

Cyberbullying, Sexting, and Predators, Oh My!

Addressing Youth Risk in the Digital Age in a Positive and Restorative Manner

Nancy Willard, M.S., J.D.

Center for Safe and Responsible Internet Use

Overview of Issues

This Issue Brief will address the key areas of risk associated with the use of digital technologies by young people. The major message presented is that it is necessary to delete the “oh my” reaction and address these concerns in a manner that is positive and restorative. The risks include:

- Digital aggression (cyberbullying) involves use of digital technologies to intentionally engage in hurtful acts directed towards another, including sending or posting hurtful material in a manner that is repeated or widely distributed.
- Digital threats or distress involves posting information that is either a direct threat or “leakage” that indicates the young person emotionally distraught and may commit an act of violence against self or others.
- Digital abuse involves abusive and controlling use of digital technologies in the context of abusive personal relationships.
- Digital exploitation involves use of digital technologies for sexual exploitation, including coercive pressure to provide revealing images (sexting), the distribution of revealing images that were provided privately, grooming leading up to sexual interactions, and sex trafficking.
- Unsafe digital communities involved online communities that support self-harm, such as anorexia or self-cutting, or that engage in criminal activity or support hatred or violence, such as gangs and hate groups.

The Digital Environment

Especially for young people, there really is no clear demarcation between “real life” and digital life.” It is all just “life.” From a prevention and intervention standpoint it is best to consider these issues in the

context of youth risk that is now manifesting through the use of digital technologies, and not seek to distinguish between concerns that involve face-to-face or digital interactions.

There are, however, features of this new digital environment that present both challenges and benefits. An understanding of the impact of these features must be integrated into all youth risk prevention and intervention initiatives.

- Limited Ability for Adults to Supervise. Young people generally interact with each other in digital environments where there are no responsible adults are present. Risk prevention approaches that rely on increased adult supervision will not be effective--this means it will be necessary to focus on empowering young people to independently make the right choices and to help others, which should increase their ability to do so in all situations.
- Permanence. Young people may impulsively provide material in permanent digital form. This can be used and further distributed to denigrate or cause harm and could attract people with dangerous intentions--and can provide “early warnings” of potential concerns and support more effective investigation and accountability.
- Anonymity. Digital technologies provide the ability to be deceptive, hide identity, or create a “fake profile.” This makes it easier for young people to engage in harm and avoid detection by being invisible--and allows young people to anonymously seek help from online sites.
- Dissemination. Digital technologies allow for a much wider range of dissemination of harmful material. A single incident can cause greater harm--but knowledge that many could see what you are doing may inhibit negative acts.
- Networked Community. Digital technologies allow for the involvement of many. This can lead

to increased involvement by groups of individuals engaging in hurtful behavior--or be mobilized to protest harm and provide emotional support.

- **Wider Social Engagement.** Young people can expand their social circles to interact with a larger number of people. This can lead young people to get into exploitive or dangerous relationships--or these communications can deepen personal relationships and can allow socially marginalized youth to find digital communities that share their interests.
- **Change in Power Balance.** Technologies that allow for posting information and connecting with like-minded people can level the "playing field." This may lead to retaliatory aggression because the person with lower power feels safer--and allows those with less social power to better challenge those who abuse power.

Digital Aggression

The term "cyberbullying" is being applied to a wide range of hurtful situations, including interpersonal conflicts and "digital drama," as well as situations that meet the traditional definition of bullying where more powerful young people target those with less power.

Digital aggression may include:

- **Flaming** - online "fights" between aggressors with equivalent strength.
- **Harassment** - repeatedly sending offensive and insulting messages.
- **Denigration** - sending or posting cruel gossip or rumors about a person to others.
- **Exclusion** - intentionally excluding someone from an online group.
- **Impersonation** - appearing to be someone to make that person look bad.
- **Outing** - publicly sharing someone's embarrassing information or images that they had send privately online.
- **Trickery** - tricking someone into revealing secrets or embarrassing information, which is then shared.
- **Cyberstalking** - engaging in online activities that make a person afraid for her or her safety.

Digital aggression is a significant concern affecting some young people, but with different degrees of severity. Reported incident rates in academic

studies range from 6% to 71%.¹ The results appear to depend on how questions were asked and the study was designed. More consistent findings report incident rates around 20%. However, in the surveys that ask, generally half of the respondents say they were not overly distressed.²

Digital aggression situations are generally closely intertwined with face-to-face interpersonal altercations.³ Young people are most often cyberbullied by people who they know. Digital aggression can be a continuation of or in retaliation for hurtful face-to-face altercations or can lead to such altercations. "Revenge" is the most frequently cited reason for engaging in hurtful behavior.

Consistent with research on traditional bullying, young people who engage in or are targeted by aggression also often have additional psychosocial concerns, including poor social skills, involvement in other aggression, disrupted relationships with parents/guardians, social anxiety, depression, other risk behavior, associate with friends who engage in risk behavior, and suicide ideation.⁴

These more at risk young people often have difficulties regulating their emotional responses. The use of digital technologies can aggregate this concerns because evidence of their impulsive acts can be permanent and widely distributed.

Most young people do not report digital aggression incidents to adults.⁵ This includes parents and school officials. Failure to report to adults appears to be related to a lack of trust that adults can effectively help them resolve these situations, the developmental expectation that they should be able to resolve their own disputes (and many times they are able to do so), or fear of getting into trouble and losing Internet or cell phone access. Young people are much more likely to report and discuss these concerns with friends.

Young people who demonstrate greater resiliency and less distress in response to digital aggression have parents who use a parenting style that involves active and positive engagement--providing warm emotional support along with clear limits.⁶ Resilient young people also demonstrate higher levels of individual self-control, including the ability to avoid responding impulsively.

Motivation of Those Engaging in Harm

Important new research in traditional bullying has identified two kinds of young people who engage in hurtful behavior directed at peers:⁷

- Socially marginalized young people appear to be fighting a social system that has excluded

them. They are young people who have significant other psychosocial concerns including negative attitudes, poor social and problem-solving skills, and involvement with other at risk youth. Their motivation is to achieve justice or undo injustice.

- Socially connected young people appear to be sophisticated in using aggression to control others and achieve social status. They generally have higher social status and demonstrate sophisticated means of denigrating their peers--means often not detected by school staff. Their motivation is to achieve social power.

This research insight has not yet been investigated in the context of digital aggression, but both forms of aggression appear to be evident. Interestingly, while the actions of the socially connected bullies frequently are undetected in school, the digital evidence of their hurtful behavior may be more obvious.

It is exceptionally important to ask what goals are being served by the harmful digital behavior. Material posted by young people who have been socially marginalized will likely appear to be more emotional and impulsive--an effort to "get back at" those who have taunted and denigrated them. Material posted by those who are socially connected will often be strategically geared towards enlisting the social community in disparaging a young person who is cast as "different" and "inferior." This "put down" material will likely include rumors, gossip, social ostracism, and character defamation.

Bullying Prevention in the Digital Age

A recent meta-analysis of traditional bullying prevention programs indicated that the common features of the programs that were most effective were a strong focus on policies against bullying, high levels of supervision in problem areas, and consistent discipline.⁸

This strategy, while important in the school environment, will not be sufficient to prevent digital aggression. School officials do not have the authority to create policies that govern the digital environment or the ability to supervise student digital interactions. Their ability to discipline consistently is hampered by the fact that students are not reporting these incidents.

