



School-Safety Law, Local Discretion, and the Boundaries of Protected Speech: A Tennessee Case Study

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Abstract: In this paper, I offer a critical case study of how a state law aimed at preventing mass violence in schools has been applied to restrict expression, both inside and outside educational settings. Tennessee's threat-of-mass-violence statute has produced felony charges, expulsions, and detentions for students as young as 10, and, in its most extreme application, the arrest and five-week incarceration of a retired police officer for sharing a political meme with no connection to any school. This case raises questions about the interpretive reach of educational laws. Using the Foucauldian concept of governmentality, I examine how this educational policy extended beyond educational settings and into a politically charged context. I use a set of documented cases, anchored by one extreme and well-documented example, to explore the legal ambiguity and discretionary power embedded in a single state policy. This study contributes to an understanding of how education policy can intersect with civil liberties, especially when enacted in an era of heightened polarization and public concern over school violence.

Keywords: school safety; state legislation; freedom of speech; student rights; discipline policy; education policy

La ley sobre seguridad escolar, la discrecionalidad local y los límites de la libertad de expresión protegida: Un estudio de caso en Tennessee

Resumen: En este artículo presento un estudio de caso crítico sobre la manera en que una ley estatal destinada a prevenir la violencia masiva en las escuelas ha sido aplicada para restringir la libertad de expresión, tanto dentro como fuera de los entornos educativos. La ley de Tennessee sobre amenazas de violencia masiva ha dado lugar a acusaciones por delitos graves, expulsiones y detenciones de estudiantes de tan solo 10 años de edad y, en su aplicación más extrema, al arresto y encarcelamiento durante cinco semanas de un policía retirado por compartir un meme de carácter político sin ninguna relación con una escuela. Este caso plantea interrogantes sobre el alcance interpretativo de las leyes educativas. Utilizando el concepto foucaultiano de gubernamentalidad, examino cómo esta política educativa se extendió más allá de los contextos escolares hacia un entorno políticamente polarizado. A partir de un conjunto de casos documentados, articulados en torno a un ejemplo extremo y ampliamente documentado, exploro la ambigüedad jurídica y el poder discrecional incorporados en una política estatal. Este estudio contribuye a comprender cómo las políticas educativas pueden entrecruzarse con las libertades civiles, especialmente cuando se implementan en un contexto de creciente polarización y preocupación pública por la violencia escolar.

Palabras clave: seguridad escolar; legislación estatal; libertad de expresión; derechos estudiantiles; política disciplinaria; política educativa

A lei de segurança escolar, a discricionariedade local e os limites da liberdade de expressão protegida: Um estudo de caso no Tennessee

Resumo: Neste artigo, apresento um estudo de caso crítico sobre a maneira como uma lei estadual destinada a prevenir a violência em massa nas escolas tem sido aplicada para restringir a liberdade de expressão, tanto dentro quanto fora dos contextos educacionais. A lei do Tennessee sobre ameaças de violência em massa resultou em acusações por crimes graves, expulsões e detenções de estudantes com apenas 10 anos de idade e, em sua aplicação mais extrema, na prisão e no encarceramento por cinco semanas de um policial aposentado por compartilhar um meme de caráter político sem qualquer relação com uma escola. Esse caso levanta questões sobre o alcance interpretativo das leis educacionais. Utilizando o conceito foucaultiano de governamentalidade, examino como essa política educacional extrapolou os contextos escolares e se estendeu a um ambiente politicamente polarizado. Com base em um conjunto de casos documentados, tendo como referência um exemplo extremo e amplamente documentado, exploro a ambiguidade jurídica e o poder discricionário incorporados em uma política estadual. Este estudo contribui para a compreensão de como as políticas educacionais podem se entrelaçar com as liberdades civis, especialmente quando implementadas em um contexto de crescente polarização e preocupação pública com a violência escolar.

Palavras-chave: segurança escolar; legislação estadual; liberdade de expressão; direitos dos estudantes; política disciplinar; política educacional

School-Safety Law, Local Discretion, and the Boundaries of Protected Speech: A Tennessee Case Study

In September 2025, a man in rural Tennessee was arrested and jailed for over a month after sharing a political meme on Facebook (Cavedon, 2025). The meme, referencing the death of conservative activist Charlie Kirk and quoting President Donald Trump, was interpreted by local authorities as a threat of mass violence against a school. The man, Larry Bushart, was charged with a felony under a Tennessee law originally passed to protect schools from mass shooting threats. Although the charges were later dropped, and the case eventually settled for \$835,000 (Friedman,

2026), the incident received widespread attention and raises concerns about the expanding reach of educational policy into areas of political speech and civic expression. Bushart's arrest added to other issues related to the school safety law in Tennessee after the law was strengthened in 2023. In one case, an 11-year-old with autism was arrested and charged after telling a classmate his backpack would explode; school staff searched it, found a stuffed animal, and concluded there was no threat, yet police arrested him anyway (Swaby & Pfleger, 2024). In another case, a 12-year-old was expelled after reposting a screenshot of threatening texts he had not written (Swaby, 2025a). Additionally, two East Tennessee families sued school districts over the arrests of an 11-year-old and a 13-year-old under the statute (Swaby & Pfleger, 2025a). These cases involve students, schools, and the educational settings the law was written to protect. Bushart's case involves none of these things. Yet, these examples show a single statute operating along a continuum: from disciplinary overreach against children inside schools, to the criminal prosecution of a private citizen with no connection to a school at all. This case shows how a school-safety law meant to prevent mass violence has been enforced across, and increasingly beyond, its intended educational domain.

In recent years, some states have expanded laws related to school-based threats of violence, often in response to mass shootings and growing political pressure. Tennessee's legislation, passed in 2021 and strengthened in 2023, is part of this broader movement. However, the language of such laws is often broad, granting considerable discretion to local officials and law enforcement. These conditions raise the question explored in this article:

How did a state law aimed at preventing school-based mass violence come to justify disciplinary and criminal consequences for students inside schools, and, in its most extreme application, the arrest of a private citizen with no connection to any school?

