

# School and Law Enforcement Efforts to Combat Cyberbullying

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Although most youth have positive experiences while using technology, bullying by electronic means, or cyberbullying, is becoming an increasing problem. Not only does it have the potential to significantly disrupt the educational environment, but it also can result in severe psychological and physical consequences for victims. In this article, the authors present an overview of the problem, reviewing the most relevant empirical studies and providing a clearer picture of the characteristics associated with cyberbullying. Moreover, they discuss the extant case law and legislation that allow school administrators and law enforcement to intervene in cyberbullying incidents. Last, they examine the many shortcomings of local law enforcement in their efforts toward fighting cybercrime.

**Keywords:** bullying, cyberbullying, cybercrime, cyberdeviance, harassment

As new communication technologies continue to be developed, novel ways of exploiting such technologies for nefarious purposes will undoubtedly develop as well. It is the responsibility of relevant social control systems, then, to keep pace with those that use electronic mediums, particularly computers, cyberspace, and cellular phones, to victimize others by successfully preventing or responding to such instances. One type of victimization using the aforementioned means can occur via what has been termed *cyberbullying*.

Although cyberbullying has been defined in a variety of ways, most definitions share substantive commonalities. For example, Belsey (as cited in Li, 2005, p. 1179) maintained that “cyberbullying involves the use of information and communication technologies . . . to support deliberate, repeated, and hostile behavior by an individual or group, that is intended to harm others.” Similarly, the National Crime Prevention Council (n.d.) maintained that cyberbullying is “when the Internet, cell phones or other devices are used to send or post text or images intended to hurt or embarrass another person.” And perhaps most succinctly stated, Patchin and Hinduja (2006, p. 152) defined *cyberbullying* as “willful and repeated harm inflicted through the medium of electronic text.”

Whatever definition one adopts, it can be agreed that cyberbullying is inherently negative, entails unwanted harassing behavior, and is perpetrated through electronic means. Moreover, as noted by Patchin and Hinduja (2006), the

term *bullying* connotes behavior involving juveniles or aggressive actions that are associated with elementary and secondary educational institutions. When adults are engaged in such behavior, if extreme enough, it is generally referred to as harassment. That is not to say, though, that only adults can engage in harassment. Juveniles, if old enough, can indeed be held criminally responsible for violating statutes prohibiting such conduct; however, it should be noted that, although cyberbullying can be serious, entailing threats and potentially concluding with serious physical harm or even death, it is not always tantamount to actions legally proscribed in penal codes. Further, cyberbullying conceptually overlaps with other forms of deviance carried out through electronic means, such as cyberstalking and online sexual harassment or the torts of libel, defamation, invasion of privacy, and intentional infliction of emotional stress (McQuade, Colt, & Meyer, 2009). In fact, a single act of deviance could be categorized under all of the above. This observation will be examined further in the proceeding pages.

With society’s increasing reliance on technology, particularly among juveniles (Horrigan, 2009; Lenhart, Madden, Smith, & Macgill, 2007; Yen, 2009), the incidence of cyberbullying is only likely to increase. Despite the potential increase, relatively little empirical research has been conducted on the phenomenon. Cyberbullying has been covered more extensively in the popular press, however. For example, the most watched video on the Internet in 2006 was a 2-min clip of a 14-year-old high school student from Quebec reenacting a light saber scene from the *Star Wars* films with a golf ball retriever (BBC News, 2006). The surreptitious online posting of the video by fellow classmates

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humiliated the student to the point wherein he was compelled to drop out of school and seek psychiatric counseling (Snider & Borel, 2004). Other highly publicized incidents have ended more tragically. In 2003, a 13-year-old Vermont boy killed himself after classmates spread rumors online that he was gay. Four years later, in Missouri, a 13-year-old girl died of suicide after falling victim to a hoax that was carried out on the online social networking site MySpace (Koloff, 2008).