Bullying prevention approaches that are ground in enhancing young people's ability to problem-solve, resolve conflict, and exercise self-control are necessary.⁹ The prevention approach should have a strong focus on engaging witnesses to be helpful

allies. This focus on positive norms, effective skills, and helpful allies will also help young people more effectively prevent and respond to conflict and bullying regardless of where it occurs.¹⁰

Effectiveness of School Response

Research on traditional bullying raises significant concerns about the effectiveness of school interventions and the inclination of young people to report bullying or aggression to school officials. This research raises significant concerns because the main message delivered by most bullying prevention programs is to "tell an adult."

In an extensive study of students who had been bullied at a moderate to very severe level, only 42% reported to school officials.¹¹ In only 34% of those situations did things get better after such report--29% of the time, things got worse.

What clearly made things get worse was when students were told they were tattling or at fault, or nothing was done. Punishing the person who engaged in harm made things worse 37% of the time and only made things better 34% of the time. What made things better was providing emotional support and recommendations on how to resolve the situation.

Students were far more likely to tell a friend (71%). Friends were able to help 33% of the time and only made things worse 18% of the time. Various ways of providing emotional support were the most helpful.

In another study, a significant majority of students (over 60%) felt their school was not doing enough to prevent bullying, whereas most staff members (over 60%) believed their prevention efforts were adequate.¹² Further a significant majority of youth (around 60%) report that school staff make things worse when they intervene in bullying situations. Very few school staff (fewer than 7%) thought this.

An APA Task Force on Zero Tolerance reviewed the research literature and concluded:

...(S)chools with higher rates of school suspension and expulsion appear to have less satisfactory ratings of school climate, less satisfactory school governance structures, and to spend a disproportionate amount of time on disciplinary matters.¹³

Punitive interventions often lead to retaliation in a manner that will make adult detection less likely. Often the retaliation is directed at the student who reported. Concerns of retaliation are amplified with youth use of digital technologies because of the ability of young people to engage in anonymous

online retaliation and solicit the involvement of many others.

Research on effective intervention approaches is limited. There appears to be an international movement to shift to approaches that are grounded in restoration.¹⁴ Restoration-based interventions seek a balanced approach to address the needs of the target, aggressor, and community through processes that preserve the safety and dignity of everyone involved. Such approaches:

- Give targets a voice in the process and a role in the decision-making.
- Hold aggressors accountable for their conduct, and provide the opportunity for them to express remorse and make amends.
- Create the opportunity for forgiveness, reconciliation and reintegration.

Restorative approaches hold the greatest promise for the effective resolution of digital aggression.

Digital Threats or Distress

Young people who are emotionally distraught and considering an act of violence against self or others are likely to pose material that provides evidence of the concerns. The FBI calls this material “leakage.”¹⁵ There are two issues that must be considered:

- Sometimes, young people post material that appears threatening, but really is not or the situation has been resolved. While investigation is important, adults must avoid overreacting.
- If a threat is real, other young people are most likely the ones who will see this. It is essential they know how to recognize serious situations and know the importance of promptly reporting to a responsible adult.

There is a relationship between bullying and suicide. As outlined by the Suicide Prevention Resource Center, young people involved in bullying are at a higher risk for suicide than their peers.¹⁶ This concern is especially evident among youth with a minority sexual orientation. Research has also found a correlation between digital aggression and suicide ideation.¹⁷

While there has been little research on the integration of bullying and suicide prevention programs, SPRC recommends a comprehensive approach that focuses on the psychosocial risk factors common among youth who are involved in bullying situations and suicide, as well as issues that relate to the school and family climate.

Research has documented that certain ways suicide is portrayed can lead to contagion--can influence vulnerable individuals view suicide as a way to solve their problems. Recommendations have been developed to help reduce this risk.¹⁸

Unfortunately, some cyberbullying prevention campaigns often present information that is not inline with these recommendations.¹⁹ Programs that include graphic depictions or descriptions of a suicide death and an overly-simplistic understanding of the relationship between suicide and bullying could lead other young people who are being bullied to see suicide as a solution.

Instructional initiatives that addresses both bullying and suicide should inform students about underlying causes of suicide, how to seek help if they are being bullied or in emotional crisis, alternative coping strategies, and the important role of peers in detecting suicide risk and promptly reporting.²⁰

Digital Abuse

Abusive dating partners often use technologies, most frequently cell phones, for manipulation and control.²¹ Common abusive behaviors include:

- Excessive texting to find out where the person is and who is with the person.
- Sexual harassment and demands.
- Demands for revealing images and use of those images for blackmail.
- Demands for passwords and the ability to review partner's private communications.
- Placing restrictions on who their partner can establish a friendship link or communicate with.

Digital Exploitation & Sexting

Fantasy Relationships

Teens will use digital communications to develop close personal relationships. These relationships are based on communication--which is an important foundation for healthy relationships.

If relationship building is primarily or exclusively through digital communications, one or both parties can gain unrealistic understandings or expectations. When “reality strikes” the hurt can lead to retaliation.

Digital Exploitation

There are many misconceptions about online sexual predation. The Crimes Against Children Research Center, outlined the issue quite clearly:

The publicity about online “predators” who prey on naive children using trickery and violence is largely inaccurate. Internet sex crimes involving adults and juveniles more often fit a model of statutory rape – adult offenders who meet, develop relationships with, and openly seduce underage teenagers – than a model of forcible sexual assault or pedophilic child molesting.²²

CACRC has also provided guidance about educational initiatives:

...(W)e think that more efforts need to be made to educate and discourage teens from engaging in sexual and romantic relationships with older partners. Youth awareness also needs to be raised about age of consent and statutory rape laws, the illegality of cross generational sexual solicitation online, the inadvisability of teens engaging in sexual conversations and exchanging sexual or provocative images with strangers and presenting themselves in sexualized descriptions online. These sorts of messages are more likely to address the real dynamics of the crime than warnings about being stalked by someone who obtains personal information posted online.²³

While much of the focus has been on “online strangers” it appears that young people also face risks of sexual exploitation from people they know, including older teens and adults.

A fear-message that is commonly imparted is:

The proliferation of child predators using the Internet to target young victims has become a national crisis. A study shows one in seven children will be solicited for sex online in the next year.²⁴

Often messages about online predators convey the fear that they are deceptively luring teens or are tracking teens based on personal contact they post online. The extent of risk is important to understand:

- One in seven youth have not received sexual solicitations from adult predators. This study revealed that teens received unwanted sexual communications, many from other teens and

young adults, to which the teens responded effectively. Most were not distressed.²⁵

- Any sexual abuse is a concern, but arrests for online sexual predation accounted for 1% of all arrests for sexual abuse of minors in 2006.²⁶ These were statutory rape situations where the teens met with adults, knowing they were adults and consenting to sex. Incidents of violence and abduction were exceptionally rare. Deception was rare. There was absolutely no evidence the adults were tracking teens based on personal information they posted. The teens who met generally had other psychosocial concerns.

Despite the apparent ability of the vast majority teens to effectively detect the concerns and respond appropriately, online grooming is a concern that must be fully understood. Common grooming techniques appear to include:²⁷

- Overly friendly messages, that provide lots of positive attention.
- Overly eager efforts to form a relationship.
- Rewarding steps that come closer and closer to their objective.
- Threaten a loss to encourage other actions, such using a revealed image for blackmail.

The teens who do get into these situations likely have friends who know what is happening. A strong focus on helpful allies will be helpful.