I approach this question through a case study centered on the arrest of one man in Tennessee, situated within the broader pattern of student cases that preceded it, to examine how an educational law was used to restrict constitutional rights and, in Bushart's case, led to the loss of liberty for an extended period of time. This is a serious offense in a liberal, rules-based society built on the maxim from Blackstone's Commentaries, the basis of the common law system underlying the U.S. legal tradition, that "all presumptive evidence of felony should be admitted cautiously: for the law holds, that it is better that ten guilty persons escape, than that one innocent suffer" (Blackstone, 1769, Book 4, Ch. 27). Analysis in this paper does not seek to generalize from a single incident but instead uses a pattern of cases, anchored by an extreme example, to explore how an education-related statute was interpreted, and how it has been mobilized both within and beyond schools. The focus is centered on understanding how this law has been applied and what that application reveals about the intersections of education policy, civil liberties, and state power.

This study contributes to education policy scholarship by showing how a school safety law, designed to prevent acts of violence led to the loss of first-amendment rights of citizens. Using a governmentality framework, I examine how policies rooted in educational governance can extend beyond education. The findings suggest that education policy, particularly when written in broad and flexible terms, can be a site of contestation over free speech and civic life, especially in a climate of polarization and public fear.

Background and Context

In the last 30 years since the Columbine High School massacre, states have tried to reckon with the complexity of limiting mass violence events in schools amid liberal gun laws that make firearms easily obtainable (Flannery et al., 2021; Jeynes, 2021). States have struggled to create policies

that identify potential actors through threat assessments, yet every year, these instances of mass violence continue to occur (Burton et al., 2021). In recent years, following highly publicized school shootings, lawmakers have expanded criminal statutes directed at youth behavior, particularly around threats communicated through social media (Swaby, 2025a). Tennessee represents a particularly stark example of this trend. In the wake of the 2023 Covenant School shooting in Nashville, where three children and three adults were killed, the state legislature strengthened its criminal threat laws, transforming what had previously been a misdemeanor offense into a felony for “recklessly” making an act-of-mass-violence threat on school property, by any means of communication (Tennessee Code Annotated, 2024). These changes were enacted quickly and with bipartisan support, framed as a necessary response to protect schools and deter future threats (Stockard, 2025).

Instances of misapplication of Tennessee’s school threat law reveal issues with real-world application. Children as young as 6 have been charged with felonies for behavior that did not constitute a “true threat” under established First Amendment standards, and many of the children charged had disabilities or were students of color (Swaby & Pfleger, 2026). One case involved an 11-year-old student with autism who told a classmate his backpack would blow up if anyone touched it. Staff searched the bag, found a stuffed animal, and returned him to class, having concluded he had not made a threat. Police arrested and charged him anyway (Swaby & Pfleger, 2024). His family later reached a \$100,000 settlement with the charter school that reported him (Swaby & Pfleger, 2025c). In a separate case, a 12-year-old was arrested and expelled after reposting a screenshot of threatening texts he had not written; he told officials he wanted to warn others, but was treated as a threat-maker (Swaby, 2025a). Two East Tennessee families filed suit after their 11-year-old and 13-year-old children were arrested under the statute (Swaby & Pfleger, 2025a).

The statute has also reached students whose conduct was plainly performative. In Greene County, 16 middle school cheerleaders filmed a 45-second TikTok before practice in which one girl said, “put your hands up” while others flickered the lights and dropped to the floor playing dead, ending with the caption “To be continued.” Their faces were visible and the scene was obviously staged, but the video was posted days after the Apalachee High School shooting in neighboring Georgia, and the Greene County Sheriff’s Department charged all 16 girls with disorderly conduct. Each was placed on three months of probation and her family paid more than \$100 in court costs, and the team’s assistant coach lost her job (Swaby, 2025b). In a separate case, a 16-year-old in Lincoln County used an app to make an AI-generated “roast” video of a friend, shared it privately with about 10 classmates, and was expelled for a year and charged with a felony threat of mass violence after another student recirculated it, even though administrators acknowledged the video had been intended as a joke. The charge was later dismissed (Swaby, 2025b).

Another pathway to student accusations ran through the statute’s mandatory reporting requirement, under which anyone aware of a threat had to report it to law enforcement. As enacted, that duty did not require a threat to be credible. In some counties it became standard practice to refer nearly every reported statement to police, even after a school’s threat assessment team had judged it not credible, and children were charged over statements they had no ability to carry out (Swaby, 2025a; Swaby & Pfleger, 2025a). In 2025, State Senator Ferrell Haile defended the law and resisted narrowing it, arguing that police and district attorneys, not principals or counselors, should decide whether a threat was credible (Stockard, 2025). Advocates for students with disabilities warned that the statute would negatively impact young people who may not fully understand the consequences of their statements or social media activity (Stockard, 2025).

The contrast between research-based threat assessment and Tennessee’s practice is especially clear in the account of the 12-year-old student expelled after reposting a screenshot (Swaby, 2025a). Tennessee law required the student’s school to conduct a threat assessment to determine whether

the threat was “valid.” The district used a widely adopted behavioral threat assessment form, but instead of gathering information about the student’s motive, access to weapons, mental health, or family context, school officials checked a few boxes and wrote “student was expelled” on the page listing possible interventions (Swaby, 2025a). Experts who reviewed the case described it as gross mismanagement, noting that expulsion without supportive follow-up neither addresses underlying needs nor ensures safety for the school community (Swaby, 2025a). This pattern runs counter to the threat assessment literature, which stresses that expulsion alone does not move a student off the pathway of violence and may worsen isolation and distress (Cornell & Sheras, 2006; U.S. Secret Service National Threat Assessment Center, 2019). Tennessee’s own experience demonstrates the point, where a Nashville student who later opened fire at his school had generated prior warning signs that were not effectively addressed (Swaby & Pfleger, 2025b).

Amendments to Tennessee Code § 49-6-3401 required schools to conduct formal threat assessments and determine whether a threat was “valid” before expelling a student for at least a year, while a separate 2025 provision required schools to notify parents only of “credible” threats (Swaby, 2025a). At the same time, the criminal statute as strengthened after Covenant did not require any finding of credibility or intent before a threat could trigger felony charges and detention (Swaby, 2025a). This created a contradiction where education law asked schools to sort valid threats from invalid ones, while the criminal law governing arrest and detention required no such finding. That mismatch contributed to punitive outcomes even when schools failed to conduct, or improperly conducted, the required assessments (Swaby, 2025a).