The social and physical ramifications of being the victim of traditional bullying have been well documented. For example, depression (Hawker & Boulton, 2000; Roland, 2002; Seale, Polakowski, & Schneider, 1998), eating disorders (Kaltiala-Heino, Rimpelä, Marttunen, Rimpelä, & Rantenen, 1999; Striegel-Moore, Dohm, Pike, Wilfley, & Fairburn, 2002), suicidal thoughts (Roland, 2002) and school-related problems (Ericson, 2001) have all been found to be associated with being bullied. Because cyberbullying has been referred to as “bullying via electronic communication tools” (Li, 2005, p. 1778) and as an “extension of general bullying” (Shariff & Hoff, 2007, p. 80), implying that it is simply traditional bullying augmented by new technologies, it is not unreasonable then to conclude that victims of cyberbullying experience harms similar to those of traditional bullying.

Because of the possible deleterious effects of cyberbullying and the relative lack of attention it has received in the academic literature, a better understanding of the issue is necessary, particularly to assist the agents of social control responsible for recognizing and remedying the problem. In fact, many school educators are unaware that cyberbullying is even occurring (Beran & Li, 2005). Moreover, when incidents have been serious enough to warrant intervention by law enforcement, the traditional response has been to treat them as simple nuisance complaints (Reno, 1999). In the present article, we attempt to provide the reader with more insight into cyberbullying, especially its incidence and how it relates to, as well as how it can be distinguished from, other deviance committed through electronic means. Further, we present a brief overview of legislation and leading court cases that allow social control agents to intervene, discipline, and, in the most serious cases, criminally sanction cyberbullying behavior.

### **Incidence, demographics, and means**

The empirical research that has been conducted on cyberbullying thus far shows that its incidence significantly varies across different populations. In Li's (2005) study of 177 seventh-grade students from a western Canadian city, it was discovered that more than 25% of the students had been cyberbullied. Raskauskas and Stolz (2007) surveyed 84 adolescents concerning their Internet experiences and found overall rates of cyberbullying and victimization at 21% and 49%, respectively. Using a questionnaire that was

linked to the official Web site of a popular music artist, Patchin and Hinduja (2006) found that slightly more than 29% of the youths reported that they were victims of online bullying, whereas 11% of the respondents reported bullying others while online. In the first wave of the Youth Internet Survey, Ybarra and Mitchell (2004) surveyed 1,501 youths between the ages of 10 and 17 years concerning their online behavior, of whom 12% were cyberbullies, 4% were cybervictims, and 3% were on both ends of online aggression; in the second wave, it was discovered that 9% of the youths were targets of online harassment (Ybarra, Mitchell, Wolak, & Finkelhor, 2006).

The prevalence of cyberbullying fluctuates—primarily the result of differences in sample sizes, population targets, and operational definitions, among other things—gender, however, consistently appears to be an important element in our understanding of cyberbullying. For instance, in their online survey of 1,378 adolescent Internet users, Hinduja and Patchin (2008) found that more than 32% of the boys and more than 36% girls were victims of cyberbullying, with approximately 18% of the boys and 16% of the girls reporting that they acted as the perpetrators of online harassment.<sup>1</sup> Similar to Hinduja and Patchin's aforementioned findings, Li (2005) discovered that boys (52%) were more likely to be the cyberbullies, whereas girls (60%) were more likely to be cybervictims. The relation between gender and cyberbullying experiences, however, has been found to be contingent upon age. According to the Rochester Institute of Technology's Survey of Internet and At-Risk Behaviors, in which more than 40,000 students in Grades K–12 from 14 New York counties participated, boys initiate cyberbullying behaviors earlier in their lives than girls, but by the time they reach middle school age, girls report higher rates of being cyberbullies. As they enter their late teens, however, boys again become more likely to engage in cyberbullying (McQuade & Sampat, 2008).