Sexting

Sexting is a term that has been applied to a range of digital sexually related activity, most frequently, involving revealing images.²⁸

It is important to be cautious about the reported data. Most-often it is reported that 20% of teens have engaged in sexting. This study, reported by the National Campaign to Prevent Teen and Unplanned Pregnancies, was conducted by their public relations firm using an opt-in online panel and is simply not valid.²⁹ The Pew Internet and American Life study, reported that 4% of cell-owning teens ages 12-17 indicated had sent sexually suggestive nude or nearly nude images or videos of themselves to someone else.³⁰

There appear to be four kinds of situations.³¹

- Private possession or consensual sharing. No one intended to hurt anyone and images were supposed to remain private, but a mistake might have resulted in distribution.

- Elements of harassment or ill intent. Non-consensual distribution. Pressure to create and provide the image. Sending image to harass.
- Sexual solicitation. Soliciting sexual activity.
- Sexual exploitation. Send in response to grooming. Image is used for blackmail.

Girls and boys appear to be sending images in equivalent rates, but the images of girls appear to be more likely to “go viral.” The most frequently reported type of incident generally involves a girl who provided an image to a boy she was interested in or dating, this image is shared, resulting in significant harassment.

In one study, 61% of teens who sent an image reported this was in response to pressure.³² Discussing grooming techniques is important risk prevention. Teen sexting may be an “early warning sign” of other risk.³³ A mental health investigation in some situations may be warranted.

There are some significant legal issues in this arena that must be considered.³⁴ Laws against child pornography were enacted to prevent exploitation of minors by adults, not the concerns of impulsive youth. Recently, more enlightened legislative/law enforcement has taken the position that these incidents should lead to an educational and restorative response.

A concern is the criminal consequences faced by young adults who have normative, consensual relationships with younger teens that result in sexting. These young adults, most often young men, are being registered as sex offenders for life.

Fear of online sexual predators, has led to the passage of statutes that raise concerns of appropriate balance.³⁵ Many states now have statutes that make it a felony for anyone over the age of 18 to send an electronic message indicating a sexual interest to anyone under the age of 18. While they can legally engage in sex with someone under the age of 18, sending a sexual digital message is considered a felony. This is insanity!

While those who use or distribute images for harmful purposes should be face criminal consequences, safe harbor protections and restorative resolution approaches are vitally important, as well as a more balanced approach to offender registration.³⁶

When communicating with teens about sexting issues, adults must be mindful of the potential use of these images for blackmail. Telling teens that creating these images is a criminal act could lead them to fear reporting if they have provided an image that is being used for blackmail purposes.

Unsafe Digital Communities

Some digital communities and web sites encourage unsafe or dangerous activities. Unsafe communities focus on actions that can cause self-harm, including self-cutting, anorexia and bulimia, steroid use, drug use, passing-out games, suicide, and other similar unsafe activities. Dangerous groups promote actions that could cause harm to others, including hate sites and groups, gangs, and other troublesome youth groups.

One study of youth engaged in self-injury and the support they find online found:

(O)ne interactions clearly provide essential social support for otherwise isolated adolescents, but they may also normalize and encourage self-injurious behavior and add potentially lethal behaviors to the repertoire of established adolescent self-injurers and those exploring identity options.³⁷

A study described the common activities in pro-eating disorder discussion groups revealed features of these kinds of groups that are likely common to all unsafe digital communities:³⁸

- Provide significant emotional support for marginalized youth.
- Include older teens and adults as “mentors.”
- Adopt symbols to foster group identity.
- Use online rituals to solicit evidence the member is truly committed to the ideals of the group.
- Exclude anyone deemed not to abide by the group norms, which acts to reinforce the importance of abiding by those norms to remain connected and receive support.
- Naturalize or rationalize that the injurious behavior is a “lifestyle choice” and does not cause harm to self or others.

These groups appear to provide acceptance and support that is lacking in the face-to-face relationships of at risk youth. This, then, leads to contagion and increased involvement in behavior that is unsafe, dangerous, or illegal to continue to receive this emotional support.

It is important to understand that not all online communities that attract vulnerable teens are harmful. Marginalized youth may find very healthy online environments where they fit in with people who have share their more unique interests. Another key “silver lining” in this area is the potential of

establishing Internet communities where young people who are facing psychosocial concerns can find quality information and support.³⁹

Foundation for Effectiveness

The foundation for effectiveness in addressing these concerns includes multidisciplinary collaboration, scientific integrity, effective risk prevention, and the engagement of youth.

Multidisciplinary Collaboration

Numerous research studies have revealed that the young people who are at greater risk when using digital technologies appear to be those who are more at risk generally.⁴⁰ These concerns involve risk behavior when using digital technologies that involve mental health concerns and could implicate criminal issues.

Implement a collaborative effort of principals, counselors and other school mental health personnel, school resource officers and other law enforcement officials, health and well-being teachers, and education technology specialists.

Scientific Integrity

There has been a significant amount of “techno-panic.”⁴¹ Techno-panic is a heightened level of concern about use of contemporary technologies by young people that is disproportionate to the empirical data on the actual risk and harm.

Ground instructional and risk prevention initiatives in an accurate understanding of the risks and resulting harm, risk factors, and protective factors.

Effective Risk Prevention

The objective of using an evidence-based best practice is to ensure a likelihood of success. There are no evidence-based best practices to address digital risks. Research insight on risk, harm, risk and protective factors continues to provide new insight and technologies are constantly changing.⁴² Fidelity to any evidence-based program can undermine responsiveness to new insight.

Implement initiatives that focus on continuous improvement and support accountability. Pay attention to emerging research on the challenges, as well as research related to effective strategies in prevention and intervention. Engage in ongoing evaluation through local data collection.

Engaged Youth

Risk prevention initiatives are ground in what is referred to as the “Risk Prevention Triangle,” which

includes primary prevention that focuses on school climate and universal education, secondary intervention for those youth who are at higher risk, and tertiary intervention. Evidence of concerns most often appears in digital environments where responsible adults are not present.

Infuse the important role of peers into prevention and intervention activities.

- Primary. Young people want to be independent in resolving these issues and can teach each other important practices and standards. Provide universal constructive education that transmits the positive social norms, practices, and effective strategies of youth.
- Secondary. Young people are far more likely to report digital concerns to friends. Teach them the necessary skills to effectively assist their friends in resolving negative situations.
- Tertiary. Help young people recognize serious concerns and recognize the need to report to a responsible adult.

Legal Issues

There are several legal issues related to digital concerns that must be addressed.⁴³ *This material should not be construed as legal guidance.*

Authority to Respond to Off-Campus Speech

The four Supreme Court cases related to student free speech have established that school officials can restrict student speech that has or could cause a substantial disruption at school or interference with the rights of students to be secure, vulgar speech that is contrary to the school's educational mission, speech that is not consistent with educational standards in school-sponsored publications, and speech that promotes activities that raise concerns about student safety.⁴⁴

The Supreme Court has not addressed legal standards related to school authority to respond to off-campus student speech. Lower court cases that have addressed this question have universally determined that school officials have the authority to respond to off-campus student speech that has, or could, cause a substantial disruption at school.⁴⁵ Officials cannot respond to student off-campus speech merely because they find it offensive or contrary to the school's educational mission.

An important Circuit Court case written by now-Justice Alito addressed the issue of student speech that targets another student.⁴⁶ In this case, Alito noted that the primary function of a public school is

to educate its students, therefore, speech that would substantially interfere with a student's education would be considered disruptive to the school environment. Alito indicated that significant interference must be assessed both subjectively and objectively.

