

ACTIVE SHOOTER ALERT ACT OF 2022

JUNE 21, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. NADLER, from the Committee on the Judiciary,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 6538]

The Committee on the Judiciary, to whom was referred the bill (H.R. 6538) to create an Active Shooter Alert Communications Network, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all that follows after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Active Shooter Alert Act of 2022”.

SEC. 2. DEFINITIONS.

In this Act:

- (1) **ACTIVE SHOOTER.**—The term “active shooter” means an individual who is engaged in killing or attempting to kill persons with a firearm in a populated area and who is determined to pose an active, imminent threat to people in that populated area.
- (2) **ADMINISTRATOR OF FEMA.**—The term “Administrator of FEMA” means the Administrator of the Federal Emergency Management Agency.
- (3) **CHAIRMAN OF THE FCC.**—The term “Chairman of the FCC” means the Chairman of the Federal Communications Commission.
- (4) **COORDINATOR.**—The term “Coordinator” means the Active Shooter Alert Coordinator of the Department of Justice designated under section 3(a).
- (5) **NETWORK.**—The term “Network” means the Active Shooter Alert Communications Network, an interconnected system of Federal, State, Tribal, and local governments that is organized to provide information to the public, within geographically relevant areas, on active shooter situations.
- (6) **POPULATED AREA.**—The term “populated area” means a location where one or more persons other than the active shooter are present.
- (7) **STATE.**—The term “State” means any of the 50 States, the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, the Virgin Islands of the United States, and any other territory of the United States.

SEC. 3. NATIONAL COORDINATION OF ACTIVE SHOOTER ALERT COMMUNICATIONS NETWORK.

(a) **COORDINATION WITHIN DEPARTMENT OF JUSTICE.**—The Attorney General shall assign an officer of the Department of Justice to act as the national coordinator of the Active Shooter Alert Communications Network regarding an emergency involving an active shooter. The officer so designated shall be known as the Active Shooter Alert Coordinator of the Department of Justice.

(b) **DUTIES.**—The Coordinator shall—

- (1) encourage Federal, State, Tribal, and local government agencies to establish procedures to respond to an active shooter, including active shooter procedures relating to interstate or interjurisdictional travel (including airports and border crossing areas and checkpoints), and focus on governments that have not yet established such procedures; and
- (2) work with State, Tribal, and local governments to encourage appropriate regional and interjurisdictional coordination of various elements of the Network.

(c) **GOALS.**—The Coordinator shall encourage the adoption of best practices established under section 4(a) in State, Tribal, and local governments for—

- (1) the development of policies and procedures to guide the use of mass alert systems, changeable message signs, or other information systems to notify local residents, motorists, travelers, and individuals in the vicinity of an active shooter;
- (2) the development of guidance or policies on the content and format of alert messages to be conveyed on mass alert systems, changeable message signs, or other information systems relating to an active shooter;
- (3) the coordination of State, Tribal, and local Active Shooter Alert communications plans within a region for the use of mass alert systems relating to an active shooter;
- (4) the planning and designing of mass alert systems for multilingual communication with local residents, motorists, travelers, and individuals in the vicinity of an active shooter, which system may include the capability for issuing wide area alerts to local residents, motorists, travelers, and individuals in the vicinity of an active shooter;
- (5) the planning of systems and protocols to facilitate the efficient issuance of active shooter alerts and other key information to local residents, motorists, travelers, and individuals in the vicinity of an active shooter during times of day outside of normal business hours;
- (6) the provision of training and guidance to transportation authorities to facilitate the appropriate use of mass alert systems and other information systems for the notification of local residents, motorists, travelers, and individuals in the vicinity of an active shooter; and
- (7) the development of appropriate mass alert systems to ensure that alerts sent to individuals in the immediate vicinity of an active shooter do not alert the active shooter to the location of individuals sheltering in place near the active shooter.

(d) **INTEGRATED PUBLIC ALERT AND WARNING SYSTEM.**—In carrying out duties under subsection (b), the Coordinator shall notify and coordinate with the Administrator of FEMA, the Secretary of Transportation, and the Chairman of the FCC on

using the Integrated Public Alert and Warning System to issue alerts for the Network.

(e) **REPORT.**—Not later than 18 months after the date of enactment of this Act, and every 2 years thereafter until such time as each of the State, Tribal, and local governments have adopted an active shooter alert protocol, the Coordinator, in consultation with the Administrator of FEMA, Secretary of Transportation, and the Chairman of the FCC, shall submit to Congress a report on the activities of the Coordinator and the effectiveness and status of the Active Shooter Alert communications plan of each State, Tribal, and local government within each region that has implemented such a plan.

SEC. 4. STANDARDS FOR ISSUANCE AND DISSEMINATION OF ALERTS THROUGH ACTIVE SHOOTER ALERT COMMUNICATIONS NETWORK.

(a) **ESTABLISHMENT OF BEST PRACTICES.**—

(1) **IN GENERAL.**—Subject to subsection (c), the Coordinator, using the recommendations of the Advisory Panel established under subsection (b) and in coordination with the Administrator of FEMA, the Secretary of Transportation, the Chairman of the FCC, local broadcasters, and Federal, State, Tribal, and local law enforcement agencies, shall establish best practices for—

(A) the issuance of alerts through the Network;

(B) the extent of the dissemination of alerts issued through the Network; and

(C) the achievement of the goals described in section 3(c).

(2) **UPDATING BEST PRACTICES.**—The Coordinator shall review the best practices established under paragraph (1) no less frequently than every 5 years to ensure the best practices are consistent with updated data and recommendations on active shooter situations and technological advancements in the Integrated Public Alert and Warning System or other technologies. The Coordinator shall convene the Advisory Panel as necessary to provide updated recommendations if the best practices are to be updated.