Although relatively little has been written on the effects of cyberbullying,<sup>2</sup> it has been postulated that the effect of cyberbullying could be heightened because of the breadth of its audience and the inability of the cybervictim to flee the assailant's attacks (Hinduja & Patchin, 2008; Smith et al., 2008). These potential outcomes are facilitated by the omnipresent role communication technologies play in society today. Approximately 228 million Americans (74%) access the Internet (Internet World Stats, 2009), with more than half accessing the Internet wirelessly via a laptop, mobile device, game console, or mp3 player (Horrigan, 2009). Internet use is even higher among teens, of whom 93% access the communications network (Lenhart et al., 2007). Moreover, the 270 million cell phone subscribers in the United States sent more than 110 billion text messages in December 2008 alone—an average of 407 text messages per subscriber. Similar to Internet activity, the rate of texting among teens is higher than that in the general population, with the average teen sending 2,000 text messages per month (Yen, 2009).

Considering the prevalence of texting among teens, it is not surprising that researchers have found it to be one of the most common methods used to engage in cyberbullying (Raskauskas & Stoltz, 2007). Others have found chat rooms, computer text messages, and e-mails to be the preferred cyberbullying mediums (Hinduja & Patchin, 2008; Patchin & Hinduja, 2006). One cyberbullying method that is undoubtedly being used currently, but which has not received attention in the academic literature, concerns video games that require, or allow for, an Internet connection. Examples include the computer-based massive multiplayer online game *World of Warcraft* as well as games played on consoles with online networks—such as the popular Xbox Live, Playstation Network, and the Nintendo Wi-Fi Connection. In 2009, a 27-year-old Missouri man was sentenced to 10 years in prison for crossing state lines to engage in a sex act with a 15-year-old California girl he met in an Xbox Live chat room (News Tribune, 2009). Although not necessarily an incident of cyberbullying, the case is illustrative of how gaming venues can be exploited to harass others while online and how such activity can result in severe emotional and physical ramifications. Further, with teens playing an average of 14 hours of video games per week (Harris Interactive, 2007), future research should explicitly examine the role of online gaming systems in cyberbullying.

### Cyberbullying and cybercrime

Although cyberbullying has commonly been presented in general discussions of cybercrime (see McQuade, 2008; Millhorn, 2007; Taylor, Caeti, Loper, Fritsch, & Leiderbach, 2006; Wall, 2001), the phenomenon might better be categorized under the rubric of *cyberdeviance* or *cyberviolence*. As mentioned at the outset of this article, an act that has been labeled cyberbullying is not necessarily, and perhaps not even in most cases, a violation of the penal code, which is the legal definition of a crime. Moreover, in some instances in the academic literature, cyberbullying has been operationalized as being “ignored by others” (Patchin & Hinduja, 2006, p. 162). One would be hard-pressed to justify the criminalization of a child simply refusing to communicate with another child, online or face-to-face. Although Patchin and Hinduja (2006) logically justified that particular method of measurement, holding that universal social acceptance during adolescence is highly desired and ignoring someone could thus be interpreted as a passive-aggressive form of bullying, intervention by law enforcement in such an instance along with the subsequent labeling of the child as a delinquent would be an affront to democratic sensibilities.

Cyberbullying nonetheless shares many commonalities with other forms of deviance carried out through electronic means. First, the particular environment in which they occur is unique. Although cyberbullying and cybercrime can have real-life effects, they are initiated in the

nonphysical world, which presents distinctive problems for social control agents. Second, most cybercrimes or acts of cyberdeviance have physical world counterparts, thus cyber offenders can be viewed as merely adapting real space criminal behaviors to the cyberspace environment. Similarly, many statutes that prohibit physical world crimes have provisions that also criminalize their corresponding electronic variants. Third, cybervictimization is related to time spent using communication technologies; researchers have applied and found support for lifestyle-routine activities theory in explaining the incidence of computer and cybercrime (Finn, 2004; Holt & Bossler, 2009; Marcum, 2009). Lifestyle-routine activities theory holds that the likelihood of victimization is increased when individuals are placed in at-risk situations, a motivated offender is present, and there is a lack of a capable guardian (Cohen & Felson, 1979). Specifically concerning cyberbullying, victims have been found to use the Internet more than did their nonvictim counterparts (Smith et al., 2008; Ybarra & Mitchell, 2004).<sup>3</sup> Fourth, perpetrators of cyberdeviance and cybercrime share the element of anonymity. Research has shown that most cybervictims have no idea who their assailants are (Li, 2005; Ybarra & Mitchell, 2004), and it has been postulated that the anonymity associated with electronic communication modes “reduces social accountability, making it easier for users to engage in hostile, aggressive acts” (Herring, 2003, p. 212). Last, a similarity of all cyberdeviance and cybercrime, and one which underscores many of the aforementioned commonalities, concerns the relative absence of social control mechanisms that can prevent or respond to the harmful behavior. Although many law enforcement agencies, at all levels of government, have units with cybercrime responsibilities, there are no entities that continuously and actively police personal messages between users in a chat room, the content of cell phone text messages and e-mails, or posts on a Web page—and in societies that highly value free speech and privacy, their citizens would likely oppose the creation of such entities.