In April 2026, after a series of news reports and pressure from advocates, the legislature moved to close part of this gap. House Bill 1273 narrowed the failure-to-report offense so that school officials are required to report only threats they deem credible, meaning reasonably expected to be carried out (HB 1273, 2026; Swaby & Pfleger, 2026). The same bill extended the felony to threats made against child care agencies, preschools, and religious institutions (HB 1273, 2026). The representative who a year earlier had defended the law and proposed extending it further, now framed the change as a way to keep students with disabilities from being arrested for statements they have no ability to carry out (Swaby & Pfleger, 2026). The updated law is a partial remedy as it adds a credibility threshold at the reporting stage inside schools, but it does not require police or prosecutors to weigh credibility before charging or arresting, and it does nothing to constrain the application of the statute to speech outside any school, which is the pathway examined in the case that follows (Swaby & Pfleger, 2026).

It is difficult to know exactly how many students have been reported to police or districts under the statute, as Tennessee does not publicly release statewide data on how many threat assessments are conducted, how many students are expelled for threats, or how often students are arrested or detained under the criminal statute (Swaby, 2025a). The combination of opaque data, inconsistent training, and expansive criminal penalties makes it difficult for scholars and the public to evaluate whether these laws have improved safety or just expanded the reach of the juvenile justice system into everyday school life. School violence experts emphasize that schools cannot suspend, expel, or charge their way out of targeted mass violence (Swaby & Pfleger, 2025b), and that sustainable prevention depends on careful threat assessment, mental health supports, and strong relationships between adults and students (Cornell & Sheras, 2006; U.S. Secret Service National Threat Assessment Center, 2019; Flannery et al., 2021; Burton et al., 2021).

These student cases reveal a common educational policy pattern of a broadly written statute, applied through local discretion, producing outcomes disconnected from evidence-based threat assessment. The case examined in the remainder of this article, the arrest of Larry Bushart, extends that same pattern outside of schools, showing what happens when the discretionary logic that

produces expulsions and disorderly conduct charges for students is applied to an adult with no connection to a school whatsoever.

Case Context and Analysis

The Arrest and Prosecution of Larry Bushart

In September 2025, retired Tennessee law enforcement officer Larry Bushart Jr. became a test case for how far Tennessee's school-safety statute could stretch when applied to online political speech. A 61-year-old liberal (politically left of center) in a largely conservative rural region, Bushart had spent more than three decades as a police officer, sheriff's deputy, and Tennessee Department of Correction employee before retiring to Lexington, a town between Nashville and Memphis (Segura, 2025; Burnett, 2025). Facebook was his outlet for daily political commentary. Friends and critics knew him as a frequent poster of pointed, often abrasive memes (political images) that targeted Donald Trump, election deniers (those who believe that the 2020 presidential election was corrupt), and the broader right wing (Segura, 2025). The events that led to his arrest unfolded in the charged atmosphere after conservative activist Charlie Kirk was assassinated. In the days that followed, Bushart posted continuously about why Kirk should not be lionized and about what he saw as the double standard around free speech in the Trump era (Segura, 2025). One of those posts appeared in the community Facebook group "What's Happening in Perry County," in a thread promoting a candlelight vigil for Kirk in Linden, Tennessee. Alongside more inflammatory memes, Bushart shared a now-familiar image: a photo of Donald Trump with the words "We have to get over it," attributed to his remarks one day after a January 2024 school shooting at Perry High School in Perry, Iowa (See Figure 1). Above the image, Bushart added, "This seems relevant today ..." (Burnett, 2025; Cavedon, 2025; Segura, 2025).

Figure 1

Facebook Post Image from Larry Bushart



Note. Reproduced from *Bushart v. Perry County*, No. 1:25-cv-01288 (W.D. Tenn. 2025)

The meme was an act of political critique as it drew a line between Trump's instruction to move on quickly from a school shooting and the public mourning for a right-wing political celebrity. Commenters in the Perry County group largely treated Bushart as a troll rather than a threat. One told him to relax and mow his lawn. Others liked a separate meme that framed Kirk's politics as selling a race war on behalf of billionaires (Segura, 2025). No one responded by accusing him of

planning violence, and there were no public warnings from schools or law enforcement about an imminent threat (Burnett, 2025; Segura, 2025).

Perry County Sheriff Nick Weems read the situation differently. Weems had helped promote the Kirk vigil on social media, and when he saw Bushart's memes, he flagged the post to Investigator Jason Morrow and directed him to have the Lexington Police Department investigate (Bushart v. Perry County, 2025, paras. 32, 44-45). The federal civil rights complaint later filed on Bushart's behalf provides the clearest record of what followed, and I draw on it directly here because it reproduces the officers' own words and the affidavit's text. On the evening of September 21, a Lexington officer visited the Bushart home. The officer told Bushart he had "really no idea what they are talking about," only that a Perry County officer had reported "some concerning posts" and that "something was insinuating violence" (Bushart v. Perry County, 2025, paras. 50-51). Bushart, identifying himself as a former officer, replied that the post was not a threat and declined to take it down: "No it wasn't. I'm not going to take it down. Go look" (Bushart v. Perry County, 2025, para. 52). The Lexington officer left with no evidence of a threat, having declined even to look at the post (Bushart v. Perry County, 2025, paras. 53, 55).

The warrant affidavit tried to transform the meme into a statutory violation. Investigator Morrow's affidavit stated that Bushart's post, made on the Perry County Facebook page, was "a means of communication, via picture, posted to a Perry County, TN Facebook page in which a reasonable person would conclude could lead to serious bodily injury, or death of multiple people" (Bushart v. Perry County, 2025, para. 62). The affidavit omitted the fact that the meme referred to a real shooting that had occurred in Iowa in January 2024, nearly two years earlier (Bushart v. Perry County, 2025, para. 64). The complaint alleges Morrow omitted this information "with the purpose of manufacturing probable cause where there was none," and that the reviewing magistrate was a nonlawyer with no formal legal education (Bushart v. Perry County, 2025, paras. 65, 69). The only factual hook connecting the meme to Tennessee was the shared word Perry. There was no mention of Perry County High School, no reference to any future action by Bushart, and no evidence that he possessed weapons or had any connection to the local school.