(b) **ADVISORY PANEL.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of enactment of this Act, the Coordinator shall establish an Advisory Panel to make recommendations with respect to the establishment of best practices under subsection (a).

(2) **MEMBERSHIP.**—The Advisory Panel shall be comprised of at least 9 members, including—

(A) at least 5 law enforcement officers, including at least one non-supervisory law enforcement officer, who have responded to active shooter incidents and who represent rural, suburban, and urban communities;

(B) at least 1 public safety expert who is not a law enforcement officer and who has responded to an active shooter incident;

(C) at least 1 emergency response official who is not a law enforcement officer;

(D) at least 1 city planning expert; and

(E) at least 1 mental and behavioral health expert.

(3) **RECOMMENDATIONS.**—Not later than 15 months after the date of enactment of this Act, the Advisory Panel shall submit to Coordinator recommendations with respect to the establishment of best practices under subsection (a).

(c) **LIMITATIONS.**—

(1) **IN GENERAL.**—The best practices established under subsection (a) shall—

(A) be adoptable on a voluntary basis only; and

(B) to the maximum extent practicable (as determined by the Coordinator, in consultation with State, Tribal, and local law enforcement agencies), provide that—

(i) appropriate information relating to an active shooter response is disseminated to the appropriate law enforcement, public health, communications, and other public officials; and

(ii) the dissemination of an alert through the Network be limited to the geographic areas most likely to be affected by, or able to respond to, an active shooter situation.

(2) **NO INTERFERENCE.**—In establishing best practices under subsection (a), the Coordinator may not interfere with systems of voluntary coordination between local broadcasters and State, Tribal, and local law enforcement agencies for improving and implementing the Network.

SEC. 5. COMPTROLLER GENERAL STUDY ON STATE RESPONSES TO ACTIVE SHOOTER SITUATIONS REQUIRING THE ISSUANCE OF PUBLIC ALERTS AND WARNINGS.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on State and local responses to active shooters and situations requiring the issuance of a public alert or warning. Such study shall address each of the following:

(1) Differences between the definitions of the term “active shooter” used by different States.

(2) The amount of time it takes and the process in each State to receive approval from the State alerting officials after a local law enforcement agency requests the issuance of a public alert or warning, such as an AMBER Alert, a Blue Alert, or an Ashanti alert.

(3) A comparison of the timing and effectiveness of the issuance of public alerts and warnings by State, Tribal, and local alerting officials.

(b) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report containing the findings of the study conducted under subsection (a).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Attorney General to carry out this Act \$2,000,000 for fiscal year 2023.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) shall remain available until expended.

SEC. 7. LIMITATION ON LIABILITY.

(a) IN GENERAL.—Nothing in this Act may be construed to provide that a participating agency, or an officer, employee, or agent thereof, shall be liable for any act or omission pertaining to the Network.

(b) STATE OR OTHER FEDERAL LAW.— Nothing in this section may be construed to limit the application of any State or other Federal law providing for liability for any act or omission pertaining to the Network.

Purpose and Summary

H.R. 6538, the “Active Shooter Alert Act of 2022,” would adapt an existing alert system to establish an Active Shooter Alert Network, enabling law enforcement to send active shooter alerts within their communities. This legislation tasks the Department of Justice with the creation of a network for state and local law enforcement to send geo-targeted active shooter alerts through the Integrated Public Alert and Warning System (IPAWS)—the infrastructure currently used for America’s Missing: Broadcast Emergency Response (AMBER) Alerts and severe storm warnings—to better warn the public of ongoing, active shooter incidents. It provides for the establishment of best practices for law enforcement agencies who choose to use this existing infrastructure for active shooter incidents. It also requires the Attorney General to appoint an Active Shooter Alert Coordinator within the Department of Justice to coordinate and develop the best practices, along with an advisory panel, and provide support for the implementation of active shooter alert systems.

Background and Need for the Legislation

I. ACTIVE SHOOTER INCIDENTS

In general, an active shooter incident involves “one or more individuals actively engaged in killing or attempting to kill people in a populated area.”¹ Active shooter situations place a significant strain on law enforcement agencies who must devote resources both to containing and apprehending the active shooter as well as preventing additional victims from unknowingly entering the line of fire. Law enforcement needs the ability to notify the public about an active shooter incident, whether to avoid a particular area, shelter in place, or announce when the area has been restored to safe-

¹ Federal Bureau of Investigation, *Active Shooter Incidents in the United States in 2020* (May, 24, 2021), <https://www.fbi.gov/file-repository/active-shooter-incidents-in-the-us-2020-070121.pdf/view>.

ty. Though some jurisdictions around the country have local active shooter alert systems, these programs face messaging delays and low enrollment, and are not necessarily governed by expert-developed best practices.²

Active shooter incidents have been on the rise over the last two decades.³ The Federal Bureau of Investigation (FBI) tracks active shooter incidents across the nation. Between 2000 and 2020, the FBI designated 373 shooting events across 43 states and the District of Columbia, leading to 1,100 people killed and 1,915 wounded.⁴ Between 2016 and 2020, the FBI reported a 100% increase in active shooter incidents with a 33% increase between 2019 and 2020 alone.⁵

In 2021, the FBI designated 61 shooting incidents as active shooter incidents. In these incidents, 103 people were killed and 140 wounded, excluding the perpetrators.⁶ The number of active shooter incidents identified in 2021 represents a 52.5% increase from 2020 and a 96.8% increase from 2017.⁷ Casualty counts are higher for 2021 (243) when compared with 2020 (164), indicating a 48% increase.⁸ The casualties in 2021 represent the third highest total casualty count over the last five years (2017–2021).⁹ And 2021 saw the highest number of deaths (103) since 2017, a 171.1% increase from 2020, and above the average (92.3) for the period 2017–2020.¹⁰