### School efforts to combat cyberbullying

Although the onus for controlling cyberbullying rests with many institutions, schools play an important role in ensuring the health and safety of the students they educate, and cyberbullying, regardless of where it originates, can serve as major impediment to the fulfillment of that role. School administrators, however, have been reluctant to get involved in cyberbullying incidents, fearing civil litigation over regulating speech or behaviors that are protected by the First Amendment. Exacerbating this fear is the fact that there does not appear to be a clear legal consensus as to when they have the authority to intervene. Moreover, school administrators, if not aware of the potential deleterious effects of cyberbullying, might feel that it should be subordinated to other matters that require their immediate attention.

Although we do not provide a comprehensive review and analysis of legal issues pertaining to the authority of schools to intervene in cyberbullying in this article, we present a few examples of case law to illustrate when school administrators can regulate the behavior or speech of students to ensure a safe environment—one that is free of harassment and is conducive to learning. Further, from the following cases, it should be recognized that, when determining a school's authority to intervene in cyberbullying incidents, courts have placed more emphasis on the effect the incident had on school operations than on where the behavior originated—that is, on or off campus—or the rightful owner of the technology used to carry out the cyberbullying—that is, school-owned equipment or personal resources.<sup>4</sup>

In the landmark case *Tinker v. Des Moines Independent Community School District* (1969), the U.S. Supreme Court held that three public school students' constitutional rights were violated when they were suspended for donning black armbands, while on campus, to protest the Vietnam War. The court held that schools cannot discipline students for speech they find disagreeable unless it "materially and substantially" affects school operations. Although *Tinker* did not involve electronic communications, it provided a standard for dealing with student free expression, and its applicability to cyberbullying incidents, particularly those originating from on campus, is apparent: before intervening, schools must demonstrate that the speech or behavior resulted in a substantial disruption.

Many cyberbullying incidents, however, originate off campus (Hinduja & Patchin, 2009; McQuade et al., 2009), and in these situations, school administrators are most fearful of overstepping their authority and subjecting their districts to liability. Nevertheless, courts have upheld the disciplinary actions of schools that were related to cyberbullying occurring away from campus. In *J.S. v. Bethlehem Area School District* (2000), J.S. was expelled for creating a Web site, from his home computer, titled "Teacher Sux," which depicted graphic images of severed heads and threatening comments about a teacher. Specifically, a list of reasons as to why the teacher should be fired was presented along with a request for money to hire a hit man. The targeted teacher reported experiencing physical and psychological problems from the incident and was unable to finish the remainder of the year. The Commonwealth Court of Pennsylvania upheld the expulsion of the student, maintaining that the school had demonstrated a substantial disruption. In essence, the court communicated to schools that Web sites that are accessible at schools and whose intended audience is the school population can be dealt with similarly to on-campus speech.

In a similar case, *Emmet v. Kent School District No. 415* (2000), a student was expelled for posting mock obituaries of fellow students along with a "who would die next" list on a Web page, which also included a disclaimer that the page was for entertainment purposes only. The U.S. District

Court for the Western District of Washington, noting that the Web page was not created at school or using school resources, ruled that, unlike in *Bethlehem*, the school exceeded its disciplinary authority because it failed to show that anyone was actually threatened by the Web site or that it caused a substantial disruption.