At 11:14 PM on September 21, four Lexington officers arrived at the Bushart home and executed the warrant. One officer told Bushart that Perry County had "issued a warrant" charging him with "threatening mass violence at a school" (Bushart v. Perry County, 2025, paras. 73-74, 79). The disconnect was plain in the exchange that followed. "At a school?" Bushart asked. The officer, warrant in hand, answered, "It's referring to a school. I have no idea. This is what they've called us for, and I ain't got a clue" (Bushart v. Perry County, 2025, paras. 80-81). Bushart said, "I played on Facebook. I threatened no one," and later, "I may have been an asshole, but," at which point the officer interjected, "That's not illegal" (Bushart v. Perry County, 2025, paras. 82-85). Bushart's bond was set at \$2 million, which he could not pay (Bushart v. Perry County, 2025, para. 91). The Perry County school district had no records at all concerning Bushart or the meme. Responding to public records requests, the Director of Perry County Schools stated plainly, "the school system has no records on this case," and directed the requester to the sheriff's office (Bushart v. Perry County, 2025, paras. 102-103). This absence matters for the statute's own terms. Tennessee Code § 39-16-517(d) requires anyone with knowledge of a threat of mass violence on school property to report it to both law enforcement and the school, yet no such report reached the district (Bushart v. Perry County, 2025, para. 104). There were no public announcements to families, no interruption of classes, and no evidence that administrators believed their school was in danger.

Legal commentary reframed the case as a problem of shoddy legal footing for arrest. Cavedon (2025) argued that the First Amendment limits criminalization of speech to narrow categories such as true threats and incitement, and that the Trump meme fell into a different,

protected category of political expression. The complaint makes the same point in constitutional terms, characterizing the meme as “at most rhetorical political hyperbole about a matter of public concern,” which the Supreme Court has held does not amount to a proscribable threat (Bushart v. Perry County, 2025, paras. 71, 133; see *Watts v. United States*, 1969). The Tennessee law’s broad language about recklessly making threats of mass violence, combined with local pressure after the Covenant School shooting, created an environment in which a sheriff could treat controversial speech about school shootings as presumptively dangerous and sort out the constitutional questions later. The personal consequences for Bushart were severe. He spent 37 days in jail, missing the birth of his granddaughter and his wedding anniversary, and losing his post-retirement job in medical transportation because his incarceration made it impossible to perform his duties (Bushart v. Perry County, 2025, paras. 119-121). On October 29, 2025, the day after national coverage of the case intensified, the district attorney moved to enter a *nolle prosequi*, and Bushart was released the same day (Bushart v. Perry County, 2025, paras. 114-115). The complaint states the dismissal was not the product of any plea or settlement but followed from the fact that the post was not a crime and that officials lacked probable cause to believe it was (Bushart v. Perry County, 2025, paras. 209-210).

Resolution

In December 2025, The Foundation for Individual Rights and Expression (FIRE), an organization that represents individuals who have had their first amendment rights violated, filed a federal civil rights suit on Bushart’s behalf against Perry County, Weems, and Morrow, alleging First Amendment retaliation, unconstitutional application of § 39-16-517, false arrest, and malicious prosecution (Bushart v. Perry County, 2025). In May 2026, Perry County settled the suit for \$835,000 (Friedman, 2026). The complaint and the settlement together are notable for what they confirm about Weems’s own understanding of the meme at the time of the arrest. In a television interview on the 37th day of Bushart’s detention, an interviewer noted that the meme was an existing image already circulating online, so it was clear Bushart was not talking about Perry County High School. Weems responded, “We knew” (Bushart v. Perry County, 2025, para. 109). In a separate Facebook comment, Weems wrote, “We were very much aware of the meme being from an Iowa shooting” (Bushart v. Perry County, 2025, para. 98). These admissions undercut the warrant affidavit’s claim that a reasonable person would read the meme as a threat tied to Perry County. It is difficult to argue that the arrest was not a case of an ambiguous statute innocently misapplied, but of officials who understood the meme’s context under the statute regardless. Weems’s stated rationale, that the meme “created mass hysteria” among parents and teachers who did not recognize the reference (Bushart v. Perry County, 2025, para. 99), locates the alleged harm not in any threat Bushart made but in the reactions of an audience the sheriff himself acknowledged had misread it.

Bushart’s case was not isolated in its aftermath, either. FIRE also represented an Austin Peay State University professor who was initially fired over social media posts quoting Kirk and was later reinstated with a \$500,000 settlement (Friedman, 2026). A separate case involving a former Tennessee state commerce and insurance department employee, also fired over Kirk-related posts, was pending as of this writing (Friedman, 2026). These cases suggest that the discretionary application of speech-related consequences following Kirk’s death extended across Tennessee institutions, including at least one directly educational setting, a public university.

Bushart’s case illustrates how a statute written in the name of student safety became a flexible tool for policing political dissent. A single meme, quoting the president’s own words about a different school shooting, was recast as a felony threat against a local high school, opening the door to arrest, incarceration, and high bond under Tennessee’s post-Covenant school-threat law (Segura, 2025; Williams, 2025). The fact that any citizen could be taken from their home, jailed for more than

a month, and forced to rebuild their life over a Facebook post shows how quickly the boundaries between school safety and political speech can blur when statutes invite expansive readings and when local officials are trusted to supply the story that makes a law seem necessary (Burnett, 2025; Cavedon, 2025).