Responding to an active shooter event can be chaotic, especially when the incident is not confined to one location. Because an active shooter may be mobile and cross jurisdictional lines, law enforcement officers must also contend with competing or overlapping jurisdictions while keeping the public informed.¹¹ The FBI recently identified an emerging trend involving roving active shooters—perpetrators who shoot in multiple locations, either in one day or in various locations over several days.¹² Approximately 27 incidents

²See e.g., *The City of Virginia Beach—An Independent Review of the Tragic Events of May 31, 2019*, Hillard Heintze LLC 86 (November 13, 2019) <https://www.vbgov.com/government/departments/city-auditors-office/Documents/Hillard%20Heintze%20Final%20Report%20for%20Virginia%20Beach%2011-13-2019.pdf> (noting the City of Virginia Beach elected not to use the local notification system, VBAAlert, because of low enrollment).

³See *Active Shooter Incidents 20 Years in Review 2000–2019*, Federal Bureau of Investigation (February 2021), <https://www.fbi.gov/file-repository/active-shooter-incidents-20-year-review-2000-2019-060121.pdf/view> (finding the last three years of the reported range had the most active shooter incidents of the two decades examined).

⁴See Federal Bureau of Investigation, *Active Shooter Incidents in the United States in 2020*, *supra* note 1 (designating 40 active shooter incidents in 2020); Federal Bureau of Investigation, *Active Shooter Incidents 20 Years in Review 2000–2019*, *supra* note 3 (designating 333 active shooter incidents between 2000 and 2019).

⁵See Federal Bureau of Investigation, *Active Shooter Incidents in the United States in 2020*, *supra* note 1; Federal Bureau of Investigation, *Active Shooter Incidents 20 Years in Review 2000–2019*, *supra* note 3.

⁶Federal Bureau of Investigation, *Active Shooter Incidents in the United States in 2021* (May 24, 2022), <https://www.fbi.gov/file-repository/active-shooter-incidents-in-the-us-2021-052422.pdf/view>.

⁷*Id.*

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

¹¹See e.g., Frank Straub, et al, *Managing the Response to a Mobile Mass Shooting—A Critical Incident Review of the Kalamazoo, Michigan, Public Safety Response to the February 20, 2016 Mass Shooting Incident*, Police Foundation 27 (April 2017), https://www.policinginstitute.org/wp-content/uploads/2017/05/PF_Managing-the-Response-to-a-Mobile-Mass-Shooting_5.10.17.pdf (describing how a mobile active shooter may involve local, county, and state agencies releasing varying degrees of information to the public about the same ongoing incident).

¹²Federal Bureau of Investigation, *Active Shooter Incidents in the United States in 2021* (May 24, 2022), <https://www.fbi.gov/file-repository/active-shooter-incidents-in-the-us-2021-052422.pdf/view>.

in 2021 involved an active shooter targeting people in multiple locations, either in one day or in various locations over several days.¹³

A. Kalamazoo, Michigan

In February 2016, a perpetrator went on a seven-hour shooting spree in Kalamazoo, Michigan, killing six and injuring two people while driving for Uber.¹⁴ Once the Kalamazoo Department of Public Safety had a potential suspect, the department posted an alert to its public Facebook page warning the public to be cautious.¹⁵ However, few saw the post and the shooter continued picking up passengers for two more hours before his arrest.¹⁶ The Police Foundation's after-action report found Kalamazoo authorities' social media posts were insufficient to alert potential victims, creating the potential for viral misinformation to hamper law enforcement efforts.¹⁷

B. Midland and Odessa, Texas

In August 2019, a perpetrator went on a 15-mile-wide mobile shooting spree in Midland and Odessa, Texas.¹⁸ Police knew the shooter's vehicle information and general whereabouts, but they had no way to effectively alert those in the area to proactively take cover.¹⁹ In response, Texas enacted an active shooter alert program allowing local law enforcement to work with the Texas Department of Public Safety to notify the public of nearby active shooter situations and encourage them to avoid the area or to shelter-in-place.²⁰

C. Brooklyn, New York

In April 2022, a shooter entered a subway train car during rush-hour commute time, releasing two smoke grenades, then fired a gun at least 33 times indiscriminately inside the train car injuring more than 20 individuals.²¹ The New York Police Department (NYPD) identified a suspect and communicated this information through the NYPD Police Commissioner's Twitter account. The tweet included photos of the suspect and read: "Frank Robert James is WANTED for the shooting on the N line subway train in #Brooklyn that wounded 10 people. We need these photos shared far and wide to help our great detectives bring him to justice."²² Officials also issued an alert via SMS text that provided the per-

¹³ *Id.*

¹⁴ Kevin Conlon and Nick Valencia, *Kalamazoo Uber driver picked up fares between killings, source says*, CNN (February 22, 2016) <https://www.cnn.com/2016/02/21/us/michigan-kalamazoo-county-shooting-sprees/index.html>.

¹⁵ Frank Straub, et al, *supra* note 11, at 29.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Paul J. Weber and Jake Bleiberg, *Police say no explanation yet for Texas shooting frenzy*, AP News (September 1, 2019) <https://apnews.com/article/shootings-us-news-ap-top-news-odessa-tx-state-wire-e765453e0fc34cbb75311763d4b3709>.