Courts have also held that the substantial disruption must be directly caused by the speech or behavior in question, not the response by school administrators. In *Layshock v. Hermitage School District* (2006), a U.S. District Court ruled against a school district when it disciplined a student for creating a parody MySpace profile, from his grandmother's home computer, of the school principal. Although the school exerted an exorbitant amount of time in trying to resolve the problem, shutting down the computer system and cancelling classes, the court ruled that, not only did the posting fail to reach the level of a substantial disruption, but also the school failed to show that the posting caused the disruption.

The cases illustrate that, although no legal hard-and-fast rule exists concerning when schools can intervene and discipline the behavior of students in every cyberbullying situation, court rulings have provided a guiding framework for school administrators to address the problematic online behaviors of students as well as offered a basis on which they can shield themselves from civil liability. In summarizing when educators can intercede in cyberbullying incidents, Hinduja and Patchin (2009, p. 116) maintained that behavior or speech can be restricted if it "substantially or materially disrupts learning; interferes with the educational process or school discipline; utilizes school-owned technology to harass; or threatens other students or infringes on their civil rights."

### Criminal laws potentially applicable to cyberbullying

As previously mentioned, cyberbullying is not explicitly proscribed in criminal laws, which provides the official legal parameters for most law enforcement responsibilities. Such an explicit codification is not entirely necessary, however. Many cyberbullying behaviors are already criminalized. For example, penal codes already prohibit the offenses of assault, terroristic threats, harassment, menacing, stalking, and hate crimes, which can potentially be used to prosecute perpetrators of cyberbullying. Further, some statutes have been written with specific language that provides more legal authority for criminal justice officials to intervene in cyberbullying incidents. According to the National Conference of State Legislatures (2009), 47 states have enacted laws that explicitly address electronic forms of harassment and stalking. The following are the state of Texas' criminal statutes that make it easier for law enforcement to confront cyberbullying.<sup>5</sup>

Sec. 42.07. HARASSMENT. (a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, he: (1) initiates communication by telephone, in writing, or by electronic communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene; (2) threatens, by telephone, in writing, or by electronic communication, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of his family or household, or his property; . . . or (7) sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another. (b) In this section: (1) "Electronic communication" means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term includes: (A) a communication initiated by electronic mail, instant message, network call, or facsimile machine; and (B) a communication made to a pager. . . . An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section.

Sec. 33.07. ONLINE HARASSMENT. (a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site: (1) without obtaining the other person's consent; and (2) with the intent to harm, defraud, intimidate, or threaten any person. (b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person: (1) without obtaining the other person's consent; (2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and (3) with the intent to harm or defraud any person. (c) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a felony of the third degree if the actor commits the offense with the intent to solicit a response by emergency personnel. . . . (f) In this section: (1) "Commercial social networking site" means any business, organization, or other similar entity operating a website that permits persons to become registered users for the purpose of establishing personal relationships with other users through direct or real-time communication with other users or the creation of web pages or profiles available to the public or to other users. The term does not include an electronic mail program or a message board program.

Legislators face the sobering task of having to sort through a cornucopia of perceived social problems and determine which ones demand state intervention. As previously illustrated, legislators have recognized online harassment as being one of those problems and have attempted to provide a legal recourse for victims; however, to give law enforcement the tools necessary to successfully combat

cyberbullying and its related behaviors, they need to ensure that the laws they enact can withstand constitutional challenges. For example, of the statutes presented, the former has been deemed unconstitutionally vague by a Texas appellate court. In *Karenev v. State* (2008), the court reversed the original judgment and acquitted Karenev, who was convicted of "sending harassing and/or threatening e-mail[s] . . . with the intent to harass, annoy, alarm, abuse, torment, or embarrass" his wife. Citing the federal decision in *Kramer v. Price* (1983), the *Karenev* court noted that, in *Kramer*, the words "annoy" and "alarm" were deemed "inherently vague." In *Long v. State* (1996), a different Texas Court of Appeals examined the constitutionality of Texas's original antistalking law, which also contained the language "annoy" and "alarm." The *Long* court noted three important elements that must be clear in criminal laws to avoid vagueness.