Political Context: The Charlie Kirk Assassination and Social Media Retaliation

In September 2025, conservative activist Charlie Kirk was assassinated while participating in an event on a college campus in Utah (Debusmann & Wendling, 2025). The assassination set off an immediate and polarized reaction across the country, and employers in both the public and private sectors began reviewing employees' social media posts and taking disciplinary action against workers whose comments were judged inappropriate or celebratory in tone. An employee at Nasdaq was fired after company officials concluded her posts about Kirk's death violated internal conduct policies (Bhandari & Sen, 2025). Educators across multiple states lost their jobs for posting reactions administrators interpreted as insensitive or supportive of political violence, and some later pursued legal claims arguing their rights had been infringed (Zaru & Jones, 2025). In Tennessee, a staff member at Middle Tennessee State University was dismissed after being publicly identified for comments about the assassination that university officials deemed unacceptable (Pfleger et al., 2025). A columnist at *The Washington Post* was terminated over similar comments (Helmore, 2025), and reporting described organized campaigns to identify and pressure employers into disciplining individuals who posted critical or mocking reactions (Breland, 2025; Cerullo, 2025). This period created a climate of intensified scrutiny surrounding online speech, in which employers moved rapidly to distance themselves from anything interpreted as condoning violence or inflaming political tensions. This broader context shaped the environment in which Tennessee authorities later applied the state's expansive school-threat statute to arrest and jail a man for sharing a meme critical of President Trump and of the late Charlie Kirk.

Literature About Negative Response to School Safety Laws

This study speaks to a body of education policy scholarship on how schools respond to the threat of violence and how those responses can end in the criminalization of students. Much of that scholarship begins with zero tolerance. In the 1990s, after a handful of highly publicized shootings, schools adopted policies that imposed automatic, severe consequences for a widening range of student behavior, regardless of context or intent. The most thorough evidentiary review of these policies concluded that they did not make schools safer and produced a range of harms, including higher rates of suspension, expulsion, and juvenile justice involvement (American Psychological Association Zero Tolerance Task Force, 2008). The Tennessee statute examined here is a recent instance of the same logic. It responds to a tragedy with a broad, mandatory rule that removes discretion at the point where discretion matters most.

A related literature traces what happens after a school treats student behavior as a criminal matter. Scholars have described a school-to-prison pipeline, in which exclusionary discipline and the involvement of police move students out of classrooms and into the juvenile and criminal justice systems (Skiba et al., 2014; Wald & Losen, 2003). Hirschfield (2008) argues that school discipline itself has been criminalized, so that conduct once handled by a principal is now handled by an officer. The growth of school policing is central to this shift. The presence of school resource officers has been linked to the reclassification of ordinary adolescent behavior as criminal conduct and to increases in school-based arrests (Theriot, 2009). These consequences fall unevenly. Students of color and students with disabilities are disciplined, referred to police, and arrested at

disproportionate rates (American Psychological Association Zero Tolerance Task Force, 2008; Perez-Mugg & Taylor, 2025). The Tennessee cases fit this pattern closely, both in who was arrested, often children of color and children with disabilities, and in how routine misunderstandings became felonies. Underlying these developments is what Kupchik (2010) calls school discipline in an age of fear. He shows how anxiety about rare but catastrophic events reshaped everyday school governance, layering surveillance, security personnel, and harsh punishment onto institutions whose crime rates were in fact declining. Recent education policy scholarship extends this analysis by examining how a safety narrative can be invoked to override concern about the harms that safety measures produce, and how that narrative is often treated as neutral even as its burdens fall along lines of race (Perez-Mugg & Taylor, 2025). Work on educators' responses to school shooting policy similarly shows how fear structures what school actors believe they must do (Hara, 2020). This scholarship is a natural home for the present case, because Tennessee's statute is a governance response to fear that reaches beyond the classroom.

Against this punitive turn, a separate literature describes what evidence-based prevention looks like. Behavioral threat assessment asks trained teams to gather context, weigh credibility, and distinguish a genuine risk from a transient statement, then respond with support rather than exclusion (Cornell & Sheras, 2006; U.S. Secret Service National Threat Assessment Center, 2019). The consensus in this literature is that expulsion and arrest, absent assessment and support, do not move a student off a pathway toward violence and may deepen the isolation that prevention is meant to address. The Tennessee record shows a wide gap between this standard and actual practice, in which a required threat assessment was reduced to a form completed after a child had already been arrested and expelled.

What this literature has largely not examined is the point at which a school-safety law leaves the school. The criminalization scholarship keeps its focus, understandably, on students inside educational institutions. Yet Tennessee's statute is written broadly enough to reach any person who communicates a perceived threat of mass violence, and its enforcement runs through criminal law and local law enforcement rather than through the education code's procedural checks. This study extends the criminalization-of-schooling literature past the schoolhouse door. It uses a governmentality lens to trace how the same discretionary logic that produces felony charges for students can produce the arrest of an adult with no connection to a school, and it locates the difference between the two not in the governing mechanism but in the procedural protections that exist inside schools and vanish outside them. In what follows, I provide an explanation of the theory and methods used for this case study and then present the findings of the analysis, followed by discussion and implications for policy.

Theory and Methods

The concept of governmentality (Foucault, 2007) frames this paper, serving as the lens through which I examine how Tennessee's school-threat statute moved from its educational origins into the disciplining of students and the policing of adult political expression. This framework treats policy not as a neutral legal instrument but as a site of power, interpretation, and governance, shaped by political context and enforced through local discretion. From this perspective, a statute is enacted in a particular political moment, in this case the heightened climate following the Covenant School shooting, and carries assumptions about danger, security, and risk. Its broad terms leave room for interpretation, and local actors give the law meaning as they apply it. In this context, the Bushart arrest and the student cases that preceded it are predictable outcomes of a broadly written statute placed in the hands of officials with wide discretion, in a climate of fear. I use governmentality to

analyze the political and discursive conditions that produced the statute, the interpretive flexibility created by its broad provisions (“recklessly,” “any means of communication”), and the consequences it produced for students and adults alike, consequences that extend beyond schools and into the criminalization of political digital speech.

Governmentality

Michel Foucault’s (2007) concept of governmentality helps explain how a law can be applied in unexpected ways once it is in the hands of state actors. Governmentality refers to the ways institutions, discourses, and everyday practices guide and shape people’s conduct by setting the boundaries of what seems reasonable, risky, or thinkable (Foucault, 2007). Rather than focusing on the state as a single entity, governmentality draws attention to how power circulates through ordinary decisions made by police officers, administrators, and others who interpret laws on the ground. Through this lens, policy becomes a tool for managing fear, uncertainty, and imagined threats. People regulate themselves because they internalize the possibility that their words or actions might be viewed as dangerous.