School officials have the legal authority to respond to student off-campus online speech in situations where this speech has caused, or there are particular reasons to believe it will cause, a substantial disruption at school or interference with the right of students to be secure. This might involve the threat of violent altercations between students, significant interference with the delivery of instruction, or a situation where there has been a significant interference with the ability of any student to receive an education. It is important to have policy provisions that outline this authority to provide notice to students.

District Responsibility

Harmful off- and on-campus actions can result in the creation of a hostile environment at school for the student who has been targeted.

Schools have a statutory responsibility under state and federal civil rights laws to prevent student-on-student harassment.⁴⁷ The standard to support monetary damages is that the harassment is so severe, pervasive, and objectively offensive that it could be said to deprive the plaintiff of access to the educational opportunities or benefits provided by the school, the school had actual knowledge of the harassment, and the school was deliberately indifferent to the harassment.

Increasingly, courts evaluate the effectiveness of the school's response.⁴⁸ Evidence often reflects that while the district had anti-bullying policies and responded when students reported the bullying, this did not stop the ongoing harm. Lack of an effective response was considered deliberate indifference.

The U.S. Department of Education Office for Civil Rights recently released a Dear Colleague letter outlining how failure to respond to bullying may constitute harassment under the civil rights laws.⁴⁹ The standard to support an administrative intervention is that the harassment is "severe, pervasive, and persistent" and that school officials "knew or should have known." The letter also emphasized the importance of effectiveness.

It is unknown how the "should have known" standard would be applied in cases where a hostile environment has been created by off-campus harmful speech. School officials clearly cannot be held to responsible for monitoring such speech,

because this would be impossible. But if school officials maintain an "off-campus, not my job" response to reports of digital aggression, when the student targeted is clearly being denied an education, this likely would meet the "should have known" standard.

Search and Seizure

The issue of when can the records of students' Internet activity when using the district's Internet system or a student's personal digital devices when used at school be searched is governed by the Fourth Amendment of the U.S. Constitution.

The first question is what is the expectation of privacy.⁵⁰ The standard is whether there is an actual or subjective expectation of privacy that society is prepared to recognize as "reasonable."

The second question is when a school or law official can search.⁵¹ Search by a law officer requires "probable cause"-- a search warrant issued by a judge, exigent circumstances, or knowing and voluntary consent. Search by a school official requires reasonable suspicion--reasonable grounds to believe a student has violated school rules or the law and search that is reasonable related in scope.

Search of a student's cell phone records is an area where legal standards are not fully developed and may vary by state. Consultation with local counsel and agreements between districts and law enforcement agencies is critically important. Likely standards are:

- Monitoring and search of Internet records on the District's Internet system. There is no or limited expectation of privacy. Routine supervision, monitoring, and maintenance using both staff supervision and technical monitoring systems is permissible. Individual search can be conducted if there is reasonable suspicion that a user has violated policy or the law. Notice can provide deterrence.
- Personal use of digital devices at school. There is a significant expectation of privacy. Reasonable suspicion is likely sufficient for school official search. The scope of search is the critical issue.⁵² Officials can only search records related to the suspicion, not all records.

Other questions that must be addressed:

- If law enforcement is involved, when does the standard legal standard shift from reasonable suspicion to probable cause?
- Can students or their parents refuse consent? Should students and their parents be advised of

their right to refuse consent to search by a law officer without a search warrant?

- If personal devices are used in the classroom for instructional purposes, how can teachers effectively monitor to prevent misuse and student's personal records be protected?

Civil Law Remedies for Aggression

Civil law intentional tort theories can provide the basis for a lawsuit for financial damages against a young person and his or her parents for harm caused by digital aggression, including:

- Defamation.⁵³ The cause of action of defamation is based on the publication of a false and damaging statement.
- Invasion of privacy – publicity given to private life.⁵⁴ The public disclosure of private facts.
- Invasion of privacy – false light.⁵⁵ A publication made with actual malice that placed someone in a false light that would be highly offensive or embarrassing to reasonable persons.
- Intentional infliction of emotional distress.⁵⁶ A person's intentional or reckless actions are outrageous and intolerable and have caused extreme distress.

Parents can be held liable for harm caused by the intentional or negligent actions of their child when they know, or should know, of the necessity to exercise supervision, they have the ability to exercise such supervision at the time it is needed, and fail to do so.⁵⁷ Additionally, under state "parental liability" statutes, parents can be held liable for damages caused by any tort intentionally or recklessly committed by the child, regardless of whether the parent was negligent.⁵⁸

Criminal Laws

Digital concerns can potentially involve actions that violate criminal statutes. Involvement of law officers, especially school resource officers, in prevention-oriented messaging to students and in school-based interventions can help reinforce important "boundaries" that are embodied in these criminal statutes. Criminal violations could include:

- Making threats of violence.
- Engaging in extortion or coercion.
- Making obscene or harassing telephone electronic communications.
- Harassment or stalking.
- Hate or bias-based crimes.

- Creating or disseminating material considered "harmful to minors" or child pornography.
- Sexual exploitation.
- Invasion of privacy or taking an image of someone in a place where privacy is expected.

Criminal prosecutions in this area appear to be increasing. Interventions are generally ground restorative justice and diversion approaches.

Comprehensive Approach

Multidisciplinary Collaboration

Districts and schools must develop a comprehensive multidisciplinary approach to address these new concerns. At the district level, this will require addressing policies and practices, professional development, and evaluation. Schools must address prevention and effective investigations and intervention.

A systemic change in organizational structure will be necessary. At district and school level, in addition to the traditional "safe school" professionals, staff who have expertise educational technology should be included. At the secondary level in schools, it is advisable to involve students in planning.

Some district policies and practices must be developed in conjunction with local law enforcement because law officers will be involved in some investigations and interventions. School planning should address when law enforcement will be involved, especially search and seizure issues, and when the issues shift over to law enforcement handling.

Social Emotional Learning and Social Norms Risk Prevention

The foundation for addressing digital safety and civility is helping students gain effective social and personal relationship understandings and skills.⁵⁹ Schools must implement a comprehensive program to support social-emotional learning and positive social and relationship development, including youth leadership.

This positive school climate approach should provide support for positive behavior strengthen skills in empathy and interpersonal relationship problem-solving, train all students in conflict resolution, focus on helping young people self-regulate, that is control their own emotional reaction in situations.

Local Surveying for Planning, Instruction & Evaluation

Collection of local data is invaluable for planning, instruction, and evaluation.⁶⁰ Digital surveying technologies can be used very effectively to obtain this kind of data. Formal surveying can identify:

- Negative incident rates, degree of harm, and underlying risk factors.
- Strategies students use to respond to negative incidents and the effectiveness of those strategies, including effectiveness of peer and adult assistance.
- Positive norms, practices & rationale.

This data can support planning and evaluation, as well as student instruction ground in positive social norms risk prevention.

- Schools will be able to gain insight into issues affecting their students, including safe practices, negative incident rates, degree of hard for use in planning.
- Insight into student safe digital practices, the rationale for these practices, and effective strategies to respond to negative incidents will provide a highly relevant basis for positive social norms and skills instruction and messaging.
- Schools can also ensure continuous improvement through ongoing evaluation. In subsequent surveys, the reported rates for negative incidents and degree of harm should decrease and the use of effective strategies, the effectiveness of those strategies, positive norms, protective practices, and reports of involvement of helpful allies should increase.

