Cyberbullying and Sexting: Law Enforcement Perceptions

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Law enforcement officers often struggle to determine their proper role in addressing bullying behavior. Emerging social networking and other communication tools and their accompanying roles in the shift in youth behavior complicate the situation. Historically, bullying occurred within or in close proximity to a school or neighborhood; however, technology allows present-day bullies to extend their reach.

PROBLEM

Defined as "willful and repeated harm inflicted through the use of computers, cell phones, and other electronic devices," cyberbullying has become a growing concern.[1] It includes sending threatening texts, posting or distributing libelous or harassing messages, and uploading or distributing hateful or humiliating images or videos to harm someone else.[2] Estimates of the number of youth who experience cyberbullying range from 5 to 72 percent, depending on the age of the group and the definition of cyberbullying.[3]

Sexting is another issue involving teens and technology that poses a public concern. Sexting involves "sending or receiving sexually explicit or sexually suggestive nude or seminude images or video, generally via cell phone."[4] Often individuals initially send these images to romantic partners or interests, but the pictures can find their way to others.[5] Estimates of the number of youth who have participated in sexting range from 4 to 31 percent.[6] In 2010 surveys from 4,400 middle and high school students indicated that 8 percent had sent naked or seminude images of themselves to others, and 13 percent reported receiving such pictures from classmates.[7]

Cyberbullying and sexting are significant problems facing teens and schools because of the psychological, emotional, behavioral, and physical repercussions that can stem from victimization.[8]School administrators recognize the severity of these issues, and promising practices provide these educators what they need to know about cyberbullying and sexting, their prevention, and the proper responses when incidents arise. Questions of law enforcement's role linger and deserve an answer.

SURVEY

Law enforcement officers, especially those assigned to school settings, likely will encounter cyberbullying, sexting, and other forms of online impropriety. The authors collected two separate samples for their investigation of these problems. The first, taken in May 2010, involved 336 school resource officers (SROs) who completed an online survey about cyberbullying and sexting. The second sample included law enforcement leaders attending the FBI National Academy (FBINA), a 10-week residential career development experience at the FBI Academy in Quantico, Virginia. The authors collected data from surveys administered to 643 officers from three FBINA classes in 2010 and 2011.

The SRO and FBINA samples were predominantly male (77 percent and 92 percent respectively) and Caucasian (82 percent and 83 percent) with 73 percent being between the ages of 36 and 50 years old. The FBINA participants averaged 20 years experience in law enforcement, compared with 15 years for the SROs. Twenty-three percent of FBINA participants and 95 percent of SROs had school assignment experience. Both groups responded to comparable surveys on experiences with cyberbullying and sexting cases, as well as perceptions of their primary professional role in preventing and responding to such incidents.

School Resource Officers

Ninety-four percent of SROs agreed that cyberbullying was a serious problem warranting a law enforcement response. Seventy-eight percent stated that they conducted cyberbullying investigations (an average of 16 separate incidents) during the previous school year. Of the 336 respondents, 93 percent indicated that sexting was an important concern for law enforcement officers. Sixty-seven percent reported investigating an average of five sexting incidents in the previous year. Approximately 50 percent of the SROs commented that the school in which they worked had a policy on cyberbullying; however, only 25 percent said there was a sexting policy. Eighteen percent of the respondents were unsure whether there were policies in place.

Officers reported that most cyberbullying occurred through social networking or text messaging. One officer described an incident that involved female students spreading defamatory information about one classmate's sexual activities, choice of boyfriends, and other associations. Officers, school

administrators, and parents worked together to alleviate the problem by advising the involved students that their behavior possibly could be criminal and that subsequent harassment would involve the court system.

Generally, sexting incidents involve romantic partners. One SRO stated that boyfriends and girlfriends send pictures to each other, sometimes with the boy sharing the girl's photos with his friends. Images sent and received as part of a consensual relationship received informal handling with officers talking to students and parents about the seriousness of the situation. When coercion or unauthorized distribution occurred, formal prosecution was likely. An officer conveyed a situation where a girl made an obscene video for her boyfriend, who distributed it to multiple other people, resulting in a child pornography investigation.

FBI National Academy Participants

Eighty-two percent of the FBINA respondents recognized that cyberbullying was a significant issue necessitating police involvement. Ten percent of the officers indicated that they had experience investigating cyberbullying cases, averaging two cases during the previous school year. While 78 percent of the FBINA respondents determined that sexting was a considerable concern for law enforcement, only 7 percent (averaging three cases each in the previous year) reported that they investigated sexting incidents.