First, a person of ordinary intelligence must be given a reasonable opportunity to know what is prohibited. Second, the law must establish determinate guidelines for law enforcement. Finally, where First Amendment freedoms are implicated, the law must be sufficiently definite to avoid chilling protected expression. (p. 290)

Vagueness was also cited in *United States v. Drew* (2009), wherein the court held that a federal statute making it a crime to violate a Web site's terms of service was unconstitutional. In that case, Lori Drew, 47, created a fake MySpace account of a fictitious boy named Josh Evans and used it to engage in a flirtatious online relationship with her daughter's 13-year-old classmate, Megan Meier. After communicating with Meier for several weeks, the fictitious Josh Evans told Meier the world would be a better place without her, at which time Meier took her own life. Drew was subsequently charged and convicted under the federal Computer Fraud and Abuse Act (CFAA), which, among many other things, prohibits the unauthorized access of a computer. Drew, however, had her misdemeanor conviction thrown out after the U.S. District Court for the Central District of California ruled that, similar to the observations made in *Long*, the public was not given a reasonable opportunity to know that it was a crime to violate the Web site's terms of service and that it was not clear as to what specific terms of service violations would constitute "unauthorized access," thus failing to provide determinate guidelines for law enforcement. These cases serve as good examples of the constitutional issues that policymakers must contemplate when they legislatively address protected speech or behavior.

Evident from the previously mentioned Online Harassment statute (Sec. 33.07), it is a crime in the state of Texas to impersonate people online. Specifically, it makes it a felony to create fake profiles on social networking sites—which has been defined broadly but explicitly excludes e-mails and message boards—with the intent to "harm, defraud, intimidate, or threaten" others. It would appear this statute

addresses the Megan Meier situation; however, no real person was impersonated in that case. Nonetheless, this statute could have possibly produced a different result in the previously mentioned *Layshock* case, wherein a student created an online parody profile of his principal. In *Layshock*, the court ruled in favor of the student, holding that the school could not impose discipline for an off-campus incident that did not amount to a substantial disturbance to the learning environment. Although the perceived disturbance level would have remained the same, the school might have been able to launch a stronger case if it could have shown the student's behavior was also a violation of the penal code.

### *Federal initiatives*

Federal authorities largely lead the way when it comes to law enforcement efforts against computer and cybercrime. This is primarily due to their unique technical expertise, their political clout to garner the necessary resources, and, with the current campaign against terrorism, the increased pressure that has been placed on protecting critical computer infrastructures at the federal level (Taylor et al., 2006). Further, the interstate nature of many cybercrimes provides them with the jurisdictional powers to intervene, which local and state agencies lack. Although numerous federal governmental entities—such as the Federal Bureau of Investigation, National Security Agency, Federal Trade Commission, and the Department of Homeland Security, as well as many others—have computer and cybercrime responsibilities, traditionally they do not intervene in cyberbullying incidents. Although federal agencies did take action in the Megan Meier situation under the CFAA, as discussed earlier, they were ultimately unsuccessful. Moreover, the appropriateness of prosecuting cyberbullying cases using the CFAA has been questioned. In *Drew*, the court observed that “While this case has been characterized as a prosecution based upon purported ‘cyberbullying,’ there is nothing in the legislative history of the CFAA which suggests that Congress ever envisioned such an application of the statute” (p. 450).

Federal laws do exist, however, that are more explicit than the CFAA about prohibiting online harassment. For example, Title 18 U.S.C. 875 criminalizes the transmission of any communication in interstate or foreign commerce that contains threats to injure others. Also, Title 47 U.S.C 223 addresses online harassment that entails direct communication between stalker and victim. Nonetheless, cyberbullying, similar to its physical world counterpart, is for the most part viewed as a local issue, requiring federal intervention only in the most heinous instances and when local and state laws have been deemed inadequate.

