. Mississippi had three statutes in the study; two were general population and one was student discipline. The aggressors in these laws also matched the intent of the laws.

Summary of Aggressors. Because the statutes in this study were clearly identified as being either a general population law or a student discipline law, the category of comparison for the identified aggressor brought no real surprises. Students were identified in student laws, and the generic person was identified in the general population laws. A few laws identified parents as an additional aggressor, and two laws placed age or grade restrictions on the culpability for student-committed educator assaults.
Qualifiers

Qualifiers were those statements which imposed limits or restrictions on the law. They typically placed time, location, or manner restrictions on when the law was valid. Thus, analysis of the qualifiers provided important information to the laws' meanings.

Clustering Technique. The qualifiers clustered around ten commonly-occurring themes, as indicated in Appendix L. Qualifiers from the student discipline laws were included only if they presented restrictions like those from the general population laws because the student laws typically contained many exceptions and explanations that were legally necessary for disciplinary due process but not germane to this study. In fact, many of the student discipline laws contained none of the restrictive phrases used here.

While most laws shared very similar phrasing, some laws were worded uniquely. Those of particular interest are included in Appendix L and identified by state and statute. All terms could be used as single occurrences or in combination with other terms.

Analysis of Qualifiers. A full examination of each law's qualifiers can be found in Appendix M, while Table 7 displays the compiled information regarding the use of qualifying words or phrases.

Table 7. Summary of Specific Qualifiers According to Number of Times Included in Educator Assault Laws.

<table>
<thead>
<tr>
<th>Qualifier</th>
<th>Statutes including this wording</th>
<th>Percent (of 58 laws)</th>
<th>Occurrences in 21 student discipline laws</th>
<th>Occurrences in 37 other laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>On school property</td>
<td>24</td>
<td>41%</td>
<td>9</td>
<td>15</td>
</tr>
<tr>
<td>At school-sponsored event</td>
<td>14</td>
<td>24%</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>In the performance of duty</td>
<td>23</td>
<td>40%</td>
<td>2</td>
<td>21</td>
</tr>
<tr>
<td>During the school day</td>
<td>4</td>
<td>7%</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>In/on a school vehicle</td>
<td>10</td>
<td>17%</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>In the presence of students</td>
<td>4</td>
<td>7%</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Know victim is an educator</td>
<td>6</td>
<td>10%</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>In retaliation for past act</td>
<td>3</td>
<td>5%</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Resulting from employment</td>
<td>5</td>
<td>9%</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Special conditions</td>
<td>9</td>
<td>16%</td>
<td>1</td>
<td>8</td>
</tr>
</tbody>
</table>

Note. Totals more than 100% because statutes usually named more than one qualifying statement. Percentages rounded to nearest whole numbers.
The qualifiers that garnered the most attention were *on school property* and in the *performance of duty*, each occurring in approximately 40% of the statutes, although they occurred together only seven times. However, how they paired with other qualifiers was interesting.

*On school property* coupled with *at a school-sponsored event* accounted for all 14 occurrences of the latter qualifier. *On school property* paired with *in/on a school vehicle* were used together nine out of the ten times the school vehicle qualifier was used. All four of the uses of *during the school day* occurred with *on school property*. Thus, *on school property* was used most often with the three pairings mentioned above.

*In the performance of duty* was also commonly used with several other phrases. When it was paired with *know the victim is an educator*, it accounted for five out of the six occurrences of the latter. *In retaliation* was used in three statutes, and it matched with *in performance of duty* two of those three times. The *special conditions* phrase (itself described below) was used five out of nine times with *in performance of duty*. The remainder of the occurrences of this qualifier spread out over the rest of the qualifiers. Therefore, *in performance of duty* appeared to be a sort of broad catch-all phrase which was used with many other combinations of qualifiers.

A few of the minimally-used qualifiers deserved some mention. *In the presence of students* was used as a lone qualifier two out of its four occurrences. The other two times paired it with *on school property* and *special conditions*. *Resulting from employment* was found in five statutes: two used it singly, two added *in performance of duty*, and one added *special conditions*.

The special conditions qualifier was employed when important information was not able to be categorized into the other qualifiers. A complete list of the qualifiers is found in the description of the clustering technique at the beginning of this section. A few interesting trends appeared here and needed to be mentioned. As was previously noted, Georgia § 16-5-21 involved the use of a weapon as a restriction. Washington § 28A.635.100 specified that the law applied to individual actions as well as those actions conducted in concert with others, a unique
addition among all of the statutes. In light of some of the more recent school violence events where pairs or groups of individuals rather than single persons perpetrated crimes, a qualifier such as Washington’s may see increased use in upcoming legislation. California §241.6 specified a special condition that was not a restriction at all—it specified "at any time," thus widening the arc of protection for educators rather than narrowing it. Actually, Florida §784.081 did the same even though none of its qualifiers fit under this category. Florida’s law granted protection with the single qualifier *know the victim is an educator* which implied no other time or place restrictions. Both of these laws were unique in their efforts to broaden educator coverage rather than limit it to school situations. Three other laws had qualifying statements that also widened the circle of protection around educators: West Virginia §61-2-15, South Carolina §16-3-1040, and Maryland §26-101(c). The West Virginia law was amended in 1999 to include protection for educators commuting to and from work (West Virginia Education Association, personal communication, July 21, 1999). South Carolina’s law and Maryland’s law were worded differently but each specifically included threats communicated via electronic mail, a trend that also may increase appearance in future legislation.

Examining only the student discipline laws also showed some interesting things. For example, Table 7 shows that three qualifier categories had no occurrences in the student discipline laws: *in the presence of students*, *know the victim is an educator*, and *in retaliation*. Given that student discipline laws cover school events, the first two of this list make sense, but *in retaliation* was a surprising non-use, for if students wanted to "get even," it would probably often take place in the school environment. Even more surprising, ten out of the 21 student discipline laws had no qualifiers whatsoever. Of the remaining 11 laws that used qualifiers, nine used *on school property* and six used *at a school-sponsored event*, while the rest of the qualifiers were used once or twice each. One addition worth noting was Ohio §2903.13 which used the qualifier *in performance of duty*. This law went into great detail describing educators who may be "driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or
other school extracurricular activities." Many educators perform functions like these on a regular basis, yet this law was unique in the amount of detail used to describe these "in the performance of duty" functions. All in all, qualifying statements were infrequently used in student discipline laws.

As for those states that had multiple laws in the study, 14 out of the 20 states had no matches whatsoever among their pairs of laws. This finding does make sense in light of the fact that many halves of the pairs of laws were student discipline laws with no qualifying statements. However, six of the coupled state laws did have some matching qualifiers, although four out of these six were states in which both laws were general population laws. Four of these six pairs each used on school property as a qualifier, and four also used in the performance of duty as a qualifier. Thus, the states with multiple laws were more likely to have their pairs of laws share similar qualifiers as long as neither of the laws was a student discipline law.

Summary of Qualifiers. Several of the qualifiers were found to be used quite frequently within the laws; in particular, on school property and in the performance of duty were each used in about 40% of the laws. At a school-sponsored event occurred in 24% of the laws, and the other highly repeating qualifiers were on/in a school vehicle (17%) and special conditions (16%). The special conditions qualifiers showed some relatively new and possibly trend-setting ideas, particularly in covering educators while commuting to and from work and prohibiting threats communicated via electronic devices. Given the fast-paced development and wide use of technology for personal as well as professional purposes, many states may find it necessary to broaden educator assault laws to include electronic harassment and attacks at home or while commuting to or from work. Those states which had more than one law in this study were unlikely to have similar qualifiers used in their laws. Only six states out of 20 had any kind of shared qualifying statements between their laws.
Penalty

Analyzing the penalty for each specific law was more complicated than the other comparisons for several reasons. First of all, there were several aspects to each penalty: its classification, its fine, and its imprisonment—and each needed its own analysis. Second, some laws specified either fine or imprisonment as the mandated sentence, while other laws allowed for both, thus creating another category to examine. Third, some laws did not specify all aspects of the penalty; for example, a law may have given a fine and a classification but no imprisonment time, which complicated the comparisons to some degree. Fourth, one intent of this analysis was to gain some insight regarding whether each law was a criminal or civil crime, as criminal laws are typically considered more serious crimes. However, some of the civil laws (written in the education code of the state rather than the criminal code) carried criminal penalties, which muddied the waters considerably for the sake of this analysis. It was determined that indicating whether the laws were codified in criminal law chapters or education law chapters would at least show states' intents. For all of these reasons, analyzing the penalty was more complicated than the other categories in the content analysis. Yet, the penalty also held the key to the larger context of the laws; after all, the penalty spoke most clearly on how rigorous a punishment a person would receive for assaulting an educator, which is ultimately the intent of the laws.

The penalties were categorized two ways. First, the laws were categorized based on where they were located within the states' codes: either the criminal code or the education code. Second, the laws were broadly categorized based on four elements of the penalty: its classification, its monetary fine, its incarceration sentence, and its assignment option of fine and imprisonment. Each of these key factors was compared to each state's penalties for general assault. Since both analyses were tabulated with clear categories, no clustering technique was needed. All student discipline laws were categorically eliminated from most of the first analysis and all of the second analysis simply because the student discipline laws carried penalties only
for student offenders, and even those penalties included only suspension, expulsion, or mandatory referral/reporting to police authorities. One exception in the student discipline laws existed and is mentioned later.

**Analysis of Statutes' Locations Within the Code.** Table 8 displays the aggregated information regarding where the educator assault statutes were located within the states' codes. All student discipline statutes were located in the education code sections of each particular state. Appendix N indicates which statutes of the remaining general population laws were located in the criminal chapters of states' laws.

Table 8. Educator Assault Statutes and Their Locations Within State Code.

<table>
<thead>
<tr>
<th>Statutes located in criminal code</th>
<th>Statutes located in education code</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>23</td>
<td>35*</td>
<td>58</td>
</tr>
<tr>
<td>40%</td>
<td>60%</td>
<td>100%</td>
</tr>
</tbody>
</table>

*This tally includes 21 student discipline laws.

While more of the laws within the scope of this study existed in the education codes of the individual states, when the 21 student discipline statutes were removed from the tally, the criminal code statutes actually exceeded the education code statutes 23 to 14—nearly two to one. A closer examination of these specific laws (as presented in Appendix N) brought two interesting facts to light. First, every statute which was a criminal law had one or more portion of the penalty enhanced over the general assault statute of the state except for Virginia. Virginia §18.2-60 had no enhanced portions to the penalty even though it was written in Virginia's criminal code. Every other criminal law had at least one part of the penalty heightened, and many of the laws had several categories of the penalty enhanced over the general assault statute of the state. Second, all the remaining education code statutes had no enhanced penalties of any kind except for Tennessee §49-6-2008. This statute had criminal penalties equal to the general assault statute of the state but added enhanced civil penalties for educator assault, making it unique among all the educator assault laws. So, with only two exceptions, the laws generally fell into two
categories—either criminal laws which had at least some portion of an enhanced penalty over the general assault statutes or education laws which had no enhanced penalty portions. This conclusion confirmed the impression that criminal laws are generally considered to address serious crimes.

**Analysis of Classification Penalties.** The first specific aspect of the penalty was the classification of the crime—what it was called in the state's hierarchy of crimes. Most states indicated some succession of crimes; for example, misdemeanor crimes are considered lower offenses than felony crimes, and most states assign levels within these two categories. A first degree crime (whether misdemeanor or felony) is more serious than a second or third degree crime. Some states classify their categories with letters instead—so, a Class A crime would be more serious than a Class B or C crime. A very few states followed other protocols, calling assault crimes "petty misdemeanors" or "gross misdemeanors" (Nevada and Washington) or "disorderly persons crimes" (New Jersey). Finally, some states no longer label new or amended legislation by classification; instead, they include the fine and/or imprisonment directly in the statute without reference to a specific classification. This lack of labeling figured prominently in analyzing the crime classifications of the educator assault statutes. Table 9 displays the information; note the large percent of laws which lack clear classifications.