¹⁹ See Jonathan Polasek and Zach Left, *Governor Abbott signs Landgraf's 'Active Shooter Alert' bill into Law*, NewsWest9 (May 25, 2021) <https://www.newswest9.com/article/news/local/governor-abbott-signs-landgrafs-active-shooter-alert-bill-into-law/513-4330b129-1e6e-44b4-9678-814f28b5d409> ("This alert system could have save the lives of some . . . in 2019.").

²⁰ *Id.*

²¹ Brynn Gingras, Pervaiz Shallwani, Mark Morales, Kristina Sgueglia, Eric Levenson, Amir Vera and Shimon Prokupecz, *A quiet morning commute on a Brooklyn subway quickly became a 'war zone' leaving more than 20 people injured, NYC mayor says*, CNN (April 13, 2022) <https://www.cnn.com/2022/04/12/us/brooklyn-subway-shooting/>.

²² Twitter, Commissioner Sewell, April 13, 2022, 10:13am, <https://twitter.com/NYPDPC/status/1514247770164629506>.

petrator’s description via the city’s alert messaging system, Notify NYC, which included a description of the shooter and information on how to make reports.²³ Police searched for the suspect for approximately 30 hours and ultimately apprehended him using a tip the perpetrator submitted himself and a 911 call made by an individual who recognized the suspect from descriptions provided in reporting.²⁴

D. Washington, D.C.

In April 2022, a shooter set up a “sniper-type” attack on individuals in northwest Washington, D.C. by using a tripod to hold a rifle and firing indiscriminately at individuals walking below his apartment.²⁵ Four individuals walking on the street below were injured during this attack. The D.C. Metropolitan Police Department communicated about the status of this attack primarily through its Twitter account.²⁶ MPD tweeted that people should “avoid the area and shelter in place,” while police responded to the shooter.²⁷ Officers conducted door-to-door searches of surrounding buildings and eventually found the perpetrator dead in his apartment along with multiple firearms and ammunition.²⁸

II. SUPPORT FOR ACTIVE SHOOTER ALERT SYSTEMS

Law enforcement and other independent review commissions examining active shooter incidents have recognized the need for an active shooter alert system calling for “a version of a storm warning or AMBER Alert system”²⁹ or “an effective communications system through which everyone . . . [can] immediately react to . . . [an] active assailant response notification.”³⁰ Law enforcement organizations have endorsed H.R. 6538 as an important tool to “improve the ways officers and agencies communicate with the public about active threats” including notifying the public about an incident, and whether to “avoid a certain area, shelter in place, or announce the area is once again safe.”³¹ The National Sheriffs’ Association, the Major Cities Chiefs Association, the National Association of Police Organizations, the Fraternal Order of Police, the National Police Foundation, and the National District Attorneys

²³ Christina Maxouris, *Inside the 30-hour search for the Brooklyn subway shooting suspect*, CNN (April 14, 2022) <https://www.cnn.com/2022/04/14/us/brooklyn-subway-suspect-frank-james-inside-investigators-search/>.

²⁴ Michael R. Sisak, Michael Balsamo and Jennifer Peltz, *Brooklyn subway suspect tipped off police to his location*, AP News (April 13, 2022) <https://apnews.com/article/police-hunt-brooklyn-subway-gunman-8b4e1efee5d08c06050c7b09172829d3>.

²⁵ Michael Balsamo and Carole Feldman, *Suspect found dead after shooting 4, causing panic in DC*, ABC News (April 23, 2022) <https://abcnews.go.com/US/wireStory/police-shot-northwest-dc-84250672>.

²⁶ NBC Washington Staff, *Suspect in ‘Sniper-Type’ Shooting Dead in Van Ness Apartment Building, 4 Injured: DC Police*, NBC Washington (April 23, 2022) <https://www.nbcwashington.com/news/local/at-least-2-people-shot-in-northwest-dc-police/3032453/>.

²⁷ @DCPoliceDept “4:27 pm Update: There have been at least 3 victims located of two adult males and one juvenile female. Please continue to avoid the area and shelter in place.” April 22, 2022, 4:27pm.Tweet.

²⁸ Ginger Adams Otis, *Suspected Gunman in Washington, D.C., Shooting Found Dead*, Wall Street Journal (April 23, 2022) <https://www.wsj.com/articles/suspected-gunman-in-washington-dc-shooting-found-dead-11650729184>.

²⁹ Rick Brazier, et al, *Bringing Calm to Chaos—Acritical incident review of the San Bernardino public safety response to the December 2, 2015 terrorist shooting incident at the Inland Regional Center*, Police Foundation 134 (2016), <https://www.policinginstitute.org/wp-content/uploads/2016/09/Bringing-Calm-to-Chaos-Final-1.pdf>.

³⁰ Marjory Stoneman Douglas High School Public Safety Commission, *Initial Report*, at 85 (January 2, 2019) <https://www.fdle.state.fl.us/MSDHS/CommissionReport.pdf>.

³¹ Patrick Yotes, *Letter to Congress Regarding H.R. 6538, the “Active Shooter Alert Act,”* National Fraternal Order of Police (January 28, 2022) <https://fop.net/letter/active-shooter-alert-act/>.

Association have endorsed this legislation,³² in addition to multiple statewide law enforcement organizations.

