

SPENCER BOKAT-LINDELL

After a School Shooting, Should Parents Be Prosecuted?

Dec. 14, 2021

**By Spencer Bokat-Lindell**

Mr. Bokat-Lindell is a staff editor.

This article is part of the Debatable newsletter. You can sign up here to receive it on Tuesdays and Thursdays.

On Nov. 30, a 15-year-old boy wandering the halls of Oxford High School in Michigan with a semiautomatic pistol opened fire, killing four children and grievously wounding several others. There was much about this particular school shooting, the deadliest in the United States in three years, that seemed tragically familiar: The shooter was a student at the school, and male; he had shown signs of being on the brink of violence; and he had used a gun that belonged, legally, to his parents.

Which is also why it came as a surprise when the prosecutor in the case, Karen McDonald, announced the highly unusual decision to file criminal charges against the *parents*, not just the child, who she will argue committed involuntary manslaughter by allowing their son access to a gun while ignoring signs of violent thoughts.

McDonald has called her strategy “a brand-new way of approaching school shootings,” one that she hopes will have a preventive effect. Many gun control proponents agree. But can this approach deliver on its promises, is it fair, and what drawbacks and risks does it pose? Here’s what people are saying.

The case for expanding criminal liability

It is not unheard-of for adults to be charged with child abuse, violation of gun laws or even involuntary manslaughter after children too young to be prosecuted accidentally shoot themselves or other children. But for the most part, adult prosecution for school shootings by children is rare:

- Between 1999 and 2018, children committed at least 145 school shootings, according to a review from The Washington Post.

- Children used guns taken from their own homes or from those of relatives or friends in 84 of the 105 instances where a source could be identified, or about 80 percent of the time.
- Across those 84 cases, just four adult owners were ever convicted of a crime.

“I can’t think of a high-profile mass shooting where the parents were prosecuted,” said Allison Anderman, director of local policy at the Giffords Law Center to Prevent Gun Violence.

Why? Legal experts told The Times that a major hurdle to prosecution is the absence in most states — including Michigan — of what’s known as child-access prevention, or C.A.P., laws, which require gun owners to secure their weapons when children are in the household. McDonald has tried to get around that hurdle by charging the parents with involuntary manslaughter.

But the burden of proof for such a charge is high: The jury will have to be convinced that the parents, James and Jennifer Crumbley, were “aware not just generally that their son was troubled but aware that he would or could do this — shoot up that school,” said Eve Brensike Primus, a professor at the University of Michigan School of Law. “That requires a level of mental culpability that is more challenging for a prosecutor to prove.”

Sign up for the Opinion Today newsletter Get expert analysis of the news and a guide to the big ideas shaping the world every weekday morning. [Get it sent to your inbox.](#)

McDonald says the timeline is damning for the Crumbleys:

- On Nov. 26, four days before the shooting, the boy’s father took him to a gun shop and bought him a handgun as an early Christmas gift.
- On Nov. 29, when a teacher reported seeing the boy searching online for ammunition, his mother texted him “LOL I’m not mad at you,” adding, “You have to learn not to get caught.”
- On the morning of the shooting, prosecutors say a teacher found a picture he had drawn with images of a gun, a shooting victim and a laughing emoji, with the words “Blood everywhere” and “The thoughts won’t stop. Help me.”
- Crumbley was removed from the class and sent to a guidance counselor’s office, where he said the drawing was part of a video game he was designing. His parents were summoned to the school and told to send their son to counseling, but they allegedly resisted the idea and left him at the school.

- As news of the shooting broke, prosecutors said, Jennifer Crumbley texted her son: “Ethan don’t do it.” But it was too late.

Many gun control proponents and commentators see promise in McDonald’s approach. “Maybe heightened parental responsibility standards is a solution that both sides of the gun debate can get behind,” writes Danny Cevallos, a legal analyst for MSNBC. “We can provide schools with security plans and active shooter drills, but making more parents criminally responsible could be a powerful preventative fix.”

Others, though, are skeptical. The defense lawyers representing the couple, who have pleaded not guilty, have said that a fuller picture that absolves the parents will emerge. McDonald herself has acknowledged her strategy faces long odds. And even if it succeeds, it could well end up an exception that proves the rule. “I don’t think this is going to spark some wave of charges against parents,” Primus said. “It’s not an easy charge to make.”

Is punishing parents for child shooters really a good idea?

The notion of prosecuting parents of school shooters, in this case and more generally, has critics on both sides of the gun control debate. In *National Review*, Andrew McCarthy argues McDonald is inappropriately trying to compensate for Michigan’s lack of child-access prevention laws by, in effect, retroactively criminalizing the Crumbleys’ behavior and calling it manslaughter.

“It is one thing to say that the parents were egregiously derelict — just as, for example, store owners are egregiously derelict when they sell to suspicious characters substances (including explosive powders) that can be used to make bombs,” he writes. “But that does not make the parents’ conduct a *criminal* violation, much less make them responsible for *homicide* — a much more serious crime, even in the form of involuntary manslaughter, than the C.A.P. crime that Michigan has refused to codify.”