Policy and Practice Review

The district and school multidisciplinary planning groups will need to oversee the revision and implementation of policies and practices.

- Bypass Internet filter. Ensure that all safe school personnel can achieve an immediate bypass of the filter to investigate online material that may impact student or school safety.
- Cyberbullying policy & practices. Expand the bullying report and review process to incorporate cyberbullying. Establish an easy vehicle for students to report concerns, including digital reporting. Ensure complete confidentiality for reports. Know how and by whom these reports will be investigated and handled. Add cyberbullying to bullying policy using language that includes "off-campus

activities that cause or threaten to cause a substantial disruption at school or interference with the rights of any other student to be secure and participate in school activities."

- Cyberthreats policy & practices. Revise threat assessment protocol and suicide prevention planning to address Internet communications. Investigate possible link between online communications and altercations between students at school. If any suggestion of threat is reported or a student appears to be distressed, it is advisable to search online for additional material. Encourage students to confidentially report online material that raises concerns of violence or suicide. Make sure there is an easy way for them to report crisis situations that works 24/7. A link to "crisis report" on the school home page is an option to consider.
- Sexting policy. Develop a policy addressing sexting that has or could create a substantial disruption or interference at school, including sending images of self to people who do not want to receive them, non-consensual distributing an image of another. Maliciously obtaining an image, or using an image for blackmail. Private possession or private consensual sharing of images, without more, would not be covered because this does not meet the substantial disruption standard.
- Cell phone policy. Work with legal counsel and law enforcement to craft cell phone policy that is in accord with search and seizure standards and will protect school staff when possibly discovering nude images.
- Personal imaging device policy. Develop a policy for students related to taking images at school. School and school activities should be considered generally not a public place to take pictures of students or staff unless as part of an approved school activity.
- Extracurricular activities policy. Add the "substantial disruption" language to extracurricular activities policy. Any digital communications with students from other schools, that cause or threaten substantial disruption of any extracurricular activity should lead to restrictions on involvement.

Adult Education

Implement a "triage" approach to address professional development for school staff. Key district/region staff require a high level of insight, including legal and technical dimensions, so they can advise school staff. Safe school and

educational technology staff in the schools require insight into problem and ways to effectively prevent, educate, detect, investigate, and intervene. Teachers in wellness classes need insight to support effective instruction. All other staff need general awareness.

Provide information to parents on how to prevent, detect and intervene if their child is target or victim, prevent their child from engaging in aggression or exploitation, and empower their child to be helpful ally. Schools can provide information to parents through information in newsletters, parent workshops, "just-in-time" resources. The parents who are most likely to pay attention are most likely to have children who can be helpful allies. Encourage parents to encourage their children to reach out to help, confront someone causing harm if this is safe to do so, and report serious concerns to a responsible adult.

Schools can also provide information and training to community members, including mental health and law enforcement professionals, community and youth organizations, and the media.

Student Education

The social norms risk prevention approach has demonstrated effectiveness in preventing risk behavior.⁶¹ When students recognize that the majority of their peers take steps to keep themselves safe online, do not intend to harm others, and do not like to see others harmed, they are more likely to engage in the same kinds of positive behavior. Because digital actions are recorded in electronic form and widely distributed, the risks associated with negative peer perceptions will be very influential.

Engage in constructive instruction using local data to support positive norms and effective skills.

- Facilitate student-led discussions.
- Use older students teaching young students.
- Engage students in the creation and distribution of positive messages.

Instruction related to the more significant digital safety concerns should be provided by teachers who also address other safety and well-being issues. Instruction should focus on:

- Positive norms. Address common protective practices and the rationale for these practices, negative perspectives of those who engage in harmful behavior and the very positive perspectives of students who are helpful allies

- Effective skills. Focus on the development of problem-solving skills, recognizing online "traps" that could lead to inappropriate or risky behavior and influences for positive behavior, and effective protective actions and response strategies.

- Online "traps" include the misperception that you are invisible, the lack of tangible feedback about the consequences of your actions or the deception of others, the misperception that everyone is engaging in irresponsible actions, and the potential harmful influence of others.
- Influences for positive behavior. Since most people do not like to see others harmed, the digital evidence of such harm, can damage your reputation. Think about how you would feel if someone did this to you.

- Helpful allies. Help young people understand the differences between hurtful participants, passive observers, and helpful allies. Encourage them to be helpful allies by helping them recognize the potential negative consequences to those at risk or being harmed, as well as the very positive perspective people hold of those who step in to help. Focus on skills to be an effective helpful ally, including how to advise someone who is engaging in risky behavior, provide emotional support to someone being harmed, help peers resolve conflict or confront someone who is being hurtful. Reinforce the importance of reporting serious or unresolved concerns to an adult.

A presentation by a law officer can address when activities cross the line to criminal. However, law officers must be mindful that fear-based messaging is ineffective and the majority of students make positive choices online and effectively handle the negative situations that do occur. Thus, reinforcing these positive norms and practices will be important. Additionally, law officers should encourage students to report to a responsible adult if they see that someone is at serious risk of being harmed.

Foundational Cyber Savvy instructional issues to address include:

- Avoiding acting on impulse when sending or posting digital material.
- Carefully assess the credibility of Information found and trustworthiness of people met online.
- Think before you post to protect your reputation and respect others.

- Interact safely with others online by being careful who you let into your more private communications. Recognize and avoid digital “nasties.”
- Act in accord with laws, policies, and terms of use, which are all ground in universal values.
- Protect yourself when social networking by limiting access to your profile to those you have friended, posting carefully, friending only people you or a trusted friend knows in person, and reporting abuse.

To address digital aggression it is important to stress that the vast majority of people do not like to see others post hurtful material, send hurtful messages, disclose private material, or cause other harm. Important points for students to learn include:

- Exercise care when posting or sending material so you do not place yourself at risk of attack.
- If someone is hurting you, wait until you have calmed down to respond. Save the evidence. Then calmly tell the person to stop, ignore or block the communications, and/or file an abuse report. If the person does not stop, ask for help.
- Recognize that no one deserves to be attacked online. If you hurt others, this will damage your reputation and friendships.
- If you see someone being harmed, provide support to that person and speak up against the harm. If the situation is serious or continues, report to a responsible adult.

Issues related to healthy relationships in a digital environment should be addressed in the context of other instruction on healthy relationship.

- Watch out for fantasy relationships. Recognize that forming close personal relationships primarily through digital technologies can lead to unrealistic understandings and expectations.
- Avoid exploitation. People you communicate with online may try to exploit you sexually by asking for nude images or seeking sexual encounters. They may be online strangers or people you know--adults or other teen. Sexual relations between adults and teens are illegal.
- Common grooming techniques involve sending overly friendly messages and being overly eager to establish a close relationship.
- If you send a revealing image to anyone, that person could, at any time, distribute the image to everyone and your reputation will be trashed

or the person could use that image to blackmail you.

- If someone appears to be trying to manipulate you to engage in sexual activities or requests a revealing image, discontinue contact and report this to an adult.
- An abusive partner may try to use digital technologies to control you by constantly texting and controlling your digital communications with others. Do not allow a partner to seek to control you in this manner.

Investigation

Preserve Digital Evidence

The initial steps in an investigation of any digital incident including gathering and preserving the digital evidence and determining the identity of individuals involved. The ability for school and law officials to review this digital evidence is a clear advantage in resolving these situations.