III. AVAILABLE TECHNOLOGIES BEYOND TRADITIONAL MEDIA

A. Integrated Public Alert and Warning System (IPAWS)

The Federal Emergency Management Agency (FEMA) manages IPAWS, which has the capability to send Wireless Emergency Alerts (WEA) to mobile devices in a locally targeted area.³³ IPAWS is FEMA’s national system for local alerting that provides authenticated emergency and life-saving information to the public. WEA is a partnership between FEMA, the Federal Communications Commission (FCC), and wireless providers to enhance public safety. WEAs are short, authenticated, emergency messages from authorized government entities that can be received without an additional app or subscription service and are default opt-in for mobile phone users.³⁴ These targeted alerts warn the public of imminent threats: natural or human-made disasters, extreme weather events, active shooters, or other emergency situations, such as AMBER Alerts.³⁵

For people with a smartphone, IPAWS typically has an opt-out system, meaning smartphone users will receive messages unless they affirmatively unsubscribe from IPAWS in their phone settings. Smartphones automatically receive the alerts, which are sent through a program with few to no delays. IPAWS also has precise geolocating technology, which can send alerts to specific locations down to 0.1 miles. Most law enforcement agencies are familiar with IPAWS and have systems in place to use it.³⁶ H.R. 6538 would create protocols and best practices to utilize this existing infrastructure for active shooter situations.

B. Other SMS Alerts

Distinct from the IPAWS system, state and local governments may offer opt-in local notification systems to provide local community alerts and warnings.³⁷ Unlike IPAWS, these programs typically require people to affirmatively opt-in for notifications. For example, New York City’s Notify NYC requires New Yorkers to create accounts and submit a cell phone number to receive alerts via SMS text.³⁸ While subscribers will receive text message alerts, these local notification systems must locate each recipient individually, do not generally have the IPAWS geotargeting capabilities, and rely on subscribers to register their location preferences.³⁹

³² See *Cicilline, Upton Introduce Bipartisan Active Shooter Alert Act*, Office of Congressman David Cicilline (February 1, 2022), <https://cicilline.house.gov/press-release/cicilline-upton-introduce-bipartisan-active-shooter-alert-act>.

³³ Federal Emergency Management Agency, *Wireless Emergency Alerts* (2020), <https://www.fema.gov/emergency-managers/practitioners/integrated-public-alert-warning-system/public/wireless-emergency-alerts>.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Federal Emergency Management Agency, *Wireless Emergency Alerts*, *supra* note 28.

³⁷ See e.g., Massachusetts Emergency Management Agency, *Be Informed and Receive Emergency Alerts* (2022), <https://www.mass.gov/info-details/be-informed-and-receive-emergency-alerts> (discussing local notification systems available in some communities).

³⁸ City of New York, *NotifyNYC* (2022), <https://a858-nycnotify.nyc.gov/Home/EnrollmentInfo>; accord Oregon Office of Emergency Management, *OR-Alert* (2022), <https://oralert.gov>.

³⁹ E.g., City of New York, *Frequently Asked Questions, NotifyNYC* (2022), <https://a858-nycnotify.nyc.gov/NotifyNYC/Home/FAQ>.

C. Social Media

Social media is another tool law enforcement agencies use to quickly alert the public to active shooter situations. Although 72% of Americans use at least one social media platform,⁴⁰ a law enforcement agency's ability to deliver and circulate its message in an emergency depends on effective social media management.⁴¹ With the shooting in Kalamazoo, neither the Kalamazoo Department of Public Safety nor the County Sheriff's Office had the social media presence or training to capture community reports about the shooter or provide responsive updates to the concerned public.⁴²

With most Americans engaging with at least one social media platform, law enforcement agencies will alert the public to active shooter situations, manage community response, and update the public about ongoing crises.⁴³ The following are examples of active shooter alerts issued by law enforcement through Twitter:

- *Sacramento Police Department* (April 3, 2022): "ADVISORY: 9th St to 13th St is closed between L St & J St as officers investigate a shooting with multiple victims. Conditions unknown at this time. Please avoid the area as a large police presence will remain and the scene remains active. Please follow this thread for updates."⁴⁴
- *Seattle Police Department* (March 24, 2022): "Police responding to a shooting in the 3900 block of S Angeline St. Reports of two victims. Please avoid the area if possible. More info when available."⁴⁵
- *Austin Police Department* (March 20, 2022): "Shots fired on the 400 block of 6th St. Non-life-threatening injuries. Suspect still at large. Officers securing the area. Avoid the area."⁴⁶

Hearings

For the purposes of clause 3(c)(6)(A) of House rule XIII, the following hearings were used to develop H.R. 6538:

On May 20, 2021, the Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on "An Unending Crisis: Essential Steps to Reducing Gun Violence and Mass Shootings." The Subcommittee heard testimony from:

- The Honorable Vikki Goodwin, Member of the House of Representatives, State of Texas;
- Fred Guttenberg, Author and Gun Safety Advocate;
- J. Adam Skaggs, Chief Counsel and Policy Director, Giffords Law Center to Prevent Gun Violence;

⁴⁰ See *Social Media Fact Sheet*, Pew Research Center (April 7, 2021), <https://www.pewresearch.org/internet/fact-sheet/social-media/> (finding 70% of respondents use Facebook daily while 46% use Twitter daily).

⁴¹ See Frank Straub, et al, *supra* note 11, at 29 (finding neither Kalamazoo Department of Public Safety nor Kalamazoo County Sheriff's Office had the social media infrastructure to leverage the tool).

⁴² *Id.* at 29–30 (recommending agencies integrate social media into their public information strategy).

⁴³ *E.g.*, Sacramento Police (@SacPolice) (April 3, 2022) <https://twitter.com/SacPolice/status/1510570981718339589?cxt=HHwWisCt1b6TOPYpAAAA>.

⁴⁴ Sacramento Police (@SacPolice) (April 3, 2022) <https://twitter.com/SacPolice/status/1510570981718339589?cxt=HHwWisCt1b6TOPYpAAAA>.

⁴⁵ Seattle Police Department (@SeattlePD) (March 24, 2022), https://twitter.com/SeattlePD/status/1507060989568569361?cxt=HHwWosCqoYf_k-opAAAA.