**Table 9. Analysis of Crime Classification Penalties for General Population Educator Assault Statutes.**

<table>
<thead>
<tr>
<th>Classification</th>
<th>General Assault</th>
<th>Classification</th>
<th>General Assault</th>
<th>Classification</th>
<th>General Assault</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statute</td>
<td>less than</td>
<td>equal to</td>
<td>enhanced over</td>
<td>equality</td>
<td>undetermined</td>
</tr>
<tr>
<td>37</td>
<td>3</td>
<td>8</td>
<td>14</td>
<td>12</td>
<td></td>
</tr>
<tr>
<td>100%</td>
<td>8%</td>
<td>22%</td>
<td>38%</td>
<td>32%</td>
<td></td>
</tr>
</tbody>
</table>

*Undetermined means either the general assault classification was not specified in the law, the educator assault classification was not specified in the law, or both.

**Note.** Percentages rounded to the nearest whole numbers.

In order to fairly compare the general assault statute of a state with the educator assault statute, both must have a clearly identified classification. As noted in Table 9, 12 instances
occurred where one or both classifications were missing, thus precluding any clear-cut matching. Of these 12 laws, six named classifications for the educator assault statutes but not the general assault statutes. A case could be argued that including a classification in the educator assault statute but not in the general assault statute could be considered as enhanced classification; in which case, the percent of educator assault laws with enhanced classifications would increase from 38% to 54%. Either way, educator assault statutes were more likely to have enhanced classifications over their companion general assault statutes.

Fourteen states had enhanced classification penalties: Arizona, Florida, Hawaii, Illinois, Indiana, Nevada, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and Utah. Most of these were increased classifications between levels of misdemeanor crimes; for example, from a Class B misdemeanor to a Class A misdemeanor.

However, six states considered assaulting an educator a felony crime: Arizona, Hawaii, Indiana, Ohio, Pennsylvania, and South Carolina. In every state except South Carolina, this classification was enhanced from a misdemeanor status for the general assault statute. South Carolina's general assault statute had no named classification, but because no other state considered general assault to be a felony, the South Carolina educator assault statute classification was counted as enhanced. Thus, in these six states, educator assault crime classification was enhanced considerably— from misdemeanors to felonies.

Because of a lack of standardization in classification procedures between states, it was difficult to ascertain whether any true trend existed in the classification of educator assault statutes. As stated above, six statutes called educator assault a felony. Fourteen statutes simply labeled the educator assault statute a "misdemeanor," which could not be equitably ranked with those states possessing additional classification labeling. Of the ten statutes which did use traditional A, B, C, or 1, 2, 3 classifications, six classified educator assault as a Class A, Class A1 or First Degree Misdemeanor—Florida, Illinois, North Carolina, Tennessee, Utah, and Virginia. Only two statutes classified educator assault as a Class B or Second Degree
Misdemeanor--North Dakota and Texas-- and Arizona labeled one of its statutes a Class 3 Misdemeanor. New Jersey called their offense a Fourth degree crime. Five statutes specified no classification name for educator assault--California §241.6, Georgia §16-5-21, Kentucky §161.190, Louisiana §14-38.2, and Mississippi §97-3-7. Nevada §200471 and Washington §28A.635.100 called their crimes Gross misdemeanors.

The seven states which had two or more statutes in this portion of the analysis showed a clear trend toward not having enhanced classifications. Six of the seven states did not have an enhanced classification for either law. Arizona was the lone exception, with one law having an enhanced penalty classification.

Thus, few major trends existed in the crime classification penalty levels comparing general population assault statutes and educator assault statutes. Educator assault statutes with enhanced classifications had a slight number edge over laws that didn't. Of the 30 states which had laws in this portion of the analysis, six states had at least one law which considered educator assault a felony crime, and another six states had at least one law which considered it the highest level misdemeanor crime. Thirteen states simply labeled educator assault a misdemeanor, which precluded being able to equitably compare the classification to the general assault statute. However, the remaining penalty analyses revealed other information about how the states viewed educator assault.

Analysis of Monetary Fine Penalties. As opposed to the classification of the penalties which was very unequal for many states, the monetary fines were quantifiable and thus easily ranked. Table 10 displays the compiled information regarding monetary fines. Appendix N shows the information by statute.

(continued on the next page)
Table 10. Analysis of Monetary Fine Penalties for General Population Educator Assault Statutes.

<table>
<thead>
<tr>
<th>Statute</th>
<th>Fine less than general assault</th>
<th>Fine equal to general assault</th>
<th>Fine enhanced over general assault</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>5</td>
<td>18</td>
<td>14</td>
</tr>
<tr>
<td>100%</td>
<td>14%</td>
<td>24%</td>
<td>35%</td>
</tr>
</tbody>
</table>

*Includes one statute which had no fine for general assault but a fine for educator assault.

Note. Percentages rounded to the nearest whole numbers.

Perhaps the single most obvious feature about the fines were ten statutes which had no specified fine listed for both general assault and educator assault. North Carolina §14-33 counted in this set because "court discretion" was the stated fine for both statutes. These ten statutes were spread out among nine states, for both of Arizona's educator assault statutes had no specific fines listed nor did its general assault statute. Having over one-fourth of the educator assault statutes with no listed fines was a surprising finding given that most states are burdened with overcrowding in prisons, for the assignment of a large fine could be considered an "easier" penalty for a state to impose. On the other hand, not assigning a fine and having only jail time as the penalty could be interpreted as a stiffer consequence and perhaps a stronger deterrent.

Examination of the imprisonment penalties follows in the next section.

On the other hand, 14 states (Arkansas, California, Indiana, Louisiana, Michigan, Mississippi, Nevada, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, and West Virginia) had at least one law each with enhanced fines for educator assault as compared to general assault. The trend was to double (or slightly more than double) the fine of the general assault statute to arrive at the fine for educator assault, with nine of the 14 statutes doing so. Significant enhancement was found in Ohio (increasing from $100 to $2,000), Pennsylvania (increasing from $5,000 to $25,000), and Texas (increasing from $500 to $2,000). Thus, 35% of the statutes showed significant fine enhancement for their educator assault statute as compared to their general assault statute.

The range of fines for educator assault spanned an incredibly large field. At the highest end of the scale, Pennsylvania §18-2702 was in a class by itself with a maximum $25,000 fine.
that was enhanced five-fold over the general assault penalty of $5,000. Indiana §35-45-2-1 was second-ranked with a maximum $10,000 fine. No other general assault or educator assault statutes even came close to these figures. The mid-range of fines placed between $500-2,500 in $500 increments. Tennessee §49-6-2008 fell in this range with a maximum fine of $2,500; however, this law also specified that the victim could be eligible for three times civil damages. Eight statutes had maximum fines of either $2,500 or $2,000. One statute had a $1,500 maximum fine, six statutes had a maximum fine of $1,000, and four statutes posted $500 maximum fines. Idaho §18-916 had a $300 maximum, and from there the figures dropped quickly. California §44811 set a maximum fine of $100, and West Virginia §61-2-15 had a $50-100 fine. At the lowest end of the scale, Washington §28A.635.010 listed a $10-100 fine, Montana §20-4-303 had a $25-50 fine, and Mississippi §37-11-21 listed the smallest fine, $10-50. Thus, the range of fines for committing educator assault ranged from an astounding $25,000 in Pennsylvania to an equally astounding $10 in Mississippi.

One important exception to the discussion of monetary fines must be noted. South Carolina §16-3-1040 was a student discipline law which was unique in its penalty. While all the other student discipline laws specified suspension, expulsion, or reporting to law authorities as the penalty, this law spelled out criminal fines and imprisonment for student offenders. Although this law prohibited assault and battery against school personnel rather than just assault, it labeled such actions as a misdemeanor and assigned a maximum $1,000 fine, one year imprisonment, or both. No other state mandated such penalties for students.

In conclusion, the assignment of monetary fines for educator assault statutes varied considerably. Out of the 37 laws in this portion of the analysis, ten had no fines specified at all. A few statutes had very low, almost token, fines, but the majority of the remaining statutes enhanced the monetary fine for educator assault over the general assault statute. In these cases, the fines were often doubled, tripled, or even more.
Analysis of Imprisonment Penalties. The jail time required by each educator assault statute had just as much variation as the fines. Some states considered educator assault to be very similar to general assault in the assignment of incarceration, while other states enhanced the jail time considerably. Table 11 displays the summary information regarding imprisonment for educator assault. Appendix N shows the complete information by statute.

Table 11. Analysis of Imprisonment Penalties for General Population Educator Assault Statutes.

<table>
<thead>
<tr>
<th>Statute</th>
<th>Imprisonment less than general assault</th>
<th>Imprisonment equal to general assault</th>
<th>Imprisonment enhanced over general assault</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>11</td>
<td>5</td>
<td>21</td>
</tr>
<tr>
<td>100%</td>
<td>30%</td>
<td>13%</td>
<td>57%</td>
</tr>
</tbody>
</table>

*Includes two statutes which had no imprisonment for general assault but imprisonment for educator assault and one statute which allowed community service hours for general assault but not for educator assault.

Note. Percentages rounded to the nearest whole numbers.

Nearly one-third of these statutes had incarceration sentences that were less than their corresponding general assault penalties. All 11 of these statutes were the insult or abuse laws discussed in the previous Action section. Thus, these laws were classified as less than assault based on their prohibited actions, so it made sense that their penalties would reflect the same.

These statutes included Arkansas §16-17-106, California §44811, Georgia §20-2-1182, Kentucky §161.190, Maryland §26-101(b) and (c), Michigan §750.478a, Mississippi §37-11-21, Montana §20-4-303, and Washington §28A.635.010 and §28A.635.100.

The mid-range of statutes, those with penalties equal to general assault, was a small number—only five. Arizona §15-5-07, Nevada §392.480, North Dakota §15.1-06-16, Tennessee §49-6-2008, and Virginia §18.2-60 all had penalties that were exactly equal to their general assault statutes. Tennessee's law, as noted above, did have an additional civil penalty, but the criminal penalty was identical in both the general assault and educator assault laws.

The obvious trend was for states to have some form of enhanced incarceration penalty for educator assault as compared to general assault, for over half of the statutes required it.

Fourteen of the 21 statutes doubled (or more) the jail time from general assault to educator
assault, with a few increasing jail time as much as five fold. Two statutes increased the penalty
one and one-half times. Clearly, significant imprisonment increases were the hallmark of these
statutes. Of the remaining statutes in this category, a few deserve special mention. Illinois
§720-5/12-2 possessed seemingly equal penalties to its general assault statute; however, because
general assault afforded community service hours in lieu of the sentence, the educator assault
penalty was considered enhanced. Two statutes, Louisiana §14-38.2 and West Virginia §61-2-
15, had equal general assault and educator assault jail times for the maximum jail time but also
mandated minimum days for the educator assault statutes. Because this was time that must be
served and could not be suspended, the educator assault statutes were counted as enhanced
penalties.

The range of jail times for educator assault varied tremendously. At the high end of the
scale, Pennsylvania §18-2702 topped the incarceration time with a maximum of ten years.
Georgia §16-5-21 also ranked high—its sentence was at least five years but not more than 30
years. Sharing a maximum jail time of five years were Hawaii §707-716, Mississippi §97-3-7,
and South Carolina §16-3-1040. Many states' imprisonment times fell in the mid-range of 6
months to 2 years. At the low end of the scale, Louisiana §14-38.2 required 30 to 90 days, North
Carolina §14-33 required 60 days, North Dakota §15.1-06-16 required 30 days, and California
§44811 required only ten days maximum imprisonment. In conclusion, the jail times for
educator assault crimes varied as much among the states as did the monetary fines.

Analysis of Both Fine and Jail. This category was simply another way that the penalty
could be enhanced—about half of the laws specified a fine or jail, but those that specified both as
a possible penalty possessed the ability to assign stronger penalties. Table 12 shows the analysis
information. Appendix N displays the information by statute.

(continued on the next page)
Table 12. Frequency of Use for Both Fines and Jail Penalties for General Population Assault and Educator Assault Statutes.