Understanding the Tennessee school-threat statute through this perspective shows how the law functions as a governmental technology. The text of the statute invokes school safety, mass violence, and protection of children, powerful discourses in American political life. These discourses generate a climate in which a wide range of behavior can be viewed as potentially threatening, whether it is a theatrical TikTok video, a private roast video shared among friends, or a political meme with no reference to a school at all. The law’s broad communication provisions extend the reach of state authority beyond schools and into the realm of digital political expression. Dean’s (1999) analytics of government deepens this interpretation by directing attention to the routine practices through which officials enact rule. Dean argues that to understand how governance works, one must examine the rationalities and habits that shape decision-making within institutions. In the Bushart case, local law enforcement did not merely follow the statute but interpreted its ambiguous language through the lens of fear, precaution, and political pressure, and Sheriff Weems’s later admission that he understood the meme’s actual referent shows that this was not confusion but a discretionary choice. Their decision to treat a political meme as a threat demonstrates how governmental power operates through mundane choices rather than dramatic state action.

Methods

This study was conducted as a qualitative case study, with the arrest of Larry Bushart serving as the anchoring case, situated within the broader pattern of Tennessee student cases described above. Case study methodology is appropriate for examining a contemporary incident situated within its real-life legal and political context (Yin, 2009). As Merriam (1998) notes, qualitative case studies allow researchers to understand complex social situations by drawing on multiple forms of evidence, including legal documents, media sources, and reports (Yazan, 2015). The Bushart case was selected because it demonstrates, in its most extreme form, how Tennessee’s threat-of-mass-violence statute, originally written to protect schools in the wake of the Covenant School shooting, has been applied to instances of behavior and speech that did not involve an actual threat to a school, ranging from theatrical student videos to online political commentary by an adult with no connection to any school. The case therefore provides insight into how a school-safety law can expand in practice into a broader instrument for monitoring and criminalizing expression.

The policy and legal context for this case is Tennessee Code § 39-16-517, first enacted in 2021 and amended in 2024 as part of a package of legislative responses to growing public concern about school shootings (see Table 1). The law defines “mass violence” as any act that a reasonable person would believe could lead to the serious bodily injury or death of two or more individuals, and

applies to threats communicated verbally, in writing, or electronically, including social media posts. It criminalizes reckless communication of such threats when directed at school property or school-related activities. It also imposes mandatory reporting requirements on individuals who become aware of such threats and authorizes evaluations of defendants to assess their potential danger to themselves or others. By design, the law is framed around school contexts, yet its broad coverage of communication and threat interpretation created the legal foundation for both the student cases described above and the arrest examined in this study.

Table 1

Key Provisions of Tenn. Code § 39-16-517 (2024)

Key Element of Law	Summary
Definition: Mass Violence	“Mass violence” means an act that a reasonable person would conclude could cause serious bodily injury or death to two or more persons (§ 39-16-517(a)(1)).
Definition: Means of Communication	Includes verbal, written, electronic, digital, and visual communication, such as social media posts, videos, diagrams, texts, group chats, and graffiti (§ 39-16-517(a)(2)).
Definition: School	Applies to public and private K-12 schools and all postsecondary institutions (§ 39-16-517(a)(3)).
Definition: School Property	Includes any building, bus, campus, grounds, athletic field, or other property owned, used, or operated by a school or LEA (§ 39-16-517(a)(4)).
Felony Offense	Recklessly making a threat of mass violence by any means of communication is a Class E felony (§ 39-16-517(b)(1)).
Exemption	The statute does not apply to individuals with an intellectual disability (§ 39-16-517(b)(2)).
Court-Ordered Evaluation	Courts may require a mental-health evaluation as a condition of bail or pretrial release (§ 39-16-517(c)).
Mandatory Reporting Requirement	Any person with knowledge of a threat must report it immediately to law enforcement and the school (§ 39-16-517(d)(1)).
Reporting Details Required	Report must include the nature of the threat, identity and address of the person making the threat (if known), and any other pertinent information (§ 39-16-517(d)(2)).
Penalty for Failure to Report	Knowingly failing to report a known threat is a Class B misdemeanor (§ 39-16-517(d)(3)).
Restitution	Courts may order restitution for costs or damages caused by disruptions related to the threat (§ 39-16-517(e)).
Juvenile Penalty	Juveniles adjudicated delinquent receive a mandatory one-year suspension of driving privileges (§ 39-16-517(f)).

Note. The provisions above reflect the statute as applied during the events analyzed here. In 2026, House Bill 1273 amended the reporting scheme so that the failure-to-report offense applies only to credible threats, and extended the felony to threats against child care agencies, preschools, and religious institutions (HB 1273, 2026). The charging standard for the underlying offense was not changed.

Analytic Approach

I used inductive thematic analysis to examine how Tennessee's threat-of-mass-violence statute has been applied across student cases and in the Bushart arrest (Braun & Clarke, 2006; Elliott, 2018). The corpus drew on three kinds of material: the relevant statutory and legal texts, the primary documents in the Bushart case, and journalistic reporting on the Bushart arrest and the Tennessee student cases. I did not conduct original interviews for this study; the statements attributed to Weems and Bushart throughout this paper are drawn from their public comments as reported by journalists who spoke with them directly, and I have relied on that reporting rather than treating it as primary interview data of my own. I assembled the corpus in stages rather than through a single database query. I began with the primary documents in the Bushart matter: the text of § 39-16-517, the arrest warrant and affidavit, the charging instrument, and, once it was filed, the federal civil rights complaint, which reproduced much of the underlying record. I then gathered contemporaneous reporting on the arrest, tracing coverage outward from the first national accounts to the local and legal reporting that followed the case through its dismissal and 2026 settlement. For the student cases, I relied on the investigative reporting by ProPublica and WPLN, which did the original reporting that other outlets later summarized, and I followed the statute through the legislative record, including its 2026 amendment. I located coverage by searching for the names of the parties, the statute and its section number, and terms such as "threat of mass violence," "school threat," and "Tennessee" across general news databases and the outlets' own archives, continuing until further searches returned no new documents bearing on the cases. I included sources that documented the facts, legal posture, or resolution of the Bushart case or the student cases, the text and history of the relevant statutes, or the political climate in which the statute was enforced. I excluded sources that added no new factual or legal information, commentary on unrelated cases, and material that could not be traced to a named outlet or document. This produced a corpus of the statutory and legal texts, the federal complaint, ProPublica's reporting on the student cases, and 37 additional news sources. I make no claim that this set is exhaustive. It reflects the publicly available record on these cases as of the 2026 settlement.