⁴⁶ Austin Police Department (@Austin_Police) (March 20, 2022) https://twitter.com/Austin_Police/status/1505451291337805827?cxt=HHwWhsC-7aT-t-QpAAAA.

- Michael E. Grady, Senior Pastor, Prince of Peace Christian Fellowship; and
- Dianna Muller, Founder, The DC Project.

The hearing explored the facts and data on gun violence and a range of policy proposals to reduce gun violence.

On March 8, 2022, the Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on “Reimagining Public Safety in the COVID–19 Era.” The Subcommittee heard testimony from:

- The Honorable Nicholas W. Brown, U.S. Attorney for the Western District of Washington;
- Edgardo “Eddie” Garcia, Chief of Police, Dallas Police Department;
- Thomas Abt, Chair, Violent Crime Working Group; Senior Fellow, Council on Criminal Justice;
- The Honorable Sylvester Turner, Mayor, City of Houston;
- The Honorable Satana Deberry, District Attorney, Durham County, North Carolina;
- Jerika L. Richardson, Senior Vice President, Equitable Justice & Strategic Initiatives, National Urban League;
- Madeline Brame, Chairwoman, NYS Victims Rights Reform Council;
- Charles Fain Lehman, Fellow, Manhattan Institute for Policy Research; Contributing Editor, City Journal.

Committee Consideration

On June 15, 2022 the Committee met in open session and ordered the bill, H.R. 6538, favorably reported, as amended, by a voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of House rule XIII, the following rollcall vote occurred during the Committee’s consideration of H.R. 6538:

1. Two amendments offered by Mr. Issa were considered en bloc. One amendment, as amended, was to change the short title of the bill to the “Armed and Dangerous Alert Act of 2022.” The other was to replace each occurrence of “active shooter” with “active shooter or individual perpetuating violence.” The amendments considered en bloc, as amended, were defeated by a rollcall vote of 15 to 24. The vote was as follows:

Roll Call No. |

Date: 6/15/22

COMMITTEE ON THE JUDICIARY

House of Representatives

117th CongressAmendment #1/2 (AM) to H.R. 6538 offered by Rep. 135A
☐ PASSED
☒ FAILED

	AYES	NOS	PRES.
Jerrold Nadler (NY-10)		✓	
Zoe Lofgren (CA-19)		✓	
Sheila Jackson Lee (TX-18)		✓	
Steve Cohen (TN-09)		✓	
Hank Johnson (GA-04)		✓	
Ted Deutch (FL-22)		✓	
Karen Bass (CA-37)		✓	
Hakeem Jeffries (NY-08)		✓	
David Cicilline (RI-01)		✓	
Eric Swalwell (CA-15)		✓	
Ted Lieu (CA-33)			
Jamie Raskin (MD-08)		✓	
Pramila Jayapal (WA-07)		✓	
Val Demings (FL-10)		✓	
Lou Correa (CA-46)		✓	
Mary Gay Scanlon (PA-05)		✓	
Sylvia Garcia (TX-29)		✓	
Joseph Neguse (CO-02)		✓	
Lucy McBath (GA-06)		✓	
Greg Stanton (AZ-09)		✓	
Madeleine Dean (PA-04)		✓	
Veronica Escobar (TX-16)		✓	
Mondaire Jones (NY-17)		✓	
Deborah Ross (NC-02)		✓	
Cori Bush (MO-01)		✓	
	AYES	NOS	PRES.
Jim Jordan (OH-04)		✓	
Steve Chabot (OH-01)		✓	
Louie Gohmert (TX-01)			
Darrell Issa (CA-50)		✓	
Ken Buck (CO-04)		✓	
Matt Gaetz (FL-01)		✓	
Mike Johnson (LA-04)			
Andy Biggs (AZ-05)		✓	
Tom McClintock (CA-04)		✓	
Greg Steube (FL-17)		✓	
Tom Tiffany (WI-07)		✓	
Thomas Massie (KY-04)			
Chip Roy (TX-21)		✓	
Dan Bishop (NC-09)		✓	
Michelle Fischbach (MN-07)		✓	
Victoria Spartz (IN-05)			
Scott Fitzgerald (WI-05)		✓	
Cliff Bentz (OR-02)		✓	
Burgess Owens (UT-04)		✓	
	AYES	NOS	PRES.
TOTAL	15	29	

Committee Oversight Findings

In compliance with clause 3(c)(1) of House rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of House rule X, are incorporated in the descriptive portions of this report.

Committee Estimate of Budgetary Effects

Pursuant to clause 3(d)(1) of House rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

New Budget Authority and Congressional Budget Office Cost Estimate

Pursuant to clause 3(c)(2) of House rule XIII and section 308(a) of the Congressional Budget Act of 1974, and pursuant to clause (3)(c)(3) of House rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a budgetary analysis and a cost estimate of this bill.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of House rule XIII, no provision of H.R. 6538 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of House rule XIII, H.R. 6538 would adapt an existing alert system to establish an Active Shooter Alert Network, enabling law enforcement to send active shooter alerts within their communities. It would require the Attorney General to appoint an Active Shooter Alert Coordinator within the Department of Justice to coordinate and develop best practices for use of the Network, and to support the implementation of active shooter alert systems. It would also require the Comptroller General to study the effectiveness of active shooter alert systems and other public alerts and warnings and provide a report to Congress within two years of enactment.

Advisory on Earmarks

In accordance with clause 9 of House rule XXI, H.R. 6538 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of House rule XXI.

Section-by-Section Analysis

Sec. 1. Short Title. Section 1 sets forth the short title as the “Active Shooter Alert Act of 2022.”