<table>
<thead>
<tr>
<th>Statute</th>
<th>Statutes which did not use both as a sentencing option</th>
<th>Statutes which used both for general assault and educator assault</th>
<th>Statutes which used both for general assault only</th>
<th>Statutes which used both for educator assault only</th>
</tr>
</thead>
<tbody>
<tr>
<td>37</td>
<td>16</td>
<td>16</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>100%</td>
<td>44%</td>
<td>44%</td>
<td>5%</td>
<td>7%</td>
</tr>
</tbody>
</table>

Note. Percentages rounded to the nearest whole numbers.

In most cases, using both as a sentencing option was parallel between general assault statutes and educator assault statutes; that is, if one law used both as an option, so did the other one. Sixteen statutes wrote their laws this way, including Tennessee §49-6-2008, which also added of civil penalties. Two statutes used both as a sentencing option in the general assault statute but not in the educator assault statute. In these cases, the educator assault statute would not be considered an enhanced penalty as it had sentencing restrictions imposed that the general assault statute did not. Washington §28A.635.010 and Montana §20-4-303 both rated less than assault according to the analysis of Actions, so their designations of a lesser penalty made sense. Three statutes used both for only the educator assault statutes, which did result in an enhanced ranking for this category of comparison. Michigan §750.478a possessed a much weaker imprisonment sentence compared to the general assault statute—two years compared to ten years, so imposing a both designation enhanced its punitive power. Texas §22.01 already had an enhanced penalty in the other three categories of analysis. The third law, West Virginia §61-2-15, was the only law to mandate both the fine and the imprisonment by the use of and instead of or, thus enhancing its status, as well. Thus, 19 of the 37 educator assault statutes used the both option for sentencing, while 16 did not use the both option. Only two statutes chose to use both as an option for their general assault statutes alone.

Summary of all Penalties. Examining all categories of the penalties together showed some interesting trends. First of all, at one extreme end of the continuum, one statute had no penalties of any kind. Kentucky §161.190 had no listed classification, no monetary fine, and no
incarceration time. An obvious question would be, why then have such a statute? Perhaps it existed as a political statement of support; it was important to mention here because it did not come up in the discussions of the other penalties. At the opposite end of the continuum, Pennsylvania §18-2702 rated the most severe penalties. This law elevated educator assault to a felony, had a maximum fine of $25,000, and recommended a maximum of 10 years imprisonment. Simply juxtaposing these two extremes gives one a good sense of the variability which exists between state laws.

Second, some states' educator assault laws were in essence no different from their general assault laws regarding the assignment of penalties. In other words, the general assault statutes and the educator assault statutes shared identical penalties in every category. These statutes were Nevada §392.480, North Dakota §15.1-06-16, and Virginia §18.2-60. Tennessee §49-6-2008 was also equal except for the civil fine enhancement, and West Virginia §61-2-15 was equal except for the minimum days which must be served as part of the jail time. Thus, five states out of the 37 states that had educator assault statutes chose to implement educator protections that were essentially equal to their general assault statutes. This conclusion begs the question—why, then, have such legislation? In Virginia's case, the educator law could be interpreted a bit more broadly than the state's general assault law, for the educator law prohibits oral threats to kill or do bodily injury. In Nevada and North Dakota's cases, the laws are disturbance or disruption of school statutes which also cover a broader territory than general assault. While these states have clearly chosen to send a message about educators being a special group that needs special protections, the lack of any clear enhancement of penalties for such acts could possibly negate the impact the legislation intended.

Third, quite a few states have chosen to protect educators with laws that have enhanced penalties in several areas. Texas §22.01 was the only statute that enhanced the penalty for educator assault across all four penalty categories examined in this study (classification, fine, imprisonment, and the use of both as part of the penalty), and several states had laws which had
enhanced penalties across three categories of analysis—Indiana, Nevada, New Mexico, Ohio, Pennsylvania, South Carolina, and West Virginia. Clearly, these states have chosen to send strong messages regarding educator assault.

Fourth, in this age of overburdened prison populations, it seemed improbable that nine statutes would have no specified fines listed for both general assault and educator assault. In other words, these statutes had only imprisonment options as the penalty. On one hand, this could be viewed as a loophole, as suspended sentences are often given to alleviate overcrowding in the jails, especially with first-time offenders. The end result of this action would be in essence no penalty for committing such crimes. On the other hand, imprisonment only might be seen as a stronger deterrent, playing off the knowledge that if potential offenders knew jail was the only option, they might take the law more seriously. Whichever way this issue is interpreted, it was clearly an important trend, as it occurred in nearly 25% of the statutes.

Finally, the penalties were what gave the laws their power. Deterrence theory (see Chapter 2) holds that stiff penalties with long incarceration times and high fines will act as stronger deterrents than laws with small fines and little or no incarceration time. Thus, the relative strengths of the penalties of these laws were the ultimate statement of how each state values educator protection.

(continued on the next page)
Research Question 4

Is there a relationship between the consequences for educator assault as defined by state laws and U.S. government data which ranks states by frequency of aggravated assaults?

In order to test the relationship between laws and crimes, two parts of the educator assault statute penalties were correlated to actual crime data from the U.S. government. The correlation was conducted in two separate analyses, each involving a part of the penalty, either the fine or the imprisonment sentence and how each related to the crime data. In addition, a correlation was conducted to determine if a relationship existed between the fine and the imprisonment, which were both parts of the laws, themselves. Thus, three separate correlations were statistically computed: the correlation between statute fine and the crime data, the correlation between statute imprisonment and the crime data, and the correlation between statute fine and statute imprisonment. All data were in rank-ordered form, and since only 23 sets of data were compared, measures of relationships were determined by Kendall’s Tau (τ). Two-tail tests were used to determine statistical significance at the .05 level. In all cases, the correlations were not statistically significant, as reported in the following discussion.
Table 13. States with Enhanced Educator Assault Statutes and Their Corresponding Rankings for Crime and Educator Assault Penalties.

<table>
<thead>
<tr>
<th>State</th>
<th>U.S. Govt. Crime Data</th>
<th>Educator Assault Statute Penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Fine</td>
</tr>
<tr>
<td>Arizona</td>
<td>14</td>
<td>19</td>
</tr>
<tr>
<td>California</td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td>Florida</td>
<td>3</td>
<td>19</td>
</tr>
<tr>
<td>Georgia</td>
<td>18</td>
<td>19</td>
</tr>
<tr>
<td>Hawaii</td>
<td>46</td>
<td>19</td>
</tr>
<tr>
<td>Idaho</td>
<td>35</td>
<td>14</td>
</tr>
<tr>
<td>Illinois</td>
<td>6</td>
<td>19</td>
</tr>
<tr>
<td>Indiana</td>
<td>21</td>
<td>2</td>
</tr>
<tr>
<td>Louisiana</td>
<td>5</td>
<td>12.5</td>
</tr>
<tr>
<td>Michigan</td>
<td>17</td>
<td>9</td>
</tr>
<tr>
<td>Mississippi</td>
<td>26</td>
<td>9</td>
</tr>
<tr>
<td>Nevada</td>
<td>13</td>
<td>5</td>
</tr>
<tr>
<td>New Jersey</td>
<td>29</td>
<td>19</td>
</tr>
<tr>
<td>New Mexico</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>North Carolina</td>
<td>19</td>
<td>0</td>
</tr>
<tr>
<td>Ohio</td>
<td>33</td>
<td>5</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>38</td>
<td>1</td>
</tr>
<tr>
<td>South Carolina</td>
<td>2</td>
<td>12.5</td>
</tr>
<tr>
<td>Tennessee</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
<td>Texas</td>
<td>16</td>
<td>5</td>
</tr>
<tr>
<td>Utah</td>
<td>34</td>
<td>19</td>
</tr>
<tr>
<td>West Virginia</td>
<td>43</td>
<td>15</td>
</tr>
</tbody>
</table>

*1996 U.S. Government rankings based on the number of aggravated assaults per 100,000 general population. *Rankings based on the maximum fine listed in the educator assault statute. *Rankings based on the maximum imprisonment sentence listed in the educator assault statute.

Figure 1 shows the scatterplot for the correlation of crime data and statute fine. Clearly, no linear or curvilinear relationship existed with these data. Kendall's Tau (τ) was -0.026, very close to no relationship at all. In fact, careful examination of Figure 1 confirms the lack of relationship. The top row of seven data points epitomize the findings: seven states possessed the same fines in their educator assault laws yet their crime rankings spanned the entire range of states. Thus, high fine levels did not possess any significant relationship to crime rankings.
Figure 1. Scatterplot of U.S. government crime data ranking states by frequency of aggravated assaults per 100,000 population and state statutes ranking states by highest stated fine for educator assault.

Figure 2 shows the scatterplot for the correlation of crime data and statute imprisonment. No linear or curvilinear relationship existed with these data. For this correlation, Kendall’s Tau (τ) was -.162, an extremely weak relationship.

Figure 2. Scatterplot of U.S. government crime data ranking states by frequency of aggravated assaults per 100,000 population and state statutes ranking states by longest incarceration for educator assault.
Given that deterrence theory holds that harsher penalties should, over time, lower crime levels, it was hypothesized that a relationship between the penalty and the crime data would exist. Thus, the states with the highest penalties in their laws should have the lowest crime rankings, which is a negative relationship. Neither of these two correlations showed any such relationship. In fact, the data showed an indiscernible pattern: some states with high statute penalties had low crime levels and other states with high statute penalties had high levels of crime.

The fact that no data collection existed across all states which tracked numbers of educator assault crimes emerged as a significant contributory factor in the lack of relationship found in this study. The crime data used in this correlation was the "best fit" or closest possible to educator assault, which was aggravated assault for the general population, a very questionable link, to say the least.

Despite the absence of a relationship between crime and punishment, might parts of the penalties within the laws themselves be related? For example, would a state which had a high fine also have a high imprisonment sentence? Figure 3 shows the scatterplot of the correlation between the statute fine and the statute imprisonment for the 23 statutes in this portion of the analysis. As noted in Figure 3, no linear or curvilinear relationship existed with these data, either. For this correlation, Kendall's Tau (τ) was -.166, another extremely weak relationship.

(continued on the next page)
No clear pattern existed among the states, although a few states did consistently have high (or low) fines and imprisonment sentences. Most states, however, varied tremendously in presenting fines and imprisonment limits. Thus, even within the laws themselves, no relationship existed.
CHAPTER 5: CONCLUSIONS

The greatest gift of the law to school security is, then, that it is the community's guarantee that each person has inviolable rights.

(Vestermark & Blauvelt, 1978, p. 330)

Most Americans are deeply committed to the belief that education is the most important service rendered by government. They continue to feel...that education is the key to personal success. Thus the heavy critical attention being paid to education today may be a blessing in disguise.

(Elam, 1984, p. 5)

Conclusions

Assaults and threats committed on educators are escalating at alarming rates (Baumann, 1997; Petersen & Others, 1996; Warchol, 1998). Whereas once educators held positions of esteem and respect in society and therefore were somewhat protected from attacks by inhibition, today those taboos have eroded and no longer act as strong deterrents (Fletcher, 1998; Nye, 1997; Thomas, 1998). As a result, educators increasingly find themselves having to rely on laws to protect themselves from verbal attacks and threats.

State legislatures are the arenas where such laws are created. While each state has a similar process for lawmaking, states differ in the way they uniquely define and implement what best suits their needs (LaMorte, 1993; Valente & Valente, 1994). These differences exist due to each state's particular history and values (McCarthy & Cambron-McCabe, 1992; Wirt & Kirst, 1997). As this study has demonstrated, state laws that protect educators from assault reflect the
diverse and unique needs of the individual states. While some trends clearly exist among current laws, some educator assault laws defy easy categorization by possessing unique features. Herein follows a summary of the important findings of this study.

Research Question 1

The initial process of collecting and categorizing the existing educator assault laws to answer Research Question 1 demonstrated the diverse and unique needs of the individual states. Four states (Alaska, New York, Vermont, and Wyoming) did not have any laws that fell within the broad search parameters of this study. On the other hand, several states possessed four (or more) statutes which protected educators from assault. After identifying the specific laws which fell within the range of educator assault, it was discovered that a total of 37 states had applicable legislation. Thirteen states (including the four mentioned above) possessed no educator assault laws. Thus, even the numbers of laws which existed showed broad variation among states.