### *Local and state law enforcement efforts*

Although the reporting of computer and electronic crimes has increased (Stammbaugh et al., 2001), most youth do

not feel comfortable informing authorities of their cyberbullying victimization (National Children's Home, 2005). This lack of reporting, along with the difficulty of criminal laws to keep up with the evolving abuses of technology, make policing electronic crimes an extremely cumbersome task for local and state law enforcement. Compounding the problem is the lack of resources and equipment, particularly at the local level. Approximately half of all local police departments employ 10 or fewer officers (Hickman & Reaves, 2006); thus, they do not require the same high degree of specialization as do larger organizations and lack units exclusively devoted to investigating cybercrime. Those agencies that do have such units are tasked with combating high-tech crimes such as child pornography and exploitation, online fraud, and computer hacking (Stammbaugh et al., 2001), and are likely unable to devote much time or substantial resources to investigate all violations of existing state laws that could potentially be used to prosecute cyberbullying.

The National Institute of Justice, along with the National Cybercrime Training Partnership (Stammbaugh et al., 2001) conducted a national study to assess the needs of local and state law enforcement in their efforts against cybercrime. The report, published in 2001, documented the opinions, criticisms, and recommendations of 126 criminal justice officials employed from a variety of different agencies and are still applicable today. The remainder of this section addresses the issues and needs that require attention, as expressed by the National Institute of Justice study participants, to keep pace with the continuously changing nature of computer crime. Although hundreds were expressed, the issues and needs can be categorized into three overarching themes related to (a) uniform training, (b) the procurement of resources, and (c) updated criminal laws to keep pace with the ever adapting cyber criminals.

*Training.* The most vocalized need communicated by the workshop participants concerned training, particularly for first-line officers responsible for initially securing and examining crime scenes, collecting and preserving electronic evidence, and providing courtroom testimony. Participants also suggested proposing a national certificate program designed to accomplish the training and ensure uniform skills levels. Training recommendations were also made for management. It was expressed that many members of senior management did not fully appreciate the seriousness of electronic crime and thus were reluctant to devote the resources necessary for successful investigations and prosecutions. Moreover, the need for training was not exclusively related to the police institution. It was maintained that prosecutors, defense attorneys, judges, and community corrections officials were wanted in entry-level and advanced training as well.

*Resources.* The need for resources in the areas of organizational structure, equipment, managerial support, and

data was also strongly expressed by the participating criminal justice officials. Concerning organizational structures, more collaborative relationships with other agencies were believed to be needed, particularly because of the multi-jurisdictional nature of cybercrime. One method of fostering collaboration was identified as the participation in joint task forces. By working together via task forces, agencies experience several advantages, one of which includes access to information and resources they would not have had otherwise. Other recommended changes to organizational structure were related to the creation of computer crime investigation units and forensic labs. It is difficult to create more units within a bureaucracy without properly supplying each with the necessary tools, thus the participants conveyed that there was a need for computer systems, software, hardware, and tools that could detect intrusions, along with an array of other forensic equipment. Further, it was held that managers should be provided adequate funding and personnel to combat digital crime. Such provisions are generally allocated by external administrative and political entities, thus requiring their cooperation as well. Concerning needed resources, lack of statistical data was cited as preventing agencies from tracking electronic crime trends (i.e., the extent and effect), which is needed to better understand the problem and to communicate it to budget and policymakers tasked with appropriating the required tools.

*Updated criminal laws.* Last, and similar to what has been detailed throughout this article, the National Institute of Justice study participants have called for updated federal and state laws that can keep pace with the evolving technology and its respective evolving exploitation. One specific recommendation concerned the creation of a formal mechanism that would allow inter-state subpoena powers. Although it was noted that many prosecutors' offices currently cooperate with those in other states, such exchanges are generally voluntary. Problems of jurisdiction, which are exacerbated by cyberspace, frustrate law enforcement regardless of the cyber crime being investigated.