Sec. 2. Definitions. Section 2 defines several terms used in this Act, including “active shooter,” “Coordinator,” and “Network.”

Sec. 3. National Coordination of Active Shooter Alert Communications Network. Section 3 requires the Attorney General to as-

sign an Active Shooter Alert Coordinator of the Department of Justice as the national coordinator for the Active Shooter Alert Communications Network and defines duties and goals of the coordinator. This section directs the coordinator to work with federal, state, local, and tribal governments to establish procedures to respond to an active shooter, including procedures relating to interstate or interjurisdictional travel (including airports and border crossing areas and checkpoints); and work with state, tribal, and local governments to encourage regional and interjurisdictional coordination where appropriate.

The coordinator must encourage the adoption of best practices established under section 4 to accomplish the goals of: development of policies and procedures governing the use of mass alert systems; development of guidance or policies on the content and format of alerts; coordination of state, regional, and local plans for the use of mass alert systems; planning and designing multilingual communication; planning systems and protocols for the efficient issuance of alerts; providing training and guidance to transportation authorities on utilizing the network; and development of mass alert systems that do not reveal the location of individuals sheltering in place near the active shooter.

In carrying out duties described in this section, the coordinator is required to notify and coordinate with FEMA, Department of Transportation (DOT), and FCC on using IPAWS to issue alerts for the network and mandates that the coordinator, in consultation with the FEMA Administrator, report to Congress on the effectiveness of the network.

This section also requires the coordinator, in consultation with FEMA, DOT, and FCC, to submit a report to Congress on the coordinator's activities and the effectiveness and status of the Active Shooter Alert communications plan of every state, tribal, and local government within each region that has implemented a plan. The first report must be filed within 18 months of enactment, then every two years after until every state, tribal, and local government has adopted an active shooter alert protocol.

Sec. 4. Standards for Issuance and Dissemination of Alerts Through Active Shooter Alert Communications Network. Section 4 directs the coordinator to establish best practices using the recommendations of the Advisory Panel established under this section and in coordination with FEMA, DOT, and FCC, local broadcasters, and federal, state, tribal, and local law enforcement agencies for the issuance of alerts through the network; the extent of the dissemination of alerts issued through the network; and the achievement of the goals described in section 3.

The coordinator must review the best practices no less than every five years to ensure consistency with updated data and recommendations on active shooter situations and advancements in the IPAWS system or other technologies. The coordinator must convene the advisory panel as necessary to provide recommendations if the best practices must be updated.

This section requires the coordinator to establish an advisory panel no more than 90 days after enactment to make recommendations on the establishment of best practices. The advisory panel must consist of at least nine members, including at least five law enforcement officers who have responded to active shooter incidents

and represent rural, suburban, and urban communities, including at least one nonsupervisory officer; at least one public safety expert who has responded to an active shooter incident and is not a law enforcement officer; at least one emergency response official who is not a law enforcement officer; at least one city planning expert; and at least one mental and behavioral health expert. The advisory panel must submit recommendations within 15 months of enactment.

The best practices are adoptable on a voluntary basis and should provide that appropriate information is disseminated to appropriate law enforcement, public health, communications, and other public officials and limited to the area most likely to be affected by, or able to respond to, an active shooter situation.

In establishing best practices, the coordinator may not interfere with systems of voluntary coordination between local broadcasters and state, tribal, and local law enforcement agencies for improving and implementing the network.

Sec. 5. Comptroller General Study on State Responses to Active Shooter Situations Requiring the Issuance of Public Alerts and Warnings. Section 5 requires the Comptroller General to study the effectiveness of active shooter alert systems and other public alerts and warnings and provide a report to Congress within two years of enactment. The study must address: the meaning of “active shooter” among states; the time between law enforcement alert requests and approval, and the process; and a comparison of timing and effectiveness of public alerts.

Sec. 6. Authorization of Appropriations. Section 6 provides that \$2 million is authorized for fiscal year 2023 until expended.

Sec. 7. Limitation on Liability. Section 7 provides that nothing in this legislation shall be construed to provide that a participating agency, officer, or employee shall be liable for any act or omission pertaining to the Network. It further provides that nothing in this legislation may be construed to limit the application of any State or Federal law providing for liability for any act or omission pertaining to the Network.

Minority Views

H.R. 6538, the Active Shooter Alert Act of 2022, is an unnecessary piece of legislation that gives more authority to the highly politicized Biden Department of Justice (DOJ). This bill authorizes \$2,000,000 for a National Coordinator at DOJ to issue best practices and guidance for states and local governments to implement active shooter emergency alert systems. As Democrats candidly admit, this bill is merely an effort to fear-monger about firearms and “remind[]” Americans about the “threat” posed by firearms.¹ Its unnecessary and broad mandates will only serve to stoke public fear.

H.R. 6538 IS A SUPERFLUOUS AND UNNECESSARY PIECE OF
LEGISLATION

State and local officials already have access to and use the Integrated Public Alert and Warning System (IPAWS) to alert the public to emergency situations. Government officials use the IPAWS

¹ Meeting of the H. Comm. on the Judic., 117th Cong. (2022) (statement of Rep. Jones).