Jonathan Turley  · Dec 3, 2021



@JonathanTurley · [Follow](#)

I have not seen the evidence that would make a compelling case to say that the parents were complicit criminally as opposed to being negligent. [foxnews.com/us/michigan-ma...](https://www.foxnews.com/us/michigan-ma...) Michigan elected not to pass an child access prevention law...

foxnews.com

School shooting suspect Ethan Crumbley's parents returning aft...
Michigan authorities are asking the public to be on the lookout
for the parents of Oxford High School shooting suspect Ethan ...

Jonathan Turley 

@JonathanTurley · [Follow](#)

...There is a risk to improvisational element in charging such a case. The question is whether there is actual knowledge or complicity by the parents as opposed to negligence. Otherwise, charges in this case could present strong grounds for challenge.

10:42 PM · Dec 3, 2021



 156  Reply  Share

[Read 9 replies](#)

Some gun control proponents on the left also doubt that putting the Crumbleys in jail would have much of a deterrent effect on future school shootings. What it *would* do, Kevin Reed argues at The World Socialist Web Site, is establish a dangerous precedent for prosecutorial overreach.

“Children will be jailed for criminal threats without due process, many will be unfairly expelled, and the social ills that produce so many broken people will persist, paving the way for the next horror story,” he writes. Instead of taking on “the fascistic gun lobby,” he

adds, “the capitalist state proposes, as it always does, that the solution lies in putting more people in prison, bringing in more police, expanding the powers of prosecutors.”

And who should we expect to bear the brunt of the state’s expanded punitive power? Evan Bernick, an assistant professor of law at the Northern Illinois University College of Law, predicts it would be Black parents.

“Given common negative stereotypes about Black criminality and parental irresponsibility, holding parents responsible for their children’s felonies could easily lead to still more racially disparate prosecutions,” he writes in *The Washington Post*. And because racial minorities are also more at risk for gang involvement, “prosecutors might target Black parents who fail to identify warning signs in advance and don’t intervene before someone gets hurt or killed.”

What else can be done?

Even those who support the decision to charge the Crumbleys agree that other measures are needed to prevent school shootings. One option is more behavioral surveillance. James Densley and Jillian Peterson, professors of criminal justice, propose “a nationally funded mandate that would create multiagency threat assessment and crisis response teams in every school and community so that children in crisis feel seen and heard, and can be immediately connected to the help and support they need.”

But there are limits to this kind of intervention. As Jessica Grose notes in *The Times*, there is no single reliable profile for a school shooter. Administrators are sometimes wary of contacting law enforcement, and parents aren’t always willing to cooperate, as the Crumbleys showed. And even in retrospect, experts don’t agree about whether administrators at Oxford High School should have known that there was a credible threat to other students.

“I confess that after reporting this out, I don’t feel optimistic,” Grose writes. Teachers and school counselors “aren’t psychic, and in a country where there are, according to one study, 120.5 firearms for every 100 residents, there will always be the potential for a worst-case scenario.”

But for children, at least, C.A.P. laws may provide a politically viable way to reduce the availability of guns. Research suggests that such laws lead to a substantial reduction in both gun-carrying among high school students and unintentional firearm injuries and child deaths. Unlike McDonald’s strategy of implicating the Crumbleys in their child’s crime, C.A.P. laws are narrowly tailored, which may make them less likely to be used for racially targeted prosecution, Bernick says. And according to a 2018 survey, such laws are supported by nearly 60 percent of Americans who own guns and nearly 80 percent of those who don’t.

“The simple truth is if students didn’t have easy access to guns, there would be few, if any, school shootings in America,” Shannon Watts, the founder of Moms Demand Action for Gun Sense in America, writes. “These laws should be nonpartisan, noncontroversial and nonpolitical, and states should implement them immediately so that reckless gun owners can be held accountable for their negligence.”

Do you have a point of view we missed? Email us at debatable@nytimes.com. Please note your name, age and location in your response, which may be included in the next newsletter.

READ MORE

“Child Access Laws Are Increasingly Proven to Protect Kids from Guns” [*The Trace*]

“When parents enable gun massacres, they should be locked up, too” [*The Washington Post*]

“More states consider laws to punish parents if children fire unsecured guns” [*The Washington Post*]

“The Oxford Mass Shooting Shows the Limits of ‘Hardening’ Schools” [*The Trace*]

“Prosecuting Ethan Crumbley’s parents over the Oxford school shooting is an admission of failure” [*Yahoo*]

A correction was made on Dec. 15, 2021: An earlier version of this article misspelled the surname of a writer for the World Socialist Web Site. He is Kevin Reed, not Freed.

When we learn of a mistake, we acknowledge it with a correction. If you spot an error, please let us know at nytnews@nytimes.com. [Learn more](#)

Spencer Bokatz-Lindell is a staff editor in the Opinion section. [@bokatzlindell](#)