For the purposes of this study, the laws were divided into three categories: assault or less than assault, enhanced penalty for assault, and student discipline laws. The first two categories were laws that applied to the general population, while the student discipline laws obviously only applied to students in school situations. Examination of the two broad categories--general population laws and student laws--revealed some trends.

The general population laws contained 14 statutes that categorized as assault or less than assault. First of all, nine of these laws used wording such as abuse or insult to describe prohibited actions, despite previous state court rulings in a few states during the 1970s and 1980s that found such vague language unconstitutional due to a lack of time, place, or manner restrictions (see Chapter 2). In fact, Idaho §18-916 was found unconstitutional by a district magistrate in the fall of 1998 but has yet to be repealed, according to a source in the state attorney general's office. Each of these nine statutes will remain in force unless successfully challenged within that state and ultimately repealed by the state legislature. Still, what message
does this lack of information exchange among states communicate? After all, when the results in one state clearly indicate a problem area, wouldn't another state in a similar situation choose to quietly repeal legislation rather than risk a costly trial? Proactive sharing of legislative information among states may certainly occur, but in a large bureaucracy such as a state government, the easiest coping mechanism may be to simply ignore misfit laws until they become problems. Indeed, going through the process of eliminating a statute may be more trouble than it is worth without the weight of a court decision behind it. While these questions are beyond the scope of this research endeavor, the existence of nine antiquated educator assault statutes does raise a legitimate concern about the current and future use of such laws.

Second, only five educator assault laws were determined to be essentially equal to the general assault statute of each state. These statutes tended to broaden the definition of assault slightly by adding verbs such as threaten or disrupt to assault, which added a small amount of extra protection for educators, but, more importantly, they only duplicated the penalty for general assault, resulting in no enhancement in consequence. With only five laws in this category, it is clear that states have chosen to protect educators in other ways than essentially repeating the protections offered by their general assault legislation.

The second category of the general population laws, enhanced penalty for assault, also indicated some trends. Each of these 23 laws possessed an enhanced penalty for educator assault as compared to the general assault statute of the state. In all cases these laws were codified in the criminal code sections of states' laws, and in all cases, at least one portion of the penalty was enhanced—either through classification, fine, imprisonment, or indication of both fine and imprisonment. A specific discussion of penalties is included in a following section.

Student discipline laws that existed within the scope of this study were found in 21 states. While nearly every state had student discipline laws that defined suspension or expulsion procedures, most states did not specifically name threats or attacks against educators as punishable actions. It was surprising to find only 21 states which specifically prohibited students

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from making threats or attacks against educators, but even more surprising, a few states had student suspension and expulsion laws which prohibited attacks on other students but not on educators. One highly unusual student discipline law, South Carolina §16-3-1040, subjected students to criminal fines and imprisonment in addition to disciplinary penalties for educator assault. In light of the student-perpetrated school shootings of spring, 1998 and 1999, other states may consider modeling South Carolina's law. In fact, sources in attorneys' generals offices in a few states indicated that recent school violence incidents have become an impetus to draft new legislation in the area of school violence. Thus, significant changes or additions to the laws contained within the scope of this study are anticipated in the upcoming years. The following sections address Research Questions 2 and 3 and the specific categories of content analysis conducted in this study.

**Research Questions 2 and 3**

**Recipient**

The *recipient* identified the specific person protected in the educator assault law. Among the 58 laws examined in this study, public school educators were named in 100% of the laws, while nonpublic school educators were included approximately 67% of the time. Thus, public educators have a slight protection edge over nonpublic educators. The favored description of educators was *school personnel* or the combination *teacher* and *administrator*, either of which was used in all but five of the laws, although many laws supplemented these basic phrases by adding other educators by name. Volunteers, school board members, contract workers, and student teachers (among others) were all specific recipients who are typically not classified as school board employees and therefore possibly not included within educator assault laws. The specific inclusion of these non-employee educators and the overall high use of multiple recipients in the laws may indicate a growing trend to carefully and consciously define whom the laws intend to protect.
**Action**

The major prohibited action within the laws, *assault*, was specifically used as the verb in over 40% of the statutes. *Threaten* was the second highest occurrence, named in about 25% of the laws. Most laws (51 out of 58) used these terms either singly or together. As noted above, *abuse* or *insult* was the prohibited action in nine laws despite clear constitutionality problems. For those states with two or more educator assault statutes in this study, the trend was to prohibit different actions within the states' laws rather than duplicate effort by using the same verbs.

**Aggressor**

The aggressor defined the perpetrator of the prohibited action. In each of the student discipline laws, *student* was obviously the identified aggressor; in the general population laws, the aggressor was defined as *anyone* or *person*. A few exceptions are worth noting. Five general population laws added *parent* or *guardian* to the identification of the aggressor, about 9% of the laws. In addition, two states, Michigan and North Carolina, each added qualifying statements to their student discipline laws, requiring age or grade restrictions for student aggressors.

**Qualifiers**

Qualifiers are those statements which add time, place, or manner restrictions to the prohibited action. The most common qualifiers among all the educator assault statutes were *on school property* and *in performance of duty*, each used in about 40% of the laws. While most qualifiers placed limitations or restrictions on the action, a few actually had the reverse effect. The qualifier in California §241.6 prohibited assault *at any time*, while the qualifier in Florida §784.081 prohibited assault if the assailant knew the victim was an educator. Thus, these two laws actually broadened coverage to educators, not limited it. In addition, a few very recent changes to laws support a growing trend of widening the circle of educator protection. West Virginia, Maryland, and South Carolina have all recently amended educator assault legislation to prohibit threats and harassment while educators are commuting to or from work (West Virginia) or through the use of electronic communication devices (Maryland and South Carolina).
A trend in the student discipline laws was to use no qualifying statements whatsoever. Nearly half of the student discipline laws placed no time, place, or manner restrictions on educator assault. The remaining student discipline laws generally used on school property or at a school-sponsored event either singly or together as qualifying statements. The low frequency of qualifying statements in student discipline laws makes perfect sense: to give the broadest coverage possible to educators while they are working with students.

**Penalty**

In this study, the penalty was analyzed four different ways: the classification, the fine, the imprisonment, and whether the law indicated both fine and imprisonment or not. The student discipline laws were excluded from this analysis because they addressed the penalties as either suspension, expulsion, or referral to court (except South Carolina §13-6-1040, discussed above). Thus, this portion of the analysis contained 37 laws. In order to assess the penalty in the educator assault statute, it was compared to the general assault statute of the state, but variability in how each statute was written created some analysis difficulties. For example, a number of laws did not possess information in all four categories of analysis: 12 laws were unable to be categorized based on classification, 10 laws were unable to be categorized based on fines, and two laws were unable to be categorized based on imprisonment—all because either the general assault statute, the educator assault statute, or both failed to specify information across all four categories of comparison. This is an important conclusion in itself, for the detailed and rigorous process of codification should mean that any omissions in the penalty portion of a law would be intentional, not accidental.

Despite some of the variances within the penalty categories, some trends did emerge. If the educator assault law was codified in the criminal code of the state, it had one or more portions of the penalty enhanced over general assault. Virginia was the lone exception, as its educator assault law was codified in the criminal code but possessed exactly the same penalties as the general assault statute. If the educator assault statute was codified in the education code of
the state, it typically had lesser or at best equal fines to the state's general assault statute. Tennessee §49-6-2008 was a sole exception, for it was codified in the education code but possessed an enhanced civil penalty for educator assault.

Classification. Out of the 37 statutes examined in this portion of the analysis, 12 were unable to be fairly compared due to missing classification information. Fourteen had enhanced educator assault classification as compared to general assault. Of these, six called educator assault a felony, and six more assigned educator assault the highest misdemeanor rating in the state. Of the remaining statutes, eight compared equally to their companion general assault statutes, and three laws were classified at a lower rating than the general assault statute. Thus, if a classification rating was used in the statute, the trend indicated that educator assault was more likely to receive either the highest misdemeanor classification or a felony classification--enhanced over the general assault statute.

Fine. Twenty-seven percent of the laws had no fine indicated as part of the penalty, but 35% showed significant fine enhancement (doubling or more) for their educator assault statute as compared to their general assault statute. The range of fines represented in the laws was astounding. While the mid-range of fines clustered between $500 and $2,500 for educator assault, Pennsylvania §18-2702 possessed the highest fine, up to $25,000, and Mississippi §37-11-21 listed the smallest fine, $10-50. Thus, once again the wide variability among states was demonstrated, with the trend leaning toward significant fine enhancement over general assault.

Imprisonment. In contrast to the fines, only two educator assault statutes listed no imprisonment sentence as part of the penalty. This finding could be interpreted in different ways. For example, if a state wanted to send a message that educator assault is a serious crime, it could have no fine listed in the law, only a jail penalty, thus assuring no one an "easy" way out by only having to pay money. However, another interpretation of the jail penalty could have the opposite effect. Since prisons are over-crowded, might a jail sentence be more likely to be lowered or even suspended, especially for first-time offenders? In this case, the perpetrator
might essentially walk free with no penalty except what exists in court records. These interpretations are mentioned here only to raise an interesting point, one which was outside the scope of this study: what was the intent of the educator assault law in each state? Could the laws have been created only as political statements of support, or were they truly created in response to problems? Even though these specific answers are lacking, additional analysis of the penalty can shed some light on the issue. For example, out of the 37 laws, 11 had penalties less than general assault regarding imprisonment, but that is because they categorized lesser crimes such as abuse or insult. Only five educator assault laws compared equally to general assault laws regarding imprisonment, but the remaining 21 statutes enhanced the jail time. Of those 21, a full two-thirds doubled (or more) the imprisonment sentence for educator assault as compared to general assault. Thus, it appears that most states intended to treat educator assault as a serious crime which required lengthy imprisonment sentences. Still, the variation between states' assignment of jail terms was incredible. In Pennsylvania, a person could receive a jail term of up to 10 years, while in California, the same crime warranted a maximum of 10 days imprisonment.

Both Fine and Jail. This analysis yielded no surprising information. Essentially, almost half of the statutes used the option of both fine and jail for both the general assault statute and the educator assault statute, and the other half did not use the option for either the general assault statute or the educator assault statute. In only a few cases did the option of fine and jail apply to only one of the pair of laws.

Summary of Penalties. As stated above, statutes were examined on four different penalty features. Overall, the 37 general population educator assault statutes showed wide variation in the classification and assignment of either fine or jail (or both) for committing this crime. Across the four categories, Texas was the only state whose law was considered enhanced in all categories. Seven other states possessed legislation which enhanced the penalty for educator assault in three of the categories, and ten more had laws which enhanced the penalty in
at least two of the penalty categories. Thus, the clear trend was for states to have some form of enhanced penalty for educator assault over general assault.

**Research Question 4**

Research Question 4 attempted to determine if data which ranked states by the penalties for fines and imprisonment sentences in the educator assault statutes were related in any way to U.S. government crime data which ranked states by the frequency of aggravated assault crimes per 100,000 population. Deterrence theory supports the idea that stiff penalties suppress crime—in other words, states with high law penalties would have fewer crimes. In this study, both the statute fine rankings and the statute imprisonment sentence rankings were compared to state crime rankings. No significant relationship was found in either analysis. In order to determine if the fines and the imprisonment sentences within the laws themselves were related, these two categories were also correlated. No significant pattern was discovered in this analysis, either. Thus, Research Question 4 revealed no relationships between penalties within state laws and corresponding state crime data.

At least two factors influenced this lack of significant relationship. First, the link between the crime data and the law data was the best available but weak from the start. Most states do not collect crime statistics for educator assault, so using general population statistics for aggravated assault as the closest fit resulted in a questionable link from the beginning. In addition, the crime data, while the most up-to-date available, was collected in 1996 as compared to the law data which was current for 1999.