After compiling these materials, I conducted multiple rounds of reading to allow patterns, categories, and themes to emerge directly from the data, following Nowell et al.'s (2017) approach to establishing trustworthiness in thematic analysis. Rather than beginning with predefined concepts from the statute, I attended to how various actors, sheriffs, prosecutors, lawmakers, journalists, and the public, described events, interpreted speech and behavior as threatening or not, and justified their positions. I coded initial categories by hand across the corpus, then grouped codes into candidate themes and refined them through iterative comparison and memo-writing, checking each theme against the full corpus before finalizing it. This process resulted in the four themes presented below, each of which is grounded directly in Foucauldian governmentality, as detailed in the Findings section.

Trustworthiness and Positionality

To enhance trustworthiness (Lincoln & Guba, 1985), I documented my analysis and engaged in reflexive practice. I kept a reflexive journal to monitor my assumptions, record how my interpretations shifted as new information emerged, and note the reasoning behind analytic choices. Because the case unfolded over several months, from Bushart's arrest through the 2026 settlement, I created a timeline of sources that tracked when legal documents, news stories, and public statements were released, which helped me maintain an accurate sequence of events and reflect on how new developments, including the eventual settlement, shaped my evolving understanding of the case. My

positionality as an educational researcher with prior experience working for a state senator in another state, including service on a state senate education committee, informed this analysis.

Findings

The thematic analysis of policy texts, media reports, and public statements revealed four themes that help explain how Tennessee's school threat statute has operated across student cases and in the Bushart arrest. These themes unpack how a law created to prevent school violence has traveled into the disciplining of students and the regulation of online political expression.

Local Discretion as Governing Power

The student cases and the Bushart case demonstrate the central role local officials play in determining how the Tennessee school safety law functions in practice. Although the statute provides the legal framework, the most consequential decisions were made by the sheriff, investigators, magistrates, and prosecutors who interpreted a political meme as a credible threat, just as school administrators made the decisions to expel students without conducting the threat assessments the law requires. The sheriff's office initiated Bushart's arrest after determining that a political meme referencing Charlie Kirk constituted possible school-related violence. The prosecutor then approved the charges and supported a \$2 million bond, which resulted in Bushart spending 37 days in jail. These decisions were not dictated by the statute alone but were shaped by local interpretations of risk, responsibility, and precaution. The complaint's account makes the discretionary character of these choices explicit. Morrow's affidavit omitted the meme's actual referent, an Iowa shooting from 2024, and Weems later stated on the record that his office "knew" the meme was not about the Tennessee school (Bushart v. Perry County, 2025, paras. 64, 109). The decision to arrest, then, did not follow automatically from an ambiguous text; it required officials to set aside what they knew and read the meme in the way most likely to support a charge. The later decision to drop the charges once the case drew national attention shows the same discretion operating in reverse. Representative Bo Mitchell, one of the law's sponsors, defended this discretion directly after the fallout from several student cases, saying, "A lot of it is prosecutorial discretion," and that "a prosecutor knows whether it's a credible threat or not and if they're charging someone who shouldn't be charged" (Stockard, 2025, para. 6). From a governmentality perspective, this theme shows how governance takes shape through routine administrative choices that carry significant consequences (Dean, 1999; Foucault, 2007). These choices were predictable outcomes of a broadly written statute placed in the hands of officials with wide discretion, rather than an isolated misuse of the law.

Policy Ambiguity and the Flexibility of "Threat"

A second theme emerged from the statute itself. Tennessee Code § 39-16-517 defines threat, communication, and mass violence in broad terms that invite subjective interpretation. The law does not require a specific target, intent, or reference to a school. Its key terms, including "recklessly" and "any means of communication," extend the statute's reach into large areas of online and digital expression. This same ambiguity operates across the age spectrum of cases examined in this paper, where a theatrical TikTok video and a privately shared roast video were read as credible threats against a school, and allowing Bushart's meme to be reframed as a school-related threat despite containing no explicit reference to a school or student. This interpretive flexibility in the statute's text shapes policy outcomes just as much as legislative intent. This theme shows how ambiguity in legal language enables a policy to move in unexpected directions and generate consequences far

from its educational policy origins, whether the person affected is a 12-year-old or a retired police officer.

Climate of Fear and the Expansion of School-Safety Governance

The third theme reflects the broader political climate in Tennessee following the Covenant School shooting and, later, the Kirk assassination. Public officials, advocacy groups, and media outlets framed school safety as an urgent and pervasive threat. This climate shaped the interpretive environment in which the law was enacted and applied, both to students engaged in clearly theatrical or private communication and to an adult engaged in political commentary. Discourses of danger, vulnerability, and mass violence created a context in which ambiguous content could be viewed through the lens of potential harm. From a governmentality perspective, this expansion shows how the law became a technology for managing uncertainty (Foucault, 2007). People may regulate their own speech because they internalize the possibility of surveillance or misinterpretation, a chilling dynamic the case suggests but does not directly measure, although Bushart admitted to restricting his use of online political speech after the arrest. Using the concept of governmentality, the law's operation reflects the cultural anxieties of its moment as much as the words of the statute itself.

Age, Discretion, and the Boundaries of Protection

A fourth theme concerns what changes, and what does not, as the statute moves from students to adults. The mechanism is the same across every case examined here: an ambiguous statute, applied through local discretion, in a climate of heightened fear. What differs is the degree of institutional protection available to the person affected. Students subject to the law are nominally protected by the education code's requirement that schools conduct a threat assessment before expelling a student, a requirement the record shows schools routinely satisfy only on paper (Swaby, 2025a). Bushart had no such protection at all, because the criminal statute governing his arrest carries no equivalent requirement that anyone assess the credibility of the threat before an arrest is made. The 2026 amendment sharpens this point, by narrowing the reporting duty to credible threats, the legislature added a thin credibility check at the reporting stage for students, while leaving the charging stage untouched and saying nothing about adults or speech outside a school (HB 1273, 2026; Swaby & Pfleger, 2026). Students gained a narrow procedural protection that Bushart never had and, under the amended statute, still would not have. The theme suggests that the statute's expansion beyond schools did not introduce a new logic of governance so much as strip away the thin procedural safeguard that, however inconsistently applied, exists inside schools. Read through the lens of governmentality, this shows how a technology of governance, once normalized in one setting, can travel to a setting with even fewer checks on its use (Dean, 1999; Foucault, 2007).

