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Cyberbullying Can Have Deadly Consequences

By Millie Anne Cavanaugh, Esq.

Ah, the Internet; quite possibly the greatest invention of our time. The list of benefits society now enjoys because of this miraculous invention is endless. If given the choice, would any of us willingly return to those pre-Internet days when "checking my mail" required walking to the mailbox and "surfing" required waves and a surfboard?

Unfortunately, because it is available to everyone - both good and bad, criminals have found a way to exploit the beneficial aspects of the Internet. For instance, child predators use the anonymity of the Internet to prey on unsuspecting children. Terrorists use the Internet to communicate with members of their cells. Hackers use information obtained from corporate databases to steal identities and ruin credit. We hear stories about such criminal activity on the news and take preventative steps in order to minimize the potential harm to ourselves and our families. However, unless you are a parent *intimately* "in the know", a relatively recent (and quite deadly) phenomenon called "cyberbullying" may have escaped your radar. Taking steps now to determine whether your child is susceptible to this disturbing trend may help you and your family avoid problems later on.

Most of us know what bullying means. We've seen the movies... *My Bodyguard*, *Back to the Future*, or *Mean Girls*. In the past, bullying for boys usually meant physical intimidation. For girls, it meant being rejected by the "popular" group of girls or being called nicknames based on physical characteristics (i.e. "fatty", "four eyes", or just plain "ugly"). However as society has evolved, so has the level of creativity and cruelty used by bullies to make life unbearable for those they target.

Cyberbullying replaces, or even augments, the live, in-person bullying of yesteryear. With cyberbullying, the torment does not stop when the bell rings. With the advent of the Internet, bullies can now torment, threaten, harass, humiliate, and embarrass their classmates at night, and on the weekends too. E-mail, instant messaging ("IM") and online communities such as *Myspace* and *Facebook* allow bullies easy access to both the victim and their target audience. Where before rumors and hate were spread by passing notes or creating "slam" books, bullies can now deliver daily doses of humiliation by simply posting a message on their personal web page or sending an e-mail about the victim to everyone in the class.

As the method of delivery has advanced, so has the viciousness of the material. Although boys still contend with rumors that they are "gay" and girls are accused of being "easy", some clever cyberbullies have invented phantom on-line love interests and carried on fake relationships with the victim in order to either devastate the teen with a nasty break-up down the road or to publish embarrassing things that victim thought they were sharing solely with a new on-line "friend."

"Kids will be kids", you say? "Bullying is a part of childhood"; "makes the victim stronger"; "toughens him up"? I would agree that many victims of bullying are able to rise above the fray and may not suffer any long-term emotional effects. But, sadly, not all children are equipped to handle such abuse. Children that are already contending with emotional issues such as depression or poor self-image could actually harm themselves in the face of persistent bullying.

I would also note that well-adjusted, happy, normal children generally do not get their kicks from tormenting other people. If my kid were a bully, would I be alarmed enough to consult a mental-health professional? You betcha! But I am an attorney, not a psychologist, and I leave it up to you to decide whether your bully needs help. I *am* confident, however, that bullying carries with it educational, legal and financial consequences that are too serious to be ignored. Could your bully live with being responsible for the suicide of another human being? Could he deal with less dramatic consequences, such as expulsion or jail time? Can you afford to defend against a lawsuit brought by the victim or her family? Keep these questions in mind as you read the following real-life examples.

Thirteen-year-old Megan Meier¹ of Dardenne Prairie, Missouri, was, by all accounts, a sweet, loving young lady. Megan's parents vigilantly monitored Megan's Internet use, going so far as refusing to give Megan access to her own Myspace account unless one of them was there to input the secret password. Shortly before her fourteenth birthday, a cute boy name "Josh" sent Megan an electronic request to be added as a "friend" to her Myspace account. For the next six weeks, Megan and Josh exchanged on-line correspondence and Megan began to have a more rosy outlook on life as there was now a cute boy who thought she was pretty; Megan had suffered for years with weight issues and depression. Suddenly, and inexplicably, Megan received a message from Josh ending their on-line "relationship" because he had heard that she was not nice to her friends. Josh had also shared some of the private content of their prior conversations with other classmates on Myspace which led those classmates to launch an online attack against her, calling her vicious names. Later that evening, Megan's mother found her hanging by a belt in her bedroom closet; she died the next day.

Sadly, Megan's story gets much worse. Weeks later it would be revealed that "Josh" was an imaginary persona, allegedly created by the mother of one of Megan's former friends. The mother, the former friend, an eighteen-year-old employee of the mother, and several other of Megan's classmates all took turns pretending to be "Josh", writing messages and causing Megan to reveal personal and private information to an audience that she believed was a cute boy that liked her.



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Eerily similar is the story of thirteen-year-old Ryan Halligan² of Essex Junction, Vermont. Ryan had struggled during his early years in school and had self-esteem issues as a result. Beginning in the fifth grade, he was bullied by another boy in school. The bullying persisted until seventh grade when Ryan was able to fend for himself during a physical altercation with the bully. After that, Ryan and the bully became "friends" and Ryan revealed potentially embarrassing confidences to the boy. The boy then revealed these stories to classmates via the Internet, starting rumors about Ryan's sexual orientation.

Later that summer, Ryan began chatting on-line with one of the most popular girls in school. Like Megan Meier, he felt comfortable enough with the girl to discuss topics that he would not necessarily want others to know about. When the school year began, Ryan approached the girl only to be rejected in front of her friends. She informed Ryan that the on-line relationship had been a joke and that she had shared the contents of their chats with her friends. Unable to deal with the humiliation, Ryan committed suicide.