Second, this research question was purely exploratory, and full isolation of the factors being examined was outside the scope of this study. That is, many forces act within the political environment to shape state legislation, and any one (or more) of these forces could have contributed to the lack of significant effect found in this study. For example, if New Jersey passed a statute with a strict penalty five years ago, it might be expected that their crime rate
today would be lower because of it. But other forces are at work that cannot be accounted for in this equation. They might have a lower crime rate in part because the law was effective, but it is also equally possible that they could have a higher crime rate because they have chosen to prosecute more of these crimes. Research Question 4 attempted to link the data to see if any kind of relationship existed; clearly, Research Question 4 failed to adequately take into account the other forces that influence crime, and therefore, was an incomplete test of the theory of deterrence. Thus, no relationship was found in this study between the penalties in educator assault statutes and state crime levels. In conclusion, due to factors outside the scope of this study, the correlations conducted in this study failed to produce any supporting evidence that strong penalties within laws deter crime.

Conclusion

In conclusion, diverse needs created unique educator assault statutes. As is typical of qualitative research, examination of the outliers—those laws that fell outside the norms—proved just as interesting and thought-provoking as the examination of the major trends. The correlation analysis which attempted to link crime data and law data was not successful for several reasons, as discussed in the previous section. Nevertheless, it is clear from this legislative analysis that most states not only have acknowledged educator assault but have chosen to respond to it more often than not by increasing the penalty for committing such acts. State legislatures will continue to revisit, re-examine, and refine educator assault laws as long as school violence plagues the schools of this country.

(continued on the next page)
Implications

Statute Research Issues

Researching laws can be problematic for several reasons, and sometimes even the most rigorous and attentive research protocols cannot overcome challenges inherent in the data gathering. These problems have implications for future research endeavors in the area of education law, as the following examples demonstrate. While states possessed similar processes for lawmaking, their codification and indexing procedures differed significantly, creating one limitation. All states offered access to their statutes via electronic means; most provided free public access through the internet, while a few provided the service only via West Law or other paid subscription services. The tremendous variability in web page design, search engine rules, and search terms created challenging research conditions. For example, Tennessee §49-6-2008 was only included in the study due to its mention in a journal article, for none of the standard search terms used in this study initially found the statute within Tennessee state code. The search term *educational personnel* was the only search term that called up the statute—not *school*, not *educator*, not *school personnel*, not *assault*, nor any of the other search terms consistently used during the course of data gathering. Had the researcher not known of this statute's existence through other means, this important law would have been left out the study. Thus, inadvertent omissions of important laws may have occurred—not by design but by nonstandard indexing procedures among the states. Another problem the researcher encountered in locating the laws were design restrictions of the state legislative websites. For example, some sites allowed key word searches with easy access to statute text, while others permitted access to the text of the statutes only by entering the specific statute number, obviously problematic if the intent of the search was to discover the statute number. The print resources were somewhat better; still, each state indexed laws using its own terms, and the researcher often had to revert to simply skimming entire sections of the texts to be sure all pertinent laws were discovered. The scope of this problem is revealed when one considers that most practicing lawyers focus on only...
one state's laws (and often only one specialty area) because they must achieve depth, not breadth. A research endeavor such as this one required breadth across all states but also enough depth to be very familiar with assault and educator assault—a tall order, indeed.

Second, another limitation of legislation research was the fact that laws are living, changing documents. After the initial data gathering, the researcher proceeded with verification procedures, two of which were to contact individual state attorney general's offices and/or the state affiliates of the National Education Association. Communication with these agencies revealed the existence of important new laws in several states—laws that had just been signed into legislation within the previous few days. Neither the electronic sites nor the printed law texts had yet included these new laws, so it was only during the verification procedures that very recent statute changes were found. In the case of North Dakota §15.1-06-16, the electronic information indicated that the statute had been repealed, but gave no further information. The printed law texts gave no additional information, either, even in the most-up-to-date pocket supplement. It took three separate phone calls to the State Attorney General's office to discover where the new statute had been recodified (personal communication, July 21 and 22, 1999). All of this verification took place for a single law—a law that had been repealed for months prior to the data gathering. Thus, as this study demonstrated, laws can and do change, and a study of this scope, encompassing all 50 states, risked not retrieving the most up-to-date versions of all laws. Finding key information about a single state's legislative process, statute indexing protocols, and statutes would have been easily possible, but repeating that necessary knowledge 49 more times would have been prohibitive in a study of this scope. Despite the extensive background information acquired by the researcher prior to this study's design, no one—not law librarians, not lawyers, not educators experienced in the area of legal research—suggested or even hinted at the potential problems of gathering complete and accurate law information. Clearly, any research of laws that encompasses all 50 states needs to have multiple verification procedures built into the research design to guarantee quality data gathering.
Cooperation and Collaboration

Federal Government

This study of educator assault fits within the broad parameters of school violence. Since education is a state function, state laws are the arena where legal protections are forged. The federal government has no direct role in educator assault, but indirectly its programs and initiatives within the larger paradigm of school violence do impact educator assault. Although this study did not focus on federal government responses to educator assault, indicators point to a growing federal government presence regarding school crime.

States are unique and diverse, as they represent the needs of their individual environments. Although most states create and organize legislation in similar fashions, the variability that exists among states create challenges when issues transcend state borders. Throughout our nation's history the federal government has been reluctant to get involved in education because it is a state function, but national concern over school violence issues has created momentum for federal government involvement. Indeed, as a result of the spate of school shootings that started in December, 1997, President Clinton directed the Departments of Education and Justice to annually collect standard school crime data from states so that a national picture can be developed (Annual Report on School Safety, 1998). While federal government data collection on school violence is not new, what is new is the focused interest in overcoming some of the obstacles to accurate crime reporting, in particular the standardization of reporting protocols and specific definitions. After all, devising successful strategies for combating crime must start with an accurate scope of the problem. Educational researchers have also recognized this shortcoming (Arnette & Walsleben, 1998), and a 1997 U.S. Office of General Accounting report concluded that one obstacle to dealing with school crime was the lack of uniformity in data.

The accurate reporting of numbers and types of school crime incidents start at the individual school level. Most states require school divisions to report crime statistics, but
discrepancies easily arise when unclear definitions are used in the collection of the data. For example, if a principal is to report every assault that takes place, exactly what actions are included in that definition? If each principal interprets assault differently, the accuracy of the compiled data is compromised. This study's validity hinged upon a clear definition of assault, yet nearly every state had its own definition; even legal reference texts gave different definitions. As a result, the definition of assault for this study took nearly 2 and 1/2 pages to fully describe (see Chapter 1)—and that was for a very narrow examination of one small aspect of school crime. This one example helps illuminate the magnitude of effort and compromise that will need to transpire to standardize all definitions and data collection for all types of school violence. A formidable task, indeed, but a very necessary one, and one the federal government appears poised to take on.

The federal government may also eventually play another, more direct role in school violence issues. Although this idea is pure speculation on the part of the researcher and not confirmed in any source, the history of federal government involvement in school crime points in this direction. The Gun-Free School Act of 1994 (see Chapter 2) tied federal education dollars to state compliance. Each state had to create legislation that supported zero weapons tolerance within school zones in order to receive federal funds. All states did comply, for education is an expensive process and states needed federal dollars to supplement their own funding. In the future, it is possible that federal dollars may begin to come into the states with other compliance requirements for certain types of school violence legislation. What these other legislative requirements might be, no one knows—but, national concern over school violence, fueled by each new horrific event, will eventually force some government action in this direction. With some of the previous initiatives the groundwork has been laid for federal involvement. Thus, this researcher believes that the federal government will most certainly continue to have a growing presence in the public debate on how to deal with school violence, including possible influence in state school legislation.
State Governments

Traditionally, states approached education as their sole domain, as they had complete power to shape and implement their own educational programs. It has only been in recent decades that a more collaborative mood has developed among states. Perhaps it started with Brown v. the Board of Education in 1954 when states began to realize that outside forces could and would influence their educational programs. Perhaps it started with the growing infusion of federal dollars into state school systems and the resulting federal requirements that made states realize they must to some extent share educational decision-making. However it started, states that, at first, reluctantly acquiesced power have begun to realize the positive potential of collaborating with others outside their own borders. Development of organizations such as the National Conference of State Legislatures and the Education Commission of the States help fill the need for information sharing and collaboration. In these arenas, states share their similar problems and concerns, seeking information from each other in some instances and looking to forge joint solutions in other instances. In today's increasingly global economy, smart state leaders have figured out that they no longer can afford the high cost of an isolationist attitude.

Even though states will continue to design and implement educational legislation that best fits their individual needs, this awareness of outside forces has had an impact on state education programs. As noted above, the federal government's role in mandating compliance through the withholding of funding has had broad impact on the states, and as predicted, will probably continue to increase. Still, the ultimate seat of power resides within the states, and it will not be easily surrendered. What this awareness has created is an environment where state legislators are receiving increased information and demands, making the job of lawmaking significantly more complex. It is precisely for this reason that states must share and learn from each other more now than ever. In conversations with individuals at states' attorneys' generals offices in Alaska, Vermont, and Wyoming (three of the four states that had no pertinent educator assault legislation), each contact commented on recent school shootings in other states and
reiterated the message that their state legislators could no longer afford to ignore the problem—that addressing it now was imperative and that new school crime legislation was sure to be developed in the next lawmaking session (personal communication, July 14, 1999)—clear evidence that states are more willing to learn from each other.

School violence is no different than any other social problem in that solutions are complex and multi-faceted. The literature emphasizes that any school violence solution must come from many sources: the federal government, the state government, communities, schools, families, and individuals (Annual Report on School Safety, 1998; New York State Education Department, 1994; Scott, 1998; U.S. General Accounting Office, 1997; Violence in America, 1994). Each has an important role, but primary decision-making and leadership must emanate from the state level. The charge to state legislators, then, is to look beyond their state borders and get needed information and resources so that the most effective, efficient, educated, and enlightened solutions can be created. States must take some initiative to do this on their own, for in the absence of leadership in this area, the federal government may step in. To some extent, federal involvement has already occurred with some school violence issues, and the dark side of such involvement is the decision-making control that states relinquish. However, the bright side of such involvement is the resulting impetus for states to become more proactive in forging networks, connections, and alliances among themselves. School violence legislation is one area where lawmakers can collaborate and learn from each other, and it appears to be happening. As Johnston reported in Education Week (June 16, 1999), several states have new task forces looking into school crime, and the National Conference of State Legislatures has recently begun a two-year initiative on school violence. Resource sharing among all the forces affecting school violence is essential if any progress is to be made toward solving the problem. Protective legislation, such as laws that prohibit educator assault, is one critical part of a state response to school crime and violence. States must be willing to learn and share resources to effectively combat school violence.
Ignored Victims

Another broad implication of this study is how having the laws and using the laws are two entirely different issues. The very people that the laws are designed to protect often do not know that they exist. Numerous studies have reported teacher opinions regarding the frequency of threats, the location of threats, and their attitudes about threats, resulting in some impressive statistics that are sometimes bandied about like network television sound bites. *Eleven percent of all teachers have been attacked; crimes against teachers rise*—the headlines might read. It catches our attention. Somehow, though, statistics like these ignore the bigger issue: Do people know what mechanisms are in place to protect educators? In reality, little attention has been paid to communicating this information to both educators and the general public.

The purpose of this study was to examine what types of protective legislation existed in the 50 states for assaulted educators. This researcher, as an educator, found the results somewhat comforting—that in more states than not, educators are protected with more stringent penalties than general citizens. Clearly, legislators have recognized that schools are special environments and that the authority figures who work within those environments may need more than general protection against threats and assault. In fact, in some key areas, protections for educators are increasing, as demonstrated by recent legislation to prohibit harassment of educators via electronic devices (Maryland and South Carolina). Still, a huge gap exists. It has been this researcher's experience that most (if not nearly all) educators are typically unaware of the very protections that the laws have afforded them. In addition, professionals who work closely with educational law are often totally unaware of educator assault laws, as well—and this includes lawyers, district attorneys, state attorneys, and legislators, among others. If the educators whom the laws intend to protect are ignorant of their protections, then chances are good that the protections will not be used. If professionals in the legal field are ignorant of the protections that exist for educators, then chances are good that the protections will not be used. If the general public is totally unaware of the penalty for committing assaults on educators, then chances are
good that the law will have limited power of deterrence. How can such legislation be effective? The law does no good if only those in the small rarefied air of a specific research area know it exists.