Discussion and Implications

The findings from this case study show how an educational policy law created to address school violence has taken on new meaning as it moved from schools into the hands of local officials operating in different institutional contexts. Read through the concept of governmentality (Foucault, 2007), this case reveals a disconnect between legislative intent and policy enactment, as well as the broader democratic implications that emerge when educational policy intersects with criminal law. Governmentality directs attention to the context in which a law is passed, the language through which it operates, and the consequences its enactment produces. In this case, the context was a state dealing with the trauma of the Covenant School shooting and, later, the polarized aftermath of Kirk's assassination. That climate shaped how lawmakers framed school safety as an urgent risk and how local officials came to interpret both student behavior and online political content. The text of

the statute contained broad, undefined terms that allowed significant interpretive flexibility. The consequences were visible across the student cases and, in their most extreme form, in the arrest, detention, and eventual settlement involving Larry Bushart. These realities show that a policy's operation depended less on the intent and words of the legislation and more on the discretionary practices of those who enforce it.

The theme of *local discretion as governing power* demonstrates how policy is enacted through everyday decisions made by school administrators, police, and prosecutors. Dean's (1999) analytic of government helps clarify this process by showing that governance does not only come from formal rules; it emerges through the habits, rationalities, and interpretive practices of those who act in the name of the state. In the Bushart case, the most consequential moves were mundane choices made during warrant requests, bond recommendations, and internal deliberations. These choices turned political satire into a criminal matter and later reversed that decision without meaningful transparency, until a lawsuit and a settlement made the sheriff's own knowledge part of the public record.

Policy ambiguity also shaped the pathway from a school-safety law to disciplinary and criminal consequences reaching well beyond any actual threat to a school. Ambiguity is not a neutral feature of a statute; it creates openings for varied enactments, some of which extend a law far beyond its intended purpose. *The climate of fear* surrounding school safety further magnified these interpretive possibilities. Foucault (2007) describes how governance works by shaping what individuals believe is reasonable or risky, even before any formal sanction occurs. When discourse around school violence becomes laden with urgency and worst-case scenarios, a theatrical student video or a political meme can be read not as satire but as a possible signal of future harm.

The implications of this policy case also carry direct First Amendment implications that deserve more treatment, and Bushart's lawsuit makes them central to its legal theory. In *Counterman v. Colorado*, 600 U.S. 66 (2023), the Supreme Court held that a true-threat prosecution requires the state to show the speaker at least recklessly disregarded a substantial risk that the communication would be viewed as threatening violence. Tennessee's statute already uses the word "recklessly," which brings it within the terrain *Counterman* governs. Yet Morrow's affidavit rested entirely on an objective claim about how a reasonable person might read the meme, with no showing that Bushart himself was aware of any such risk when he posted it (Bushart v. Perry County, 2025, paras. 62, 136). The complaint argues that Bushart did not "consciously disregard a substantial risk that his communications would be viewed as threatening violence," the standard *Counterman* requires, and that officials knew this (Bushart v. Perry County, 2025, para. 136). Weems's own admission that his office understood the meme referenced an Iowa shooting cuts directly against any recklessness finding. The statute's use of "recklessly" thus does not, on its own, save an application like this one; *Counterman* requires proof about the speaker's own awareness, and the record here shows the opposite. The \$835,000 settlement, along with the separate settlement involving the Austin Peay professor, indicates that Tennessee institutions are already absorbing the legal and financial consequences of applying the statute without regard to that requirement.

This point amplifies the study's broader claim. The structural contradiction described earlier, in which the education code requires a "valid" or "credible" threat finding before a student is expelled while the criminal statute requires no such finding before an arrest, now appears not as a drafting inconsistency but as a constitutional problem. A criminal statute that permits arrests on an objective reading of communication, without regard to the speaker's awareness, sits in tension with the mens rea (culpable mental state) floor *Counterman* established. The student cases and the Bushart case both expose that vulnerability, the former inside schools and the latter well beyond them. The 2026 amendment was an important update to the policy and is also instructive here because of what

it left in the law. The legislature responded to the student cases by adding a credibility threshold to the reporting duty, the layer where the political pressure was concentrated (HB 1273, 2026; Swaby & Pfleger, 2026). It did not touch the charging standard, where the constitutional problem *Counterman* identifies is situated, and it did not address the application of the statute to speech outside schools. The state fixed the part that was politically legible and left the part that is constitutionally problematic. The Bushart settlement and the separate settlement involving the Austin Peay professor suggest that the unaddressed layer continues to generate liability.

Bushart's case represents more than a legal misinterpretation. It shows how educational policy can become governmentalized once it interacts with local actors, political climates, and ambiguous statutory language, and how a law's reach can extend well past the schools it was written to protect once officials are trusted to supply the story that makes an expansive reading seem necessary. The case exposes the permeable boundary between policies that protect and policies that constrain, particularly in a polarized moment where digital expression is often entangled with broader debates about safety and legitimacy.

Conclusion

This case study shows how a school safety law can take on new meaning when its language is broad and it is enforced within a heightened political context, and how that meaning can shift again as the same law moves from students inside schools to adults with no connection to one at all. The concept of governmentality helps explain how the context in which the law was passed, the way it was written, and the outcomes it has produced all shaped what happened across these cases, and how everyday decisions by local officials carried significant power over how the law was used (Dean, 1999; Foucault, 2007). This case is not presented as a prediction of what will happen elsewhere, nor as an argument that school safety policies inevitably drift into regulating political speech. It is one documented example, spanning students and an adult, of what can occur when fear, unclear wording, and discretionary decision-making come together in the name of school safety. The value of looking closely at this pattern of cases is in seeing how a policy can move in directions its drafters may not have intended, and in recognizing that the procedural safeguards meant to check that movement, however imperfect inside schools, can disappear entirely once the policy travels beyond them.

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