Research Findings

Using hypothetical cyberbullying scenarios (table 1), all respondents rated the extent to which law enforcement should play a significant role. They perceived the greatest law enforcement role in situations involving a threat of physical harm. For example, they used a scale with 0 being no role and 10 being a significant role to rate the appropriate responsibility of officers in the following situation: A male student received an e-mail from an unknown person threatening to kill him at school the next day. The average rating was 9.1 for the SROs and 8.6 for the FBINA respondents.

Participants indicated that a formal law enforcement response was not essential in situations involving potential violations of student codes of conduct. They rated the following scenario: A teacher confiscates a cell phone from a student in class and wants to determine if it contains any information that is in violation of school policy. SROs rated the law enforcement role on average as 2.4, and FBINA respondents reported 1.4. Law enforcement

officers understand their role more clearly when the behavior is an obvious violation of state or local law and less if there is no immediate safety concern.

Experience with cyberbullying and sexting cases, gender of the officer, and whether the officer had young children living at home all were predictors of perceptions about the role of law enforcement. Officers who recently investigated a cyberbullying or sexting case were more likely to view these issues as a significant law enforcement concern. This finding explains why SROs reported a greater law enforcement role than the FBINA respondents in all of the scenarios. SROs had direct experience with cyberbullying and sexting. Female officers and police with children aged 18 or younger living at home agreed that law enforcement played a significant role in dealing with these problems.

The research indicated that more young people will encounter a cyberbully than be groomed, abducted, and assaulted by a stranger on the Internet.[9] However, over 80 percent of study participants indicated that they needed additional training on preventing and responding to cyberbullying. Twenty-five percent of the SROs and over 40 percent of the FBINA officers surveyed did not know if their state had a law specific to cyberbullying. As of this writing, 49 states had laws regarding bullying, and 45 of those mentioned electronic forms of harassment.[10]

BEST PRACTICES

Law enforcement officers, especially SROs, need an awareness and understanding of their state statutes to grasp the legal implications of cyberbullying. The growth of cell phones and Internet usage among teens has altered youth social and conduct norms. Cyberbullying is one of the most significant new issues law enforcement has to address. Anecdotal and research-based accounts from police across the nation depicted a lack of clear guidance, training, and support. This is unfortunate because bullying is an age-old problem with recent forms often relying on technological devices and mediums. Research has indicated a strong link between online and offline bullying.[11]

Even if no criminal statute on cyberbullying exists, law enforcement should not ignore these behaviors or dismiss the issue. Officers must help other professionals, such as school administrators, understand legal obligations and authority regarding cyberbullying. School officials can discipline students for their behavior when there is a policy prohibiting such conduct—even when the

student is away from campus—if the official can demonstrate that the behavior substantially disrupted the learning environment at school.[12] When educating the community about cyberbullying, law enforcement officers should stress that different levels of responsibility exist; the matter is serious; an investigation will occur; and parents, schools, and the criminal justice system could punish the offender if warranted.

Online harassment not covered by specific cyberbullying laws may fall under traditional statutes. Officers have charged students for disorderly conduct in incidents that interrupt the main educational purpose of schools (e.g., making embarrassing videos at school and distributing them online) or infringe upon the rights of others. It is important for authorities to take cyberbullying situations more seriously that appear motivated by race, class, gender, or sexual orientation. While directed solely at one person, these events reflect malice and bias toward an entire group of people. Police should consult their district attorney liaisons to determine what existing criminal statutes apply.

Criminal law often pertains when stalking, coercion, sexually explicit images, or the sexual exploitation of youth are involved. High-profile cases of criminal prosecution against teens who engage in sexting illustrate the complexity of addressing this behavior. Legal and political authorities often factor in the age of participants and the relational context in which the sexting incident occurred.[13] Many states have introduced or enacted legislation that addresses sexting, with penalties ranging from educational programming for first-time offenders to fines, felony charges, or short-term incarceration.[14] Sexting occurs along a continuum, ranging from typical teenage behavior to significant and intentional victimization of others.[15] Due to the sensitive nature of the images and the potential for these photos to remain publicly available, law enforcement involvement at all levels is important.

CONCLUSION

Law enforcement officers, especially those assigned to schools, are called upon to act after incidents and will need to address cyberbullying at some point during their tenure. Even if the cyberbullying behavior is not at a criminal level, officers should handle the situation in a way that is appropriate for the circumstances. A discussion of the legal issues may be enough to deter some first-time bullies from future misbehavior. Officers should talk to parents about their child's conduct and the seriousness of online harassment. Law enforcement's response will vary based on how the case was discovered,

what harm has occurred, how evidence was collected, who was involved, and what level of training officers have received.