An important implication of this study is that educators need to know these protections exist. The general public needs to know these protections exist. Students need to know these protections exist. Perhaps in fear of alienating or somehow undermining public support for educators, people seem to be afraid to acknowledge that educators do need and deserve legislative assurances that personal violations in the forms of threats or attacks will be dealt with in a most serious manner. A recent event will hopefully underscore the lack of communication in this area. One can only imagine the media circus that surrounded a school violence episode like the tragedy at Columbine High School in Colorado in the spring of 1999. In reflecting back on all the magazine articles, newspaper headlines, and television interviews regarding this horrific event, one only has to think: how many broadcasts explained Colorado state laws prohibiting school violence? How many newspaper or magazine articles discussed the laws that were already in place to protect educators (or students) from such attacks? The point is, of course, that laws rarely make the news, yet their very existence is the core of what educator protection is all about. The Annual Report on School Safety (1998) concurred, writing, "The recent school shootings have drawn heightened public attention to school crime and safety. Unfortunately, public perceptions of school safety are often fueled by media accounts that play up sensational events and fail to provide a real understanding of the accomplishments of schools or the problems they face" (p.1). Complete and accurate information dissemination regarding educator assault statutes is an absolutely necessary condition for these laws to be effective, and one focus in the Recommendations section that follows.
Recommendations

**Educators**

We must remember that teachers are not educated and licensed to solve all of society's ills in the classroom.

(Kopka, 1997, p. 30)

Deterrence theory holds that strong penalties deter crime (see Chapter 2), and this theory provided the framework for understanding why educators need protections via special laws. The recommendations in this section, then, flow from deterrence theory, the understanding that strong penalties in educator assault statutes should help prevent these crimes from taking place.

The average teacher is in the classroom because of a love of both children and learning. Not trained as police officers or SWAT Team commandos, educators are increasingly finding themselves in the crosshairs of school violence. Public outcry demands to know how the schools are going to be kept safe; educators ask the same question from a painfully exposed viewpoint—it is their lives that are on the line. Educators cannot solve this problem single-handedly, but they must become more proactive in looking out for the welfare of everyone in the school environment.

A first recommendation that clearly emerges from this research is the desperate need for educators to comprehensively learn about their protections under the law. Over and over again during the course of this study, the researcher was confounded by the sheer amount of ignorance educators had regarding their legal protections. No one is assigning blame here, for in years past, this knowledge was, thankfully, rarely needed. However, today's society is a different matter entirely. Educators must become keenly aware of their rights in the workplace; in light of some of the more recent school violence episodes, ignorance has become dangerous, and sometimes even deadly. Educator unions and a host of specialized professional organizations do address educator rights in the workplace. Unfortunately, not every educator is a member of such
organizations, and not every organization has done an outstanding job of keeping this
information in widespread view. Further, educational support personnel need access to
information and training just as critically as the certified staff. Bob Chase, current NEA
president wrote, "Many bus drivers, cafeteria workers, custodians, and other support personnel
feel powerless to prevent violence....To ignore 40 percent of the public school workforce when
taking on a problem as serious as safety is absurd" (NEA Today, 1999, p. 2). Resource persons
abound in every community; school board attorneys, district attorneys, police officers, judges,
and others within the justice system should be more than willing to help in the information
dissemination process. Educators must demand training and assistance from any possible
source, for the alternative is unthinkable. Many classrooms post the quote, "Knowledge is
power." It's time educators believed it, themselves.

A second recommendation that clearly emerges from this research is the desperate need
for educators and legislators to communicate information to the general public about educator
protections. In 1979, Williams wrote, "Educators will continue to be blamed [for school
violence], for we are part of the environment. We will bear this burden until we choose to
educate others concerning their power of free choice and the awareness of actions resulting from
the exercise of this power" (p. 387). A law's power of deterrence is only as good as the
knowledge that the law exists. "For persons who are psychologically, culturally or socially
predisposed to commit this type of crime [violent person crimes], neither socialization nor the
mere probability of being caught is sufficient to deter them....individuals who...would be
inclined to engage in such behavior are in fact deterred by the threat of severe punishment"
(Silberman, 1976, p. 454). Laws with serious penalties are in place in many states, but society
must take the next step and loudly communicate its expectations to those fringe members who
need those kind of clear, specific, and harsh rules. People must be told that assaulting educators
is a serious crime which results in stiff penalties. Communicating the message will not solve the
problem, but it will stop some crime, and educators must take the lead in pushing their agenda forward.

A third recommendation that clearly emerges from this research is that educators must not be afraid to use any legal means provided to them. A support system of laws is in place in most states; educators just need to overcome fear and use it when appropriate. It's the nature of educators to be caring and compassionate individuals who want to give people a chance to grow and change, but personal safety violations cross the line and must be addressed in a most serious manner. Consistent encouragement and support from school leaders is an essential part of this equation, for the research has shown that many assaulted educators have traditionally been encouraged to keep quiet and not press charges for a variety of reasons (see Chapter 2). It's time that educators stand up for their own rights in an assertive way. Proactive behavior will empower educators to move beyond concerned hand-wringing and onto forging solutions that work.

In conclusion, educators must be willing to take the steps that they encourage students to do all the time: to seek out information, to communicate that information to others, and to become empowered through the positive use of knowledge. Educators can't solve school violence alone, but they can and must take charge.

(continued on the next page)
State Legislators

Passing a law prohibiting some behavior is not useful if it does not affect how often the behavior occurs.

(Tyler, 1990, p. 19)

The bad news is that school violence has no quick and easy fix. Passing a few anti-violence laws will not stop educators from being assaulted nor schools from being targets. The good news is that difficult solutions require more careful analysis, better exploration of collaboration and sharing opportunities, and deeper understanding and commitment to solving the problem. State legislators play a significant role in each state's response to school violence. Recommendations follow.

First of all, states are keenly poised as the best government unit of response. While violence occurs within local government jurisdictions, in reality, local governments have limited resources to bring to bear on the problem. The federal government, on the other hand, is too removed to be able to deliver appropriate responses in diverse local situations. As the report, Violence in America (1994), commented: "Violence control initiatives must be as varied as the contexts from which violence arises"...It is futile to "design a 'one-size-fits-all' national response to local violence" (p. 7). Thus, it is the state governments who have larger resources than local governments and, unlike the federal government, the ability to tailor responses to unique and diverse needs. State legislators are therefore key players in forging school violence solutions.

Second, as stated in the Implications section, state legislators must be willing to collaborate with other organizations who share similar agendas. Barbara Shaw, director of the Illinois Violence Prevention Authority, was quoted in an Education Week article on legislative collaboration saying, "We don't see this as us instead of them. This has to be a multifaceted approach" (Johnston, 1999, p. 12). Elected officials need to build collaborations among agencies, according to a recommendation in the Annual Report on School Safety (1998).

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Networking and forging alliances with others allows the best utilization of limited resources, for it maximizes effect and minimizes duplication of efforts. State leaders must be willing to take the initiative in creating opportunities and seeking out potential partners.

Third, while each painful episode of school violence may lead to an outcry for new legislation, legislators should not immediately think that "more" is necessarily "better." A more cautious response would be to first accurately assess what laws are already in place. Many states possess strong school violence laws to protect both educators and students. Perhaps part of the problem has been that the existing laws are not being used effectively (see Implications section). Thus, another recommendation is that state legislators look for ways to use existing state law more effectively, including actively communicating the message to the public and putting pressure on police and law enforcement officials to prosecute these crimes to the fullest possible extent.

Fourth, state legislators should consider strengthening the penalties for school-related violence of all kinds. As this study demonstrated, many states already possess strong educator assault statutes, yet the range of penalties for such crimes was incredibly disparate. States need to tailor laws to their unique needs, but having an educator assault statute with a $10 fine is simply embarrassing when compared to the number of states who possess statutes with $1000 (or more) fines. Further, codifying such legislation within the criminal code instead of the education code is more accurate, for these are violent crimes committed against persons, and doing so may also send a message that such crimes will be taken more seriously. It should go without saying that those states with no educator assault statutes certainly need to heed this advice, as well. Thus, state legislators can use the results of studies such as this one to understand trends and gather suggestions for improving the quality of their school violence legislation.

In conclusion, state legislators must take an active leadership role in solving school violence. Codifying protective legislation is certainly less expensive than initiating and supporting programs, and, thus, is an efficient and effective tool to use in fighting crime. While
laws alone will not stop school violence, state legislators can make both existing and current legislation more effective by employing some of the recommendations above and, thus, help facilitate long-term improvements in school safety.

Future Research

The genie cannot be stuffed back into the bottle. Now that school violence has become a national concern and the public schools are in danger of losing the universal educational appeal that was their virtue, it is difficult to accept violent schools with fatalistic resignation...Eventually, solutions to the problem of school violence will be discovered. The alternative would be the erosion of public education.

(Toby, 1990, p. 269)

Educator assault is a small, but critical part of school violence, for attacks and threats against school authority figures seriously jeopardize the peaceful order of the entire school environment. State laws that protect educators against such attacks was the focus of this study; the resulting content analysis of current educator assault statutes demonstrated very clearly that school personnel have received special protections in many states. Further research in this area can address yet unanswered questions.

One very important follow-up study could be to discover how often educator assault laws are used and under what circumstances they are used. One local magistrate commented to this researcher that when teachers were assaulted, the general assault statute was "easier" to use because everyone knew exactly what it meant and what to expect. The magistrate was (in his eyes) unwilling to compromise successful prosecution by pressing charges with an unfamiliar, and therefore, somehow less powerful law—an attitude that would seriously compromise how
frequently laws of this type are used. Add this to educators' relative ignorance of knowing these
laws even exist, and one could seriously question whether educator assault laws are ever used.
Research in this area would add valuable information about whether protective legislation was an
effective deterrent to crimes of this sort.

A major stumbling block in this research would be locating accurate information. This researcher
has been told that some states do monitor how frequently their laws are used by
keeping track of court records and charges filed. This is apparently not true in all states
(certainly not in Virginia, the researcher's state), so a national study would not be possible.
However, finding a state with both court records data and a strong educator assault statute could
produce a very interesting exploration of educator assault law use.

A second possible follow-up study could be a specific examination of how and why
educator assault laws came into existence. A case study of a particular statute within a state--
from inception to codification--would illuminate the legislative process. Laws are created by
compromise, and close examination of the key players, special interest groups, and the
lawmaking process through the myriad of hearings and committees would shed some light on
how to maximize the relationship between educators and legislators regarding joint areas of
concern.