If someone is anonymous or it appears a fake profile has been created, look for lesser-involved students who are identifiable and question them, promising confidentiality. Law officers have greater ability to determine identities through a subpoena if the matter involved criminal activity. Watch out for impersonations designed to get someone into trouble and online harm that is in response to face-to-face aggression.

Review the Situation

Review the digital material and gain insight from the student reporting to assess the harmful relationships. Determine who is playing what role in this situation, with what apparent motivation.

Recall the discussion about socially maligned or socially motivated students. Determine whether the material is “put down” material or “get back at” material. Look closely to determine whether online incident is a continuation or in retaliation for other hurtful interactions between the parties.

Determine whether the evidence gathered raises concerns that any student may pose a risk of harm to others or self.

Collaborative Interventions

If it appears that there is an imminent threat of violence, contact law enforcement and initiate a protective response in accord with threat assessment plan. If there appears to be an imminent threat of suicide, follow suicide prevention protective plan.

Any situations involving sexting or exploitation will require law enforcement and child protective services involvement in accord with procedures that have been developed.

Sometimes situations involving digital aggression may be so egregious that a law enforcement response might also be called for.

Report Abuse on the Site

Once the materials have been preserved, file an Abuse Report on the site to get any hurtful or inappropriate materials removed. It is helpful for educational technology staff to be prepared to preserve materials and file an Abuse Report.

Restorative Interventions

Disengagement

Under the theory of moral disengagement when people “turn off” their inclination to engage in appropriate behavior, they create rationalizations or justifications for why failing to abide by these standards is justified in this particular situation.⁶² Four major ways in which the motivation to engage in responsible actions can be disengaged include:

- Reconstruct conduct. Actions are portrayed as serving some larger purpose, such as supporting a friend, or euphemistic terms are used to describe the action, like “I was just playing around.”
- Displace or diffuse responsibility. This can occur if someone else can be blamed for “requiring” or “requesting” the action or if many people are engaging in certain behavior, so no one person appears to be responsible.
- Disregard or misrepresent injurious consequences. Sometimes the perception that the harm was minimal is balanced against the benefit received.
- Dehumanize or blame the victim. Once the victim has been dehumanized or blamed for what has happened, it is easier to rationalize that the actions taken were justified.

Restoration

The traditional disciplinary response in schools is grounded in punishment, an approach that results in the suspension or expulsion of the student(s) deemed most culpable. As discussed before, not only are punishment-based approaches not effective, in general, the new ability for students to engage in vicious undetectable retaliation using digital technologies makes the exclusion response

even more dangerous. An approach grounded in restoration is recommended.

The best way to distinguish between a punishment-based approach and a restorative approach is to consider the questions that are asked. Punishment-based approaches ask these questions:⁶³

- Who did it?
- What “rule” was broken?
- How should the offender be punished?

Restorative justice approaches view transgressions as harm done to people and communities. Restorative approaches ask these questions:

- What is the harm to the person and to the community?
- What needs to be done to repair the harm?
- Who is responsible for this repair?
- What needs to occur so that similar harm does not occur in the future?

Punishment is a consequence imposed by someone with greater “power.” Punishment can take the focus away from the harm that has been caused. The intent of a restorative process is to hold the person who caused harm accountable. To be held accountable requires that this person:

- Acknowledge that he or she caused harm.
- Understand the harm as experienced by the other person.
- Recognize that he or she had a choice.
- Take steps to make amends and repair the harm.
- Enunciate an intent to make changes in future behavior so that the harm will be unlikely to happen again.

Discussions with Targets of Aggression

Students who are targeted online likely are also likely experiencing, or could be causing, difficult relationships at school. Discuss what has happened online and relationship issues at school to learn more about these hurtful interactions. If a hostile environment exists at school, make sure this and protective responses taken are documented.

Discuss with target what response by the aggressor could help to restore well-being. Make sure your plan to proceed is something the target agrees with. Recognize the target is at risk of retaliation as a result of reporting. Sometimes, it may be more

effective help a student respond in a manner that appears to be independent of adult assistance.

Sometimes parents of students who are being harmed will demand that the student engaging in harm be suspended. Discuss restorative relationships approach with parents to gain their support. Address how punitive responses can often backfire.

Discussions with Those Engaged in Aggression

The primary objective of discussions with students engaged in aggression is that these students will feel remorse, have a desire to remedy the harm, and make a commitment to avoid future harmful behavior. Interventions that generate anger directed at the target for reporting or the school official can be triggered by a punitive response.

It is exceptionally important to determine whether the motivation of the student engaging in aggression is to achieve justice or undo an injustice--or to achieve social power.

Some aggressors often also have emotional challenges that are not being effectively addressed. Ask about, listen to, and develop a plan to address these challenges. If the aggressor is the target of bullying at school, by students or staff, and has not reported this or the situation has not been resolved, this issue that must be addressed.

Ask questions that can lead to reflection and remorse by focusing on the harmful consequences to others and self:

- How would you feel if someone did the same thing to you, or to your best friend or sibling?
- What will your mom, dad, or guardian think about your actions?
- What do you think other students think about people who do things like this?
- How do these actions reflect on the kind of person you are and the way you want other students and adults to see you?

Help the aggressor develop a plan to remedy the harm to the student who was harmed, including removal of material, discontinuation of harmful actions, a posted apology, a personal apology, and the like. Also require actions that will remedy the harm to the school community, such as a community service requirement.

In discussions with aggressor's parents initially ask about what is happening in their child's life that might be an underlying factor of concern that has not been adequately addressed. Discuss approaches to resolving these concerns.

Enlist their positive involvement by pointing out to them that research indicates young people who engage in this kind of aggressive, harmful behavior do not achieve success or happiness in life and that you want to work with them to ensure that their child is held accountable. Ensure these parents that you want to support their child in becoming a success and holding their child accountable will help to achieve this objective.

Ask what they think their child ought to do to resolve the harm caused or ask their opinion about their child's restoration plan. Ask what they think the school ought to do and what other steps they might take. Given that their child has misused digital technology, placing some kind of restrictions on their access would be a logical consequence both at home and at school.

If it is perceived necessary to suspend their child because of safety concerns, explain the rational and seek their assistance in ensuring that their child's time off-campus is spent "profitably."

Interventions Involving Dating Abuse

School officials may become aware of situations involving dating abuse that also involve using digital technologies for control and manipulation. A challenge in addressing these situations is that often young people in such relationships resist adult involvement and may not have access to ongoing counseling.

Online resources can provide a significant advantage in addressing these concerns. There are high quality sites that provide excellent resources on these issues, as well as "hotline" services. These sites provide information specifically designed to reach a teen and young adult audience, including those who are being abused, those who are abusive, friends of those being abused, and friends of abusers. The ability to access these sites "invisibly" can support young people in gaining access to the information and support. These sites also have excellent materials for classroom instruction.

Quality sites specifically aimed at a teen and young adult audience include:

- Love is Respect - the National Dating Abuse Helpline.⁶⁴
- That's Not Cool - Futures Without Violence.⁶⁵
- Break the Cycle - Recently merged with the National Dating Abuse Helpline, but still maintain resources on their site.⁶⁶

- Love is Not Abuse - Liz Claiborne.⁶⁷ They have great dating abuse curricula and run campaigns specifically focused on parents.
- MTV's A Thin Line.⁶⁸

Law Enforcement Involvement

Situations involving sexting and other forms of exploitation will involve law enforcement. Some incidents of digital aggression meet the criteria for a criminal offense.

Arrests in the more egregious situations may be helpful in sending a message of lack of tolerance for cruelty. It is important for school officials to remain involved to protect rights of students and encourage a balanced response.