## Conclusion

This article has addressed the increasingly prevalent problem of cyberbullying among adolescents. We presented conceptual and operational definitions of the phenomenon and a review of the literature concerning its incidence, the demographics of those it typically entails, and the technological means with which it is generally carried out. Cyberbullying is often discussed under the broader category of cybercrime. In this article, we differentiated it from other cybercrimes, primarily addressing the fact that although cyberbullying is not explicitly codified in penal codes, many of its related behaviors can be prosecuted under a variety of already existing statutes.

Also presented in this article was a cursory review of some of the most prominent legal cases that address when school administrators can discipline students for cyberbullying incidents. Although school districts should not hesitate to investigate allegations of cyberbullying and take formal action when it is necessary to protect their students, they need to be cognizant of not overstepping their legal authority and violating constitutionally protected expression. While case law on the matter has been seemingly contradictory at times, it has nonetheless provided guidelines for school districts to follow that can allay fears of liability and assist in the effective operation of schools. In short, courts have held that school districts can intervene in cyberbullying incidents, including those that originate off-campus, when it can be shown that the incident resulted in a substantial disruption of the educational environment.

Law enforcement has a role in combating cyberbullying as well. They must be provided with proper legal guidelines by legislators, though. As demonstrated here, lawmakers need to ensure that the criminal statutes they draft to address electronic crime are specific enough that they can pass constitutional muster. Citizens need to be given the opportunity to know what is proscribed by law as well. Although federal law enforcement has taken the lead in combating most cybercrimes, cyberbullying, because of its relative provincial nature, is more likely to be addressed by local or state law enforcement. Their efforts to successfully combat electronic crimes are severely strained, however, given that most departments lack the necessary training and resources. Here, a national study spearheaded by the National Institute of Justice was profiled that identified several areas wherein improvements could be made in local and state law enforcement endeavors.

## Notes

1. The difference was not statistically significant, however.
2. Ybarra, Mitchell, Wolack, and Finkelhor (2006) found many victims reporting distress; Patchin and Hinduja (2006) reported that some victims felt frustrated, angry, and sad.
3. A separate theory of cybercrime has been established called *space transition theory*, which holds that people behave differently when they move from one space to another (Jaishankar, 2008); however, at the time of this writing, it has yet to be empirically tested.
4. For a more thorough review of legal issues pertaining to cyberbullying, see Hinduja and Patchin (2009), McQuade, Colt, and Meyer, (2009), and Shariff and Hoff (2007).
5. For the sake of brevity, these statutes have been edited to show the provisions most relevant to cyberbullying.

## Author notes

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### Cases of Victimization

#### Case 3: Phoebe Prince (Massachusetts, 2010)

Fifteen year-old, Phoebe Prince experienced daily threats from other students in her western Massachusetts school. According to her parents, the girls were particularly harsh. Recently immigrated from Ireland, Phoebe had experienced considerable difficulties at school and found little sanctuary at home as the same girls from school continued their torment online through the use of instant messaging and social networking Web sites. The stress and anguish had become too much for Phoebe to cope, so she took her own life. In addition, Phoebe's parents also reported, even after death, the taunting and malicious remarks continued online. A Facebook memorial page established in Phoebe's memory was tarnished with negative remarks and comments on the page, which had to be removed.

— Gerardo Moreno

### Cases of Victimization

#### Case 4: Jesse Logan (Ohio, 2008)

In 2008, Jesse Logan, from Cincinnati, Ohio, had sent nude images of herself to her high school boyfriend, an online practice called "sexting." However, after the relationship ended, the boyfriend then electronically distributed those images to other high school girls, which resulted in social ridicule and harassment for Jesse, with girls calling her a "slut" and a "whore" in person and online. The online remarks continued to circulate and became increasingly harsh over time. Jesse had decided to give an interview at a local television station as a means to tell her side of the situation and "... to make sure no one else will have to go through this again." Two months after the interview, Jesse hanged herself in her bedroom. Before the interview, Jesse's mother had little knowledge of what was happening at school until she was notified of Jesse skipping classes.

— Gerardo Moreno

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