Finally, the most important methodological contribution this study made was the use of
content analysis in a new research area--law. Educators examine law from a practical
standpoint--what do the words say and what do they mean?--while lawyers examine how the law
has been previously interpreted through courts rulings. Thus, lawyers and educators have
different perspectives regarding the law. For example, this researcher had no need to access the
court case precedents related to the statutes, yet a law student employed to assist with the
research felt that simply locating the laws was not nearly enough information and suggested
accessing related statute histories and pertinent court cases several times. To her, the research
was incomplete without all the peripheral information; to the researcher, as an educator, the laws
themselves were complete in and of themselves. The point is that lawyers should not be the only people who study laws. While educators are not trained as lawyers, neither are lawyers trained as educators. Educators can bring valuable skills and expertise to the interpretation of law. The ability to identify trends and track significant outliers in education law through the use of content analysis may be inherently useful to researchers and practitioners, alike. This study has provided support for the use of content analysis as a valuable tool to use in the examination of educational law. Future research in this area is limited only by the imagination of the researcher and the need for specific information.
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Delaware Code Annotated Title 11 §611 (1998)
Delaware Code Annotated Title 11 §612 (1998)


Florida Statutes Annotated §230.23015 (1999)

Florida Statutes Annotated §232.28 (1999)

Florida Statutes Annotated §784.011 (1999)

Florida Statutes Annotated §784.081 (1999)


Georgia Code Annotated §16-5-20 (1998)
Georgia Code Annotated §16-5-21 (1998)
Georgia Code Annotated §17-10-3 (1998)


Hawaii Revised Statutes §707-711 (1998)


Hawaii Revised Statutes §707-716 (1998)

Hawaii Revised Statutes §707-717 (1998)


Idaho Code Annotated §18-901 (1999)
Idaho Code Annotated §18-902 (1999)
Idaho Code Annotated §18-916 (1999)
Idaho Code Annotated §33-1222 (1999)
105 Illinois Compiled Statutes §5/10-21.7
Indiana Code Annotated §35-50-2-7 (1998)
Indiana Code Annotated §35-50-3-2 (1998)
Iowa Code Annotated §282.4 (1999)
Iowa Code Annotated §280.21A (1999)
Iowa Code Annotated §708.1 (1999)
Iowa Code Annotated §708.2 (1999)
Iowa Code Annotated §708.7 (1999)
Iowa Code Annotated §903.1 (1999)


Kansas Statutes Annotated §21-3408 (1999)
Kansas Statutes Annotated §21-3443 (1999)
Kansas Statutes Annotated §21-3828 (1999)

Kansas Statutes Annotated §21-4502 (1999)

Kansas Statutes Annotated §21-4503a (1999)


Kentucky Revised Statutes Annotated §158.150 (1999)

Kentucky Revised Statutes Annotated §158.154 (1999)

Kentucky Revised Statutes Annotated §161.190 (1999)

Kentucky Revised Statutes Annotated §508.030 (1999)

Kentucky Revised Statutes Annotated §508.050 (1999)

Kentucky Revised Statutes Annotated §532.090 (1999)


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Louisiana Revised Statutes Annotated §14-38 (1998)

Louisiana Revised Statutes Annotated §14-38.2 (1998)

Louisiana Revised Statutes Annotated §17-416 (1998)

Louisiana Revised Statutes Annotated §17-500.1 (1998)

Louisiana Revised Statutes Annotated §17-1201 (1998)

Louisiana Revised Statutes Annotated §17-1684 (1998)


Maine Revised Statutes Annotated §17-207 (1999)

Maine Revised Statutes Annotated §17-209 (1999)

Maine Revised Statutes Annotated §17-1252 (1999)

Maine Revised Statutes Annotated §20A-6804 (1999)

Maryland Criminal Code Annotated §12A (1999)
Maryland Education Code Annotated §6-111 (1999)
Massachusetts Annotated Laws Chapter 71 §37H (1998)
Massachusetts Annotated Laws Chapter 159A §31 (1998)
Massachusetts Annotated Laws Chapter 265 §13A (1998)
Massachusetts Annotated Laws Chapter 265 §13D (1998)
Massachusetts Annotated Laws Chapter 274 §1 (1998)
Michigan Compiled Laws Annotated §380.1331a (1999)
Michigan Compiled Laws Annotated §750.478a (1999)
Michigan Compiled Laws Annotated §750.84 (1999)


Minnesota Statutes Annotated §609.02 (1999)
Minnesota Statutes Annotated §609.224 (1999)
Minnesota Statutes Annotated §609.2231 (1999)
Mississippi Code Annotated §37-11-29 (1999)
Mississippi Code Annotated §97-3-7 (1999)
Missouri Revised Statutes Annotated §167.117 (1999)
Missouri Revised Statutes Annotated §556.016 (1999)
Missouri Revised Statutes Annotated §565.070 (1999)
Missouri Revised Statutes Annotated §565.075 (1999)


Montana Code Annotated §20-4-303 (1997)
Montana Code Annotated §45-5-201 (1997)
Montana Code Annotated §45-5-203 (1997)


Nebraska Revised Statutes §28-106 (1998)

Nebraska Revised Statutes §28-310 (1998)

Nebraska Revised Statutes §79-267 (1998)

Nevada Revised Statutes Annotated §193.140 (1998)

Nevada Revised Statutes Annotated §193.150 (1998)


Nevada Revised Statutes Annotated §203.119 (1998)

Nevada Revised Statutes Annotated §289.190 (1998)

Nevada Revised Statutes Annotated §392.480 (1998)


New Jersey Statutes Annotated §2C:12-1 (1999)
New Jersey Statutes Annotated §2C:43-6 (1999)
New Jersey Statutes Annotated §2C:43-8 (1999)
New Mexico Statutes Annotated §22-1-7 (1998)
New Mexico Statutes Annotated §30-3-1 (1998)
New Mexico Statutes Annotated §30-3-9 (1998)
New Mexico Statutes Annotated §30-19-1 (1998)
New Mexico Statutes Annotated §30-20-13 (1998)
New Mexico Statutes Annotated §31-19-1 (1998)


North Carolina General Statutes Annotated §14-1 (1999)
North Carolina General Statutes Annotated §115C-338 (1999)
North Carolina General Statutes Annotated §115C-391 (1999)


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Ohio Revised Code Annotated §2901.02 (1999)
Ohio Revised Code Annotated §2903.13 (1999)
Ohio Revised Code Annotated §2903.22 (1999)
Ohio Revised Code Annotated §2929.21 (1999)
Oklahoma Statutes Annotated §21-641 (1999)
Oklahoma Statutes Annotated §21-644 (1999)
Oklahoma Statutes Annotated §21-650.7 (1999)
Oregon Revised Statutes §163.160 (1998)
Oregon Revised Statutes §163.190 (1998)
Oregon Revised Statutes §163.605 (1998)
Oregon Revised Statutes §163.635 (1998)
Oregon Revised Statutes §339.250 (1998)


Pennsylvania Consolidated Statutes Annotated Title 18 §106 (1999)
Pennsylvania Consolidated Statutes Annotated Title 18 §1101 (1999)
Pennsylvania Consolidated Statutes Annotated Title 18 §2702 (1999)
Pennsylvania Consolidated Statutes Annotated Title 18 §2712 (1999)
People v. Hanson. 289 N.E.2d 611 (1972)

Petersen, G. J., et.al. (1996). The enemy within: A national study on school violence and prevention. Paper presented at the annual meeting of the Association of Teacher Educators, St. Louis, MO. (ERIC Document 394 907)


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Rhode Island General Laws §11-1-2 (1999)
Rhode Island General Laws §11-5-3 (1999)
Rhode Island General Laws §11-5-7 (1999)


South Carolina Code Annotated §16-3-612 (1999)

South Carolina Code Annotated §16-3-1040 (1999)


South Dakota Codified Laws Annotated §22-6-2 (1999)


Tennessee Code Annotated §49-6-2008 (1998)

Tennessee Code Annotated §49-6-3401 (1998)

Texas Education Code Annotated §37.007 (1999)

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Texas Penal Code Annotated §22.01 (1999)

Washington, DC: Author.


Utah Code Annotated §76-2-204 (1998)

Utah Code Annotated §76-3-203.2 (1998)

Utah Code Annotated §76-5-102 (1998)

Utah Code Annotated §76-5-102.3 (1998)

Utah Code Annotated §76-5-107 (1998)


Violence in schools: Recommendations for action by the Education Summit. (1992). Special report of the Virginia Association of School Superintendents, Charlottesville, VA.


Virginia Code Annotated §18.2-11 (1999)

Virginia Code Annotated §18.2-57 (1999)

Virginia Code Annotated §18.2-60 (1999)


Washington Revised Code Annotated §28A.635.100 (1999)


West Virginia Code Annotated §18A-5-1a (1999)


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Wisconsin Statutes Annotated §3-939.51 (1999)

Wisconsin Statutes Annotated §3-939.632 (1999)

Wisconsin Statutes Annotated §3-947.01 (1999)

### Appendix A: Checklist of Completion for Research Tasks

<table>
<thead>
<tr>
<th>STATE</th>
<th>Classification of Criminal Offenses &amp; Penalties</th>
<th>Assault Statute</th>
<th>Other Pertinent Statute(s) (Assault, Harass, Menace, Threat)</th>
<th>Educator-specific Statute(s) (number)</th>
<th>Paper copy</th>
<th>Date Verified</th>
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<td>Indiana</td>
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</tr>
</tbody>
</table>
Appendix B: State Identification Record

Name of State: ______________________

Reference Information

Print source (xeroxed) (Check off ✓)
☐ Title page from statute book(s) which includes the state, title, volume, date of publication, place
☐ All educator-specific assault laws with date enacted/amended

Electronic source (on disk)

Web address: _____________________________________________________________________
Date accessed: _________________
Last date the site was updated: _________________

Law Information

Key Words Searched
☐ Classification of offenses
☐ Sentencing guidelines (penalties)
☐ Crimes against persons
Variations
☐ Assault
☐ Menace
☐ Threat
☐ Harass
☐ Insult or abuse
☐ Reckless endangerment
Personnel
☐ Teacher
☐ Educator
☐ School employee
☐ Other ______________________

<table>
<thead>
<tr>
<th>Statute #</th>
<th>Criminal or Civil Code</th>
<th>Elect. Paper</th>
<th>Current from</th>
<th>Description</th>
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Appendix C: Database screen for data entry.

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<th>State Name</th>
<th>Law Used for Analysis</th>
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<td>Year Enacted</td>
</tr>
<tr>
<td>Code Text</td>
<td>Text of the law copied here</td>
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</tbody>
</table>

| Misc Description | Brief phrase for identification purposes |
| Recipients | Who the law protects |
| Actions | What actions are prohibited |
| Aggressors | Who initiates the actions |
| Qualifiers | Words or phrases which limit the time, place, or manner |

| Statute Penalty |
| Assault Penalty | General assault statute for the state |
| | State's definition of assault |
| | Alternate crime definition (if assault does not fit the study's definition) |
| | Text of the alternate law |

| Comparison Notes | Notes on specific information regarding the laws and comparisons |

| Web Address |
| Web Last Update | Web Date Accessed |
| Citation Web |
| Citation Print |

| Creation Date | Modified Date | Record # |

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Appendix D: Database screen for data analysis.

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<th>Law Used for Analysis</th>
<th>Law Chart Code</th>
<th>General classification</th>
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<td>Penalty Law</td>
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Appenda E: Research Question 1: What State Laws Exist to Protect Educators From Assault?
Note: This study focused on laws only in the first three categories.

<table>
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<tr>
<th>State</th>
<th>Assault or less than assault</th>
<th>Enhanced penalty for assault</th>
<th>Student as aggressor</th>
<th>Battery (* means enhanced penalty)</th>
<th>School property limits</th>
<th>Educator support</th>
<th>Authority statements</th>
<th>Related special workers</th>
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*with a weapon. *battery only. *public officials, but educators mentioned. *limited to school buses. *includes battery.

**Note:** Four states did not have pertinent statutes in the scope of this study: Alaska, New York, Vermont, and Wyoming. They are not included here.
Appendix F: Educator Assault Laws of Selected States and Their Corresponding Recipient Protections—Public Educators Only Versus Public and Nonpublic Educators

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Note. The state names in italics indicate the statutes which pertain only to student discipline.
Appendix G: Clustered Recipient Law Data Used for Analysis

Note: The underlined title is the coding phrase used, and the words or phrases listed under each title are the variations of that definition which clustered with it.