Supporting Students Who are Distressed

Help any student who has been involved in a digital aggression, abuse, or exploitation situation plan an approach to effectively deal with the emotional trauma.

Discuss with these students possible sources of strength such as family support, friends, community support, healthy activities, counseling, and the like. Help the target plan a "next steps" strategy to tap into these sources.

Make sure student also know to report any continuing challenges. Periodically check in with the student to find out how things are going. Also contact the student's teachers to ask them to be attentive to any concerns. Ongoing problems with school performance or attendance are an indication the issue has not been resolved.

In any situation where a student has been involved in sexting, predict ensuring sexual harassment and have a plan of action to intervene. Ensuring that such harassment does not occur will require ongoing, intensive support student depicted. Help this student enlist the help of supportive friends. Respond to reports of harassment in a manner that is restorative and that sends a clear message that such harassment will not be tolerated.

Evaluation of Intervention

It is exceptionally important to conduct a post-evaluation of every situation to ensure the effectiveness of the school's intervention efforts. Given the documented concerns of lack of effectiveness of a school response, specifically evaluating the effectiveness of every intervention is imperative.

- Request feedback from all parties involved. In digital aggression situations, this includes the

target, target's parents, aggressor, aggressor's parents, and other students who witnessed and reported.

- Evaluate individual report to determine need for continued or corrective efforts.
- Conduct an aggregated analysis to inform school/district efforts.

About the Author

Nancy Willard, M.S., J.D. is the director of the Center for Safe and Responsible Internet Use. She has degrees in special education and law. She taught "at risk" children, practiced computer law, and was an educational technology consultant before focusing her professional attention on issues of youth risk online and effective management of student Internet use.

Nancy is author of: *Cyberbullying and Cyberthreats: Responding to the Challenge of Online Social Cruelty, Threats, and Distress* (Research Press), *Cyber-Safe Kids, Cyber-Savvy Teens, Helping Young People Use the Internet Safely and Responsibly* (Jossey Bass), and *Cyber Savvy: Embracing Digital Safety and Civility* (forthcoming, Corwin Press).

Nancy presents workshops and webinars on these issues. Use of surveying to gather local data for planning, instruction, and evaluation is highly recommended. A Cyber Savvy survey is under development.

Web site: <http://csriu.org>

Email: nwillard@csriu.org

July 14, 2011

Endnotes

- 1 Patchin, J.W. and Hinduja, S. (2011). *Cyberbullying: An Update and Synthesis of the Research*. In Patchin, J.W. and Hinduja, S. (eds.). *Cyberbullying Prevention and Response: Expert Perspectives*. Routledge: New York.
- 2 For example: Livingstone, S., Haddon, L., Görzig, A., and Ólafsson, K. (2011). *Risks and safety on the internet: The perspective of European children*. Full Findings. LSE, London: EU Kids Online. <http://www2.lse.ac.uk/media/lse/research/EUKidsOnline/Home.aspx>.
- 3 Ybarra, M. L., Diener-West, M., & Leaf, P. J. (2007). Examining the Overlap in Internet Harassment and School Bullying: Implications for School Intervention. *Journal of Adolescent Health*, 41, S42-S50; Livingston, et. al., supra; Patchin & Hinduja, supra.
- 4 Center for Disease Control (April 22, 2011) *Bullying Among Middle School and High School Students --- Massachusetts, 2009*. *Morbidity and Mortality Weekly Report*. 60(15):465-471. http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6015a1.htm?s_cid=mm6015a1_w; Patchin & Hinduja, supra.; Many of the articles in *Youth Violence and Electronic Media: Similar Behaviors, Different Venues?* *Journal of Adolescent Health*. 4. December 2007 Supplement. <http://www.jahonline.org/content/suppl07>. See also, Berkman Internet Safety Technical Task Force (2008) *Enhancing Child Safety and Online Technologies*. Appendix C. *Literature Review from the Research Advisory Board*. http://cyber.law.harvard.edu/sites/cyber.law.harvard.edu/files/ISTTF_Final_Report-APPENDIX_C_TF_Project_Plan.pdf.