Wireless Emergency Alerts (WEA) to send emergency alerts to mobile devices and use the Emergency Alert System (EAS) to alert media platforms.² According to a 2020 Government Accountability Office (GAO) report, every state has at least one alerting authority, some of which are already utilizing the system for active shooter incidents.³ For example, the Texas Division of Emergency Management will “alert individuals in close proximity of active shooter situations through their cellular devices, local broadcast media, Texas Department of Transportation Dynamic Message Signs (DMS) and other resources.”⁴ As of 2019, there were more than 1,400 alerting authorities across the country and FEMA had more than 400 pending applications.⁵

THIS COMMITTEE HAS NOT CONSIDERED THE UNINTENDED
CONSEQUENCES OF THIS LEGISLATION

The Committee has not taken the necessary time to hold hearings on this subject or hear from expert witnesses on the unintended consequences of implementing a nationwide active shooter emergency alert system. For example, an active shooter emergency alert notification could potentially encourage people to seek out the active shooter and engage in vigilantism, which could endanger that person and interfere with law enforcement operations. Law enforcement officials agree. During the Committee’s business meeting to consider H.R. 6538, Representative Cliff Bentz read a message he received from Travis Ash, Sheriff of Baker County, Oregon, about H.R. 6538.⁶ Sheriff Baker informed Representative Bentz: “I would be concerned with the potential influx of good Samaritans traveling and a potential to add more traffic and confusion to our smaller communities.”⁷

H.R. 6538 IS AN UNNECESSARY EXPANSION OF BUREAUCRACY AT THE
DEPARTMENT OF JUSTICE

This legislation creates a new position at the DOJ, the National Coordinator of the Active Shooter Emergency Alert Communications Network. There is no need for Congress to pass a bill to carry out the mandate of this legislation. It is well within the Attorney General’s current authority to appoint a National Coordinator to issue best practices and guidance to the states on how to establish an active shooter emergency alert system.⁸ Furthermore, the Justice Department does not need \$2,000,000 in taxpayer dollars to issue best practices and guidance. It is an unnecessary waste of taxpayer dollars.

² GOVT ACCOUNTABILITY OFFICE, GAO-20-294, EMERGENCY ALERTING, AGENCIES NEED TO ADDRESS PENDING APPLICATIONS AND MONITOR INDUSTRY PROGRESS ON SYSTEM IMPROVEMENTS (Feb. 2020).

³ *Id.*

⁴ Texas Department of Public Safety, Active Shooter Alert, <https://www.dps.texas.gov/section/intelligence-counterterrorism/active-shooter-alert> (last visited Jun. 15, 2022).

⁵ U.S. Dep’t of Homeland Security, Federal Emergency Management Agency, Wireless Emergency Alerts, <https://www.fema.gov/emergency-managers/practitioners/integrated-public-alert-warning-system/public/wireless-emergency-alerts> (last visited Jun. 11, 2022).

⁶ Meeting of the H. Comm. on the Judic., 117th Cong. (2022) (statement of Rep. Bentz).

⁷ *Id.*

⁸ U.S. Dep’t of Justice, Justice Manual sec. 1-19.000—PRINCIPLES FOR ISSUANCE AND USE OF GUIDANCE DOCUMENTS (Apr. 2022).

AN ACTIVE SHOOTER EMERGENCY ALERT SYSTEM IS FUNDAMENTALLY
DIFFERENT THAN OTHER NATIONAL EMERGENCY ALERT PROGRAMS

An active shooter emergency alert system has a fundamentally different purpose than the existing national emergency alert programs—AMBER alerts, BLUE alerts, and ASHANTI alerts. These national emergency alert programs exist in order to seek the public’s help in identifying a person, not to warn the public about a specific danger. Finding missing persons or fleeing assailants is a substantially different task than responding to an active public emergency. For example, kidnappings unfold over the course of hours or days, whereas a public shooting is often over in a matter of seconds or minutes. During a kidnapping, an emergency alert on your phone might provide useful information to the public who might be able to assist in identifying the suspect.

DEMOCRATS REJECTED REPUBLICAN AMENDMENTS THAT WOULD HAVE
IMPROVED THE LEGISLATION

During the Committee’s business meeting to consider H.R. 6538, Republicans offered several amendments to improve the legislation. Chairman Nadler and the Democrat members of the Committee rejected the following common-sense amendments offered by Republicans.

Representative Issa offered two amendments simultaneously that would have changed the title of the bill to “Life Threatening Emergency Systems Act of 2022” and would have made sure that the Active Shooter Emergency Alert System allowed state and local governments to send alerts for individuals perpetuating violence. The amendment defined an “individual perpetuating violence” as “an individual who is engaged in killing or attempting to kill persons in a populated area and who is determined to pose an active, imminent threat to people in that populated area.” This would have ensured that states and local government could utilize the emergency alert system to issue alerts to the public about any person who was posing an active imminent threat, not just individuals with a firearm. For example, this amendment would have broadened the emergency alert system to send an alert if an individual was driving a car through a crowd of people or threatening people with a knife. Committee Democrats rejected the amendment.

Representative Johnson offered an amendment that would have stricken the entirety of the bill with the exception of Section 5, the Comptroller General Study on State Responses to Active Shooter Situations Requiring the Issuance of Public Alerts and Warnings. This section requires a study to be conducted on state and local responses to active shooter situations and situations involving the issuance of a public alert or warning. The amendment would have ensured that the GAO properly studied the problem before the Committee mandated a solution to it. In fact, this bill requires the National Coordinator to report back to Congress within 18 months, a full 6 months before GAO is required to submit its report to Congress. There is no need to federalize an emergency alert program across the country before studying whether states are doing a good job with their current systems. Committee Democrats rejected the Amendment.

CONCLUSION

H.R. 6538 is an unnecessary piece of legislation that wastes taxpayer dollars and adds another layer of bureaucracy to the highly politicized Biden DOJ. Democrats are pushing this bill under left-wing pressure to “do something” about firearms. But this bill is more of an effort to fear-monger about firearm violence—as Democrats admit—than to effectively improve public safety. For these reasons, I will not support this legislation.

JIM JORDAN,
Ranking Member.

