



## NEWS RELEASE

FOR IMMEDIATE RELEASE  
September 19, 2019

### **Insufficient Evidence Will Result in No Criminal Charges Being Filed On a Sixteen-Year-Old Juvenile Suspect for Social Media Post Regarding a School Shooting**

Today, September 19, 2019, the Fresno County District Attorney's Office declined to file a criminal threats charge against a sixteen-year-old juvenile suspect, for drafting a post on a social media site related to a school shooting, as the elements necessary to substantiate a crime were not present in the facts of the case.

The investigative reports and the audio and video-recorded witness statements were reviewed and evaluated.

In order to prosecute the sixteen-year-old juvenile for the crime of criminal threats, the prosecution must prove that the juvenile threatened to kill or cause great bodily injury to an individual, AND that the threat caused that individual to be in sustained fear for his/her safety, AND that the suspect intended that his/her statement be understood as a threat. Although the juvenile posted a generic statement related to a school shooting, there was no evidence that Fresno High School, or anyone associated with that school, was the subject of that post.

In drafting the post, the juvenile did not name any specific school, any specific person, or provide any other information that would substantiate the prosecution being able to prove this alleged crime in a court of law. This lack of specificity makes it legally impossible for the District Attorney to file a charge.

Furthermore, it appears that the statement made on the social media site was potentially a take on a popular phrase commonly used by users of social media. Phrases that are used on photos known as memes, often become part of the culture of teenage social media users. The one that related to the quote posted by the juvenile in this case was, "Felt cute, might delete later."

In March 2019, there was a social media campaign challenge known as "Feeling Cute, might \_\_\_\_\_ later" where social media users were encouraged to fill in the blank with some emotion or feeling that they had. These posts spawned many numerous parodies of the social media phrase that were intended to be comedic in nature. This fact could be used in a court of law to prove that the statement was not intended to be an actual threat, but some sort of misguided and inappropriate attempt at teenage humor.

District Attorney Lisa Smittcamp has been a strong proponent in the attempt to educate the community on the importance of social media awareness and the need to "be smart when you post."

FUSD Superintendent Bob Nelson recently invited DA Smittcamp to be a part of a Public Service Announcement regarding social media posting.

If posts directly or indirectly threaten, or cause safety concerns for any individual, staff member, or school community, the students can be suspended or expelled. If the threat reaches the level of a crime that can be proved in a court of law, the individual who posts the message will be prosecuted.

The District Attorney's Office remains committed to prosecuting all crimes, especially those directed at our youth, with the resources necessary to protect the citizens of Fresno County. However, we are limited by our legal and ethical obligations to pursuing cases where the facts support proving each element of the crime.

District Attorney Lisa Smittcamp stated, "This type of behavior is completely unacceptable. Although the generic nature of this specific statement does not allow for prosecution under the current law, we must work with our state legislators to draft and pass laws that speak directly to this type of behavior. Posts such as this should be illegal in my opinion, as they cause every administrator, teacher, staff member, parent, student and community member to live in fear of sending children to school. We must do something and I encourage all citizens of Fresno County to write their state legislators to demand action."

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