- 5 Wolak, J., Mitchell, K., and Finkelhor, D. (2006). Online victimization of youth: Five years later. National Center for Missing & Exploited Children Bulletin - #07-06-025. Alexandria, VA. <http://www.unh.edu/ccrc/internet-crimes/papers.html>; Juvonen, J. & Gross, E. (2008) Extending the school grounds?—Bullying experiences in cyberspace. *Journal of School Health*. Vol. 78, Issue 9, p 496. <http://www3.interscience.wiley.com/journal/121371836/abstract?Livingston, et. al., supra; Patchin & Hinduja, supra>.
- 6 Hay, C & Meldrum R. (2010) Bullying, victimization and adolescent self-harm: testing hypotheses from general strain theory.446-59. In *Journal of Youth and Adolescence* 39 (5). See also: <http://www.scientificamerican.com/article.cfm?id=best-defenses-cyber-bullies/>.
- 7 Rodkin , P.C. (2011) Bullying and Children's Peer Relationships. In *Whitehouse Conference on Bullying*. http://www.stopbullying.gov/references/white_house_conference/index.html.
- 8 Farington, D.P. & Tlofi, M.M. (2009) School -based programs to reduce bullying and victimization (Campbell Systematic Reviews No 6). Oslo, Norway: Campbell Corporation.
- 9 The Steps to Respect and Second Step programs from the Committee for Children (<http://www.cfchildren.org/>) and the KiVa bullying prevention program from Finland (<http://www.kivakoulu.fi/frontpage>) are both strong programs with a focus on problem solving and skill building.
- 10 Willard, N.S. (forthcoming, 2011). *Cyber Savvy: Embracing Digital Safety and Civility*. Corwin Press.
- 11 Stan Davis & Clarisse Nixon. *Preliminary results from the Youth Voice Research Project: Victimization & Strategies*. Youth Voice Project. (2010) <http://www.youthvoiceproject.com>.
- 12 Bradshaw, C.P., Sawyer, A.L. & O'Brennan, L.M. Bullying and Peer Victimization at School: Perceptual Differences Between Students and School Staff. *School Psychology Review*. Volume 36, No. 3, pp. 361-382 (2007).
- 13 APA Zero Tolerance Task Force. Are zero tolerance policies effective in the schools? An evidentiary review and recommendations. *American Psychologist*, 63, 852-862, 855 (2008).
- 14 International Institute for Restorative Justice, Safer Safer Schools. <http://www.iirp.org/>
- 15 Federal Bureau of Investigation (2000) *The School Shooter: A Threat Assessment Perspective* . <http://www.fbi.gov/presrel/presrel00/school.htm>.
- 16 Suicide Prevention Resource Center. (2011) *Suicide and Bullying: Issue Brief* http://www.sprc.org/library/Suicide_bullying_Issue_Brief.pdf.
- 17 Patchin & Hinduja, supra.
- 18 Suicide Awareness Voices of Education (SAVE) (2011) Recommendations for reporting on suicide. http://www.afsp.org/files/Misc/_recommendations.pdf.
- 19 A video and curriculum that presents these concerns is *Sticks and Stones*, a Chase Wilson project. <http://cweducation.com/>.
- 20 Suicide Prevention Resource Center, supra.
- 21 MTV-Associated Press (2009) *Digital Abuse Survey*. http://www.athinline.org/MTV-AP_Digital_Abuse_Study_Executive_Summary.pdf; Love is Not Abuse (2007); *Technology and Teen Dating Abuse Survey*. Liz Clayborn. <http://www.loveisnotabuse.com/statistics.htm>.
- 22 Wolak, J., Finkelhor, D., Mitchell, K., Ybarra, M. (2008). Online "Predators" and their Victims: Myths, Realities and Implications for Prevention and Treatment. *American Psychologist*, 63(2), 111-128 (CV163)
- 23 Wolak, et. al. (2008), supra.
- 24 Texas Attorney General web site. <https://www.oag.state.tx.us/criminal/cybersafety.shtml>.
- 25 Wolak, et. at, (2008), supra.
- 26 Wolak, J., Finkelhor, D., & Mitchell, K.(2009) *Trends in Arrests of "Online Predators," Crimes Against Children Research Center*. <http://www.unh.edu/ccrc/internet-crimes/papers.html>.
- 27 This is informed by O'Connell, R. (2003) A Typology of Child Cybersexplicitation and Online Grooming Practices. Cyberspace Research Unit, University of Lanchester, U.K. <http://www.uclan.ac.uk/host/cru/docs/cru010.pdf>. But also is grounded in insight from Cialdini, R. B., *Influence: Science and Practice*, 5th ed. Needham Heights, MA: Allyn and Bacon.
- 28 Willard, N. (2010) *Sexting & Youth: Achieving a Rationale Approach*. Center for Safe and Responsible Internet Use. http://www.csriu.org/documents/sextingandyouth_002.pdf; Wolak, J & Finkelhor, D. (2011) *Sexting: A Typology*. Crimes Against Children Research Center. http://www.unh.edu/.../CV231_Sexting%20Typology%20Bulletin_4-6-11_revised.pdf.
- 29 National Campaign to Prevent Teen and Unplanned Pregnancy (2009) *Sex and Tech*. <http://www.thenationalcampaign.org/sextech/>. The name of the public relations company is TRU. <http://trugroup.com/TRU-market-research.html>.
- 30 Lenhart, A. (2009) *Teens and Sexting*. Pew Internet and American Life Project. <http://www.pewinternet.org/Reports/2009/Teens-and-Sexting.aspx>;
- 31 Willard, supra. The CACRC researchers have divided these into two groups: Aggregated and Experimental. Wolak & Finkelhor. (2011) supra.
- 32 MTV-Associated Press, supra.
- 33 Wolak & Finkelhor. (2011) supra.
- 34 Willard, N. supra.
- 35 National Center for Missing and Exploited Children (2006) *Online Enticement Laws Vary Between States*. http://www.missingkids.com/missingkids/servlet/NewsEventServlet?LanguageCountry=en_US&Pagel=2833
- 36 Tabachnick, J. and Klein, A (2011) *A Reasoned Approach: Reshaping Sex Offender Policy to Prevent Child Sexual Abuse*. Association for the Treatment of Sexual Abusers. <http://www.nsvrc.org/publications/reasoned-approach-reshaping-sex-offender-policy-prevent-child-sexual-abuse>.
- 37 Whitlock, J.L., Powers, J.L., Eckenrode, J., 2006. The virtual cutting edge: the Internet and adolescent self-injury. *Developmental Psychology*. 42(3), 407-417. See also, Mitchell, K. & Ybarra, M. (2007). Online behavior of youth who engage in self-harm provides clues for preventive intervention. *Preventive Medicine*, 45: 392-396. <http://www.unh.edu/ccrc/internet-crimes/papers.html>
- 38 Pascoe, C.J., 2008. "You're Just Another Fatty:" *Creating a Pro-Ana Subculture Online*. Digital Youth Research <http://digitallyouth.school.berkeley.edu/node/104>. January 22, 2008.
- 39 Mitchell & Ybarra (2007), supra.
- 40 Berkman Internet Safety Technical Task Force (2008), supra.
- 41 Willard, N. (2010) *Technopanic and 21st Century Education*. Center for Safe and Responsible Internet Use. http://www.csriu.org/documents/techno-panic_001.pdf.
- 42 Reliance on evidence-based best practices also presents a concern with respect to traditional bullying prevention. The Farington & Tlofi major meta-analysis of bullying prevention programs was conducted in 2009. The programs assessed were developed and evaluated prior to 2008. Materials presented at the recent White House Bullying Summit overwhelmingly relied on research insight that was published subsequent to 2009.
- 43 More extensive coverage of this is in Willard, N. *Cyberbullying and the Law* (2011) In Patchin, J.W. and Hinduja, S. (eds.), *Cyberbullying Prevention and Response: Expert Perspectives*. Routledge: New York.
- 44 *Tinker et al. v. Des Moines Independent Community School District et al.*, 393 503 (S. Ct. 1969), *Bethel School District v. Fraser*, 478 675 (S. Ct. 1986), *Hazelwood School District et al. v. Kuhlmeier et al.*, 484 260 (S. Ct. 1988), *Morse v. Frederick*, 127 2618 (S. Ct. 2007).
- 45 E.g. *Layschock v. Hermitage School District, Court of Appeals*, (June 13, 2011) 3rd Circuit, No. 07-4465. <http://www.ca3.uscourts.gov/opinarch/074465p1.pdf>.
- 46 *Saxe v. State College Area School District*, 240 200, 213 (3d. Cir. 2001).
- 47 *Davis v. Monroe Bd. of Educ.* 526 U.S. 629 (1999).
- 48 E.g. *Vance v. Spencer County Public School District*, 231 F.3d 253 (6th Cir. 2000).
- 49 Ali, R. (2010, October 26). *Dear colleague letter: Harassment and bullying*. <http://www2.ed.gov/about/offices/list/ocr/docs/dcl-factsheet-201010.pdf>; Ali, R. (March 25, 2011) *OCR Response Letter to NSBA*. <http://legalclips.nsba.org/?p=5708>.
- 50 *Katz v. United States*, 347 (U.S. 1967).
- 51 *New Jersey v. T. L. O.*, 469 325 (S. Ct. 1985).
- 52 *Klump v. Nazareth Area School District*, 422 622 (E.D. Pa. 2006).
- 53 § 558 *Restatement of Torts (Second)* [1977]
- 54 § 652D *Restatement of Torts (Second)* [1977]
- 55 § 652E *Restatement of Torts (Second)* [1977].
- 56 § 46 *Restatement of Torts (Second)* [1977].
- 57 § 316 *Restatement of Torts (second)* [1977]
- 58 OJJDP, *Parental Responsibility Laws*. http://www.ojdp.gov/pubs/reform/ch2_d.html.
- 59 The author highly recommends the curriculum of Committee for Children. <http://www.cfchildren.org/>.
- 60 Craig, H.W. & Perkins, D.W. *Youth Health & Safety Project: Bullying Behaviors*. <http://www.youthhealthsafety.org/bullying.htm>; The Center for Safe and Responsible Internet Use is developing a survey for these purposes. <http://csriu.org>.
- 61 Willard, N (forthcoming, 2011)
- 62 Bandura, A. (2002). Social Cognitive Theory in Cultural Context. *Applied Psychology*, 51: 269-290.
- 63 Zehr, H. (1990) *Changing Lenses, A New Focus for Crime and Justice*. Scottsdale, PA:Herald Press.
- 64 <http://loveisrespect.org>.
- 65 <http://thatsnotcool.com>.
- 66 <http://www.breakthecycle.org>.
- 67 <http://loveisnotabuse.org>
- 68 <http://athinline.org>.