Cyberbullying and sexting still are relatively new social problems, and officers involved in this study agreed that they need more training to help them understand and respond to these behaviors. Some participants perceived that when these issues occurred away from school, the school could not take any action. One school resource officer stated, "The incident began on Facebook and was done outside of school hours, so the school was unable to do anything about the cyberbullying." Another noted, "Most of the time the school district does not get involved because cyberbullying does not happen on school time." A third officer pointed out that "Most of these occurred outside of school, so there was no school punishment."

It is important that law enforcement officers understand that schools can discipline students for their off-campus behavior when it infringes on the rights of other students or results in or has a foreseeable likelihood of causing substantial and material disruption of the learning environment of the school.[16]Even when the behavior does not violate the law, schools can and should apply appropriate discipline. Law enforcement officers play an important role in ensuring that proper responses are provided to minimize the future risk and harm that cyberbullying and sexting may create.

Endnotes

[1] Sameer Hinduja and J.W. Patchin, *Bullying Beyond the Schoolyard: Preventing and Responding to Cyberbullying* (Thousand Oaks, CA: Sage Publications, Corwin Press, 2009), p. 5.

[2] Sameer Hinduja and J.W. Patchin, *Bullying Beyond the Schoolyard*, p. 5.

[3] J.W. Patchin and Sameer Hinduja, *Preventing and Responding to Cyberbullying: Expert Perspectives* (Thousand Oaks, CA: Routledge, 2012).

[4] Sameer Hinduja and J.W. Patchin, *School Climate 2.0: Reducing Teen Technology Misuse by Reshaping the Environment* (Thousand Oaks, CA: Sage Publications, Corwin Press, 2012).

[5] L.E. Soronen, N. Vitale, and K.A. Haase, "Sexting at School: Lessons Learned the Hard Way, Inquiry and Analysis," *http://www.nsba.org/* (accessed January 30, 2013); J. Leshnoff, "Sexting, Not Just for Kids," *http://www.aarp.org/relationships/love-sex/info-11-2009/sexting_not_just_for_kids.html* (accessed January 30, 2013); and J. Wolak and D. Finkelhor, "Sexting: A Typology," *http://www.unh.edu/ccrc/pdf/CV231_Sexting%20Typology%20Bull etin_4-6-11_revised.pdf* (accessed January 30, 2013).

[6] S. Hinduja and J.W. Patchin, *Reducing Teen Technology*; V. Stuart-Cassel, A. Bell, and J.F. Springer, "Analysis of State Bullying Laws and Policies," *http://www2.ed.gov/rschstat/eval/bullying/state-bullying-laws/state-bullying-laws.pdf* (accessed January 30, 2013).

[7] S. Hinduja and J.W. Patchin, *Reducing Teen Technology*.

[8] M.L. Ybarra, M. Diener-West, and P.J. Leaf, "Examining the Overlap in Internet Harassment and School Bullying: Implications for School Intervention," *Journal of Adolescent Health* 41 (2007): S42-S50; and S. Hinduja and J.W. Patchin, "Bullying, Cyberbullying, and Suicide," *Archives of Suicide Research* 14, no. 3 (2010): 206-221.

[9] J.G. Palfrey, D. Boyd, and D. Sacco, "Enhancing Child Safety and Online Technologies: Final Report of the Internet Safety Technical Task Force," (Durham, NC: Carolina Academic Press, 2009).

[10] S. Hinduja and J.W. Patchin, "Bullying and Cyberbullying Laws," *http://www.clyberbullying.us/Bullying_and_Cyberbullying_Laws.pdf* (accessed February 28, 2013).

[11] S. Hinduja and J.W. Patchin, *Bullying Beyond the Schoolyard*, p. 5; and J.W. Patchin and S. Hinduja, "Traditional and Nontraditional Bullying Among Youth: A Test of General Strain Theory," *Youth and Society* 43, no. 2 (2011): 727-751.

[12] S. Hinduja and J.W. Patchin, "Cyberbullying: A Review of the Legal Issues Facing Educators," *Preventing School Failure* 55, no. 2 (2010): 1-8.

[13] T.J. Dishion, D.M. Capaldi, and K. Yoerger, "Middle Childhood Antecedents to Progressions in Male Adolescent Substance Use: An Ecological Analysis of Risk and Protection," *Journal of Adolescent Research* 14 (1999): 175-205.

[14] D.L. Haynie, "Delinquent Peers Revisited: Does Network Structure Matter?" *American Journal of Sociology* 106, (2001): 1013-1057.

[15] N.E. Willard, 2010, "School Response to Cyberbullying and Sexting: The Legal Challenges," Center for Safe and Responsible Internet Use, *http://www.embracecivility.org* (accessed January 31, 2013).

[16] S. Hinduja and J.W. Patchin, *Cyberbullying*, p. 1-8.