**Teacher**
- elementary or secondary school teachers (South Carolina §16-3-1040)
- personnel who hold a valid Montana teaching certificate (Montana §20-4-303)
- public school educators who are under contract and certificated and private school educators who are certificated (Ohio §2903.13)
- school staff member who has students under his/her charge (Indiana §20-8.1-5.1-18)
- teacher

**Administrator**
- administrator
- assistant principal
- elementary or secondary school administrators (South Carolina §16-3-1040)
- personnel who hold a valid Montana teaching certificate and employed as administrative staff (Montana §20-4-303)
- principal
- school staff member who has students under his/her charge (Indiana §20-8.1-5.1-18)

**School personnel**
- classified employee (Washington §28A.635.100)
- contracted and appointed personnel not directly involved in teaching (Oklahoma §21-650.1)
- educational personnel
- educational worker (Hawaii §707-716)
- employee of any elementary, middle, or secondary school (Virginia §18.2-60)
- employee of any institution of elementary or secondary education (Maryland §26-101(c))
- employee of a school board (New Mexico §30-3-9)
- full-time employees and those hired on an hourly basis (West Virginia §61-2-15)
- instructional personnel (beside teacher or administrator) (Mississippi §37-11-21)
- licensed or unlicensed employee of a school district board (Nevada §200.471)
- person employed by a school
- personnel who hold a valid Montana teaching certificate (excluding superintendents) (Montana §20-4-303)
- school employee
- school personnel

**Other school-based personnel**
- counselors, specialists (Hawaii §707-716)
- attendance officers (Mississippi §97-3-7)
- personnel not directly involved in teaching (Oklahoma §21-650.1)
- substitute teachers, custodial staff, food service staff, school crossing guards (South Carolina §16-3-612)

**School bus driver**
- school bus driver
- school bus monitor
- school bus operator

**Superintendent**
- superintendent
Volunteer
• school volunteer
• volunteer in/at school

School board member
• elected officials of a school
• school board member

Teacher aide
• teacher aide
• teacher assistant

Student worker
• student employees
• student teacher

State-level worker
• department of education personnel
• state education employees

Contract worker
• agent lawfully on the school grounds
• contracted workers
• person employed as a contractor
• school-contracted persons
### Appendix H: Educator Assault Laws of Selected States and Their Corresponding Recipient Protections—Categorized by Particular Educators Named Within the Laws

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*Law covers public employees but an earlier version specifically named school personnel. *specifically notes not to include superintendents. **Note**: The state names in italics indicate the statutes which pertain only to student discipline.
Appendix I: Clustered Prohibited Action Law Data Used for Analysis

Note: The underlined title is the coding phrase used, and the words or phrases listed under each title are the variations of that definition which clustered under it.

**Assault**
- assault
- aggravated assault (Georgia §16-5-21)
- verbal assault
- specific wording that contains the definition of assault

**Abuse or insult**
- abuse
- insult
- rebuke (North Dakota §15.1-06-16)
- upbraid (Georgia §20-2-1182 and Idaho §18-916)

**Threaten**
- intimidate
- intimidate by threat (Washington §28A.635.100)
- menace
- physical menace (Pennsylvania §18-2702)
- threaten
- violence, force, coercion, threat, intimidation, or similar conduct (Nebraska §79-267)
- threaten to kill or do bodily injury (Virginia §18.2-60)
- threaten to take the life or inflict harm (South Carolina §16-3-1040)

**Disrupt**
- affray (North Carolina §14-33(5))
- behavior that is detrimental to the welfare or safety (Colorado §22-33-106)
- disrupt
- disturb the peace (Nevada §392.480)
- hinder
- interfere
- materially disrupts or involves disorder (California §44811)
- speech or conduct that will disrupt (Kentucky §161.190)

**Battery**
- battery
- physical assault (Indiana § 20-8.1-5.1-18 and Michigan §380.1331a)
- physical assault and causes serious injury (North Carolina §115C-391)

**With foul language**
- abusive or foul language
- vulgar, obscene, or threatening language (Nevada §392.480)
- vile, indecent language

**Disobey**
- disrespectful and willfully disobeys (Louisiana §17-416)

**With weapon**
- with a weapon
Appendix J: Educator Assault Laws of Selected States and Their Corresponding Prohibited Actions Named Within the Laws

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Note. The state names in italics indicate the statutes which pertain only to student discipline.
Appendix K: Educator Assault Laws of Selected States and Their Corresponding Aggressors—Identification of Who Committed the Assault

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*student must be grade 6 or above. †student must be at least age 13.

Note. The state names in italics indicate the statutes which pertain only to student discipline.
Appendix L: Clustered Qualifier Law Data Used for Analysis

Note: The underlined title is the coding phrase used, and the words or phrases listed under each title are the variations of that definition which clustered under it.

On school property
• adjacent to the school
• at school
• building used for school
• educational property
• premises of any public school (Georgia §20-2-1182)
• property owned by the school board and used for administrative purposes (Maryland §26-101(b))
• school grounds or vicinity
• school playground
• school property
• school safety zone
• street or road going or coming to school (Louisiana §17-416)

At a school-sponsored event
• activity sponsored by the school held off school property
• athletic games
• engaged in any authorized and organized classroom activity held on other than school grounds (Arizona §13-1204)
• field trips, athletic events
• location where the pupil or school employee is involved in an activity sponsored by a public school (Nevada §392.480)
• place where a school employee is required to be in the course of his or her duties (California §44811)
• school extra-curricular activities or functions
• school function
• school-related activities
• school-sponsored event

In performance of victim's duty
• acting within the scope of duty (Mississippi §97-3-7)
• course of professional duties
• discharge of his or her official duties (Michigan §750.478a)
• lawful discharge of his duties (New Mexico §30-3-9)
• performing function that is sanctioned, established, or approved by the department of education; engaged in carrying out educational function (Hawaii §707-716)
• functioning in the capacity as an employee of the school board
• normal and regular or assigned responsibilities (Arkansas §6-17-106)
• scope of his/her responsibility

During the school day
• during intermission or recess (Louisiana §17-416)
• during the school day
• while school is in session (Mississippi §37-11-21)

In the presence of students
• in the presence and hearing of students (Idaho §18-916)
• in the presence of students
On or in a school vehicle
• bus
• bus, van or any other motor vehicle owned, leased or chartered by a school district to transport pupils or school employees (Nevada §392.480)
• school bus
• vehicle driven by an employee for school purposes
• vehicle that is owned, leased, or contracted for school purposes (Nebraska §76-267)
• while boarding or on the bus

In retaliation
• in retaliation for an act performed in the course of duty (California §241.6)
• in fear of retaliation for a prior lawful act (Indiana §35-45-2-1)
• in retaliation for authorized action to supervise or discipline students (West Virginia §61-2-15)
• threat is directly related to the teacher's or principal's professional responsibilities (South Carolina §16-3-1040)
• threats arising out of the scope of the employee's employment (Maryland §26-101(c))

Knows the victim is an educator
• clearly identified as engaged in performance of duties because of his status as a member or employee of a school board (New Jersey §2C:12-1)
• has reason to know identity or position or employment of victim (Florida §784.081)
• knows the person is a teacher
• reasonable grounds to believe the victim is a school teacher (Louisiana §14-38.2)

Resulting from victim's employment
• as a result of the person's employment with a school (Texas §37.007)
• because of the person's employment relationship to school (Pennsylvania §18-2702)
• directly related to professional responsibilities (South Carolina §16-3-1040)
• result of victim's relationship to the institution of public education (New Jersey §18A:37-2.1)

Special conditions
• any letter or paper, writing, print, missive, document, or electronic communication or verbal or electronic communication (South Carolina §16-3-1040)
• whether on or off campus; during the school day or at any other time (California §241.6)
• at home, by telephone, e-mail, or in person (Maryland §26-101(c))
• commuting to or from the person's place of employment (West Virginia §61-2-15)
• in a manner that constitutes a substantial interference with school purposes (Nebraska §79-267)
• involving the use of a firearm (Georgia §16-5-21)
• singly or in concert with others (Washington §28A.635.100)
• visiting a private home in the course of professional duties (Arizona §13-204)
• when a person should know that their actions will disrupt or interfere or undermine school activities or will nullify or undermine the good order and discipline of the school (Kentucky §161.190)
### Appendix M: Educator Assault Laws of Selected States and Their Corresponding Qualifiers—Statements Defining Time, Place, or Manner Restrictions

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Note. The state names in italics indicate the statutes which pertain only to student discipline.
Appendix N: General Population Educator Assault Laws of Selected States and Their Corresponding Penalties.

Note: Laws that are underlined were classified in the criminal code; laws that are not underlined were classified in the education code.

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<td>Not less $100; more $1500</td>
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<td>Not more $1000</td>
</tr>
<tr>
<td>State and Statute</td>
<td>Classification</td>
<td>Fine</td>
<td>Imprisonment</td>
<td>Both</td>
</tr>
<tr>
<td>-------------------</td>
<td>----------------</td>
<td>------</td>
<td>--------------</td>
<td>------</td>
</tr>
<tr>
<td><strong>Nevada</strong> 392.480</td>
<td>Misd.</td>
<td>Disorderly persons¹</td>
<td>Not more $1000</td>
<td>Not more 6 mo.</td>
</tr>
<tr>
<td><strong>New Jersey</strong> 2C:12-1</td>
<td>Misd.</td>
<td>4th Degree Crime</td>
<td>Not more $1000</td>
<td>Not more 6 mo.</td>
</tr>
<tr>
<td><strong>New Mexico</strong> 30-3-9</td>
<td>Petty Misd.</td>
<td>Misd.</td>
<td>Not more $500</td>
<td>Not more 6 mo.</td>
</tr>
<tr>
<td><strong>North Carolina</strong> 14-33</td>
<td>Class 1 Misd.</td>
<td>Class A 1 Misd.</td>
<td>Court discretion</td>
<td>Not more 45 days</td>
</tr>
<tr>
<td><strong>North Dakota</strong> 15.1-06-16</td>
<td>Class B Misd.</td>
<td>Class B Misd.</td>
<td>Not more $1000</td>
<td>Not more 30 days</td>
</tr>
<tr>
<td><strong>Ohio</strong> 2903.13</td>
<td>1st Degree Misd.</td>
<td>5th Degree Felony</td>
<td>Not more $100</td>
<td>Not more 6 mo.</td>
</tr>
<tr>
<td><strong>Oklahoma</strong> 21-650.1</td>
<td>Misd.</td>
<td>Misd.</td>
<td>Not more $500</td>
<td>Not more 30 days</td>
</tr>
<tr>
<td><strong>Pennsylvania</strong> 18-2702</td>
<td>2nd Degree Misd.</td>
<td>2nd Degree Felony</td>
<td>Not more $500</td>
<td>Not more 2 yrs.</td>
</tr>
<tr>
<td><strong>South Carolina</strong> 16-3-1040</td>
<td>Class F Felony</td>
<td>Class A Misd.</td>
<td>Not less $200</td>
<td>3-12 mo.</td>
</tr>
<tr>
<td><strong>Tennessee</strong> 49-6-2008</td>
<td>Class A Misd.</td>
<td>Class A Misd.</td>
<td>Not more $2500</td>
<td>Not more 11 mo. 29 days</td>
</tr>
<tr>
<td><strong>Texas</strong> 22.01</td>
<td>Class C Misd.</td>
<td>Class B Misd.</td>
<td>Not more $500</td>
<td>Not more 180 days</td>
</tr>
<tr>
<td><strong>Utah</strong> 76-5-102.3</td>
<td>Class B Misd.</td>
<td>Class A Misd.</td>
<td>Not more $500</td>
<td>Not more 6 mo.</td>
</tr>
<tr>
<td>State and Statute</td>
<td>Classification</td>
<td>Fine</td>
<td>Imprisonment</td>
<td>Both</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------</td>
<td>------</td>
<td>--------------</td>
<td>------</td>
</tr>
<tr>
<td>Virginia 18.2-60</td>
<td>Class 1 Misd.</td>
<td>Not more $2500</td>
<td>Not more 12 mo.</td>
<td>✔</td>
</tr>
<tr>
<td>Washington 28A.635.010</td>
<td>Gross Misd.</td>
<td>Not more $5000</td>
<td>Not more 1 yr.</td>
<td>✔</td>
</tr>
<tr>
<td>Washington 28A.635.100</td>
<td>Gross Misd.</td>
<td>Not more $500</td>
<td>Not more 6 mo.</td>
<td>✔</td>
</tr>
<tr>
<td>West Virginia 61-2-15</td>
<td>Misd.</td>
<td>Not more $100</td>
<td>Not less 6 mo.</td>
<td>✔</td>
</tr>
</tbody>
</table>

- Georgia's law required the use of a weapon.  
- Penalty can be served as community service in lieu of imprisonment.  
- Best fit statute was intimidation, not assault.  
- Only education law specified both.  
- Disorderly persons offenses not considered a crime.  
- Enhanced civil penalty for educator statute: treble civil damages plus attorney fees and court costs.  
- Only educator statute specified both.  
- Educator statute specified AND both.

**Note.** Student discipline laws were not included here because their penalties involved no set classifications, fines, or imprisonment time. A blank cell meant that the law did not specify anything in that particular category; a comparison with a blank cell was not considered an enhanced value unless the law clearly indicated as such.