Besides the obvious moral issues surrounding the culpability of the cyberbullies in the above cases, what legal redress is available to the victims and/or their families?

Historically, bullying has been a largely school-oriented phenomenon. Since the bullying typically occurred during school, or at least on school grounds, school administrators were able to take action against aggressors under anti-bullying provisions built into school policies. But can a school district exert control over a student for *cyberbullying*, which typically occurs at home, after school? The short answer is, yes. As a result of the suicides of students such as Megan and Ryan, as well as other well-documented instances of extreme cyberbullying, many local and state authorities have authorized school systems to punish those responsible. Although the bullying does not occur during what we would typically think of as a school-related activity, jurisdiction stems from the fact that the bullying at home has a substantial impact on the victim during school, especially if the victim feels threatened.

As for criminal penalties, the law is still catching up to technology with regard to online harassment and injury. President Bush recently signed a law that would make it illegal to annoy someone over the Internet anonymously³; annoying someone using your real name appears to be ok under this law. The law also has not been tested for constitutionality under the First Amendment.

In the Megan Meier case, the local authorities claimed they could not bring criminal charges under prevailing law. However, half-way across the country, the citizens of Los Angeles are willing to step up and take a stand against Megan Meier's tormenters. A grand jury has recently begun investigating whether the mother allegedly responsible for creating "Josh's" phony online persona is criminally liable under federal wiretap and cyber fraud statutes.⁴ Whether the grand jury will hand down an indictment remains to be seen. Also taking a stand is Megan's home town of Dardenne Prairie. Aldermen in that town recently passed a law making it a crime to cyberbully. Harassing someone over the Internet subjects the bully to a misdemeanor, punishable by a fine of up to \$500 and 90 days in jail. Further, an adult communicating with a minor in such a way that would cause a "reasonable parent to fear for the child's well-being" is also now a crime.⁵

Not to be outdone, however, is the civil litigation system where financial consequences for cyberbullying are now serious enough to make even the most lenient parent of a bully sit up and take notice. In addition to liability against the cyberbully himself on theories such as defamation, invasion of privacy, disclosure of private information and intentional infliction of emotional distress, parents could now be held accountable for their child's cyberbullying if they failed to properly supervise the child's online activity.

Although a relatively recent phenomenon, lawsuits for cyberbullying have garnered the attention of the popular press due to the often sensational details of a particular case. For example, a Canadian boy sued the fathers of three former classmates for \$350,000 after they obtained a copy of a video the boy made for a class project and posted it on the Internet. The video depicted the boy using a golf club as a light saber; he was dubbed the "Starwars Kid" and suffered world-wide ridicule. The suit settled out of court. More recently, a Kentucky girl sued several classmates claiming that they made her life a living hell, prompting her to consider suicide. The suit alleges that the bullies, all former friends of the victim, made bizarre sexual and drug-related claims about her online.⁶

What can you do to protect yourself and your family from the consequences of cyberbullying? First, *get involved* with your child's online activities. Require that all passwords be divulged to you and make it a policy to audit regularly. If your child has an online web page, such as with MySpace, visit it often to see what he or she is posting. This goes for parents of both the bullies *and* the victims. Next, talk to other parents about what is going on in your child's "online" life. You would be surprised how much other parents could tell you about your own child. Finally, if your child is bullying someone, make sure he knows the potential educational, criminal or financial consequences of such behavior.

If you discover that your child is a victim of bullying, consider having her see a counselor to ensure that there are no issues that would cause her to crack under the pressure. Although most kids are able to live through the ordeal, there are some kids such as Megan and Ryan who may have underlying issues that need to be addressed. Finally, if your child is being ridiculed for an issue that could improve with the proper attention (i.e., weight or scholastic ability) do not delay in getting her help.

Millie Anne Cavanaugh, Esq. is an [attorney practicing family law in the Los Angeles area](#) and is a former insurance defense lawyer. She is licensed to practice law in California and Massachusetts. The information contained herein is provided for informational purposes only, and should not be construed as a solicitation for your business or as legal advice on any subject matter. You should not act or refrain from acting on the basis of this information without seeking independent legal advice.

¹"My Space' Hoax Ends With Suicide of Dardenne Prairie Teen", *Suburban Journals*, November 13, 2007, http://suburbanjournals.stltoday.com/articles/2007/11/13/news/sj2tn20071110-1111stc_pokin_1.ii1.txt.

²"If We Only Knew, If He Only Told Us", www.ryanpatrickhalligan.org.

³See Violence Against Women and Department of Justice Reorganization Act.

⁴"L.A. Grand Jury Issues Subpoenas in Web Suicide Case", *L.A. Times*, January 9, 2008, <http://www.latimes.com/news/local/la-me-MySpace9jan09,1,6752570.story?ctrack=3&cset=true>

⁵"Teen's Suicide Spurs Anti-Cyberbullying Law", *CIO Today*, November 24, 2007,

http://www.cio-today.com/news/Teen-Suicide-Spurs-Cyberbullying-Law/story.xhtml?story_id=12000B111K60
⁶"As 'Cyber-Bullying' Grows, and So Do Lawsuits", *Law.com*, December 10, 2007,
<http://www.law.com/jsp/article.jsp?id=1197281074941>



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