When It Stops Being Bullying

When Bullying Becomes Criminal



Webinar Etiquette

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- Please conduct your participation in a professional manner.
- A copy of the presentation will be provided for download at the conclusion of the webinar.

Presenters

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When It Stops Being Bullying

- Beyond Bullying: Defining and measuring the threat of harm
- ☐ Headline News
- Understanding the Bridge from Bullying to Criminal Charges
- Resources



Bullying vs. Threat

A threat is defined as a communicated intent to inflict harm or loss on another or another's property...a communicated intent to commit violence." BLACKS LAW DICTIONARY, 1999.

Bullying behavior differs from threatening behavior. While some bullies might say or write things, or make forceful or frightening gestures that seem threatening to another student, not all "threatening sounding" or "threatening appearing" behaviors actually constitute a threat.

Substantive Threats

Express intent to physically injure someone beyond the immediate

There is at least some risk the student will carry out the threat

Require that you take protective action, including warning intended victims and parents May be legal violation and require police consultation

When in doubt, treat threats as substantive

Substantive Threats: Facts to Consider

Age of student

Capability of student to carry out the threat

Student's discipline history

Credibility of student and willingness to

acknowledge his or her behaviors

Credibility of witness accounts

When in doubt, treat threats as substantive

Presumptive Indicators of Substantive Threats

Specific plausible details ("I am going to kick you butt after school")

Threat has been repeated over time ("He's been telling everyone he is going to get you")

Threat reported as a plan ("Wait until you see what happens next Tuesday after school")

Accomplices or recruitment of accomplices

Physical evidence of intent (written plans, lists of victim(s), weapon)



"Oh, heavens no. I was merely speaking figuratively when I said that I wanted to break every bone in his body."

Bullying Behavior vs. Harassment

Harassment can be defined as "words, conduct, or action (usually repeated or persistent) that, being directed at a specific person, annoys, alarms, or causes substantial emotional distress in that person and serves no legitimate purpose." BLACKS LAW DICTIONARY (1999).

So what might start as annoying and intimidating bullying behavior in one student changes to harassment where the repeated and persistent behaviors of the bully is the cause of substantial emotional distress in his / or her victim.

Bullying Behavior vs. Hazing

Much alike in definition but hazing is defined by ORC as a crime. Thus, what might have started as experienced or club members *bullying* new members (as part of an initiation ritual) could be subjected to criminal charges.

Bullying Behavior vs. Assault

Where an assault occurs bullying no longer exists. Assault is a criminal offense punishable by law.

"5 Teens Charged in Taped Assault"

Five teenagers beat, kicked and laughed at a special education students as he waited at a bus stop

"Is cyberbullying a crime?"

A federal grand jury in Los Angeles is investigating the possibility of criminal charges against a Missouri mother who set up a fake MySpace identity that led to the suicide of a 13 year old girl

"States push for cyberbully controls"

Ryan was a victim of harassment in the 7th and 8th grades, much of it over the internet with rumors that he was gay. On October 13, 2007, Ryan committed suicide.

"Pennsylvania judge sentences teens in high school hazing case"

Two of three New York teens accused of sexually assaulting teammates at an overnight football camp were sentenced to juvenile detention center. The teens were charged with numerous felonies for allegedly sodomizing three younger teammates at a summer camp.

The Bridge from Bullying to Criminal Charges

Marianne Hemmeter, Assistant Section Chief, Crime Victims Section, Office of Ohio Attorney General Mike DeWine

Lets talk about criminal charges

According to Ohio Law

Physical

Involves kicking, hitting, punching, biting, hair pulling

Criminal Charge

2903.13 Assault

Elements:

A: (1) Knowingly

(2)Cause or Attempt to cause

(3)Physical harm to another or another's unborn

Penalty: M-1

2903.11 Felonious Assault

Elements:

A: (1) Knowingly

(a) Cause **serious** physical harm to another or another's unborn or

(b) Cause or attempt to cause physical harm to another by use of deadly weapon

Penalty: F-2

Physical

Involves kicking, hitting, punching, biting, hair pulling

Criminal Charge

2903.31 Hazing

Elements:

A: Doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization, that causes or creates a substantial risk of causing mental or physical harm to any person

Penalty: M-4

Physical

Involves kicking, hitting, punching, biting, hair pulling

Criminal Charge

2909.06Criminal_Damaging

Elements:

- (1) Cause or create substantial risk of physical harm to property or another without consent
- (2) (a) Knowingly, by any means

Penalty:

M-2 or M-1 if risk of harm to any person

<u>Verbal</u>

May include racial, religious, sexual orientation, etc.

Criminal Charge

2903.21 Aggravated Menacing

Elements:

- (1) Knowingly
- (2) Cause another to believe
- (3) That the offender will cause serious physical harm to the other person or property of the other person, the other persons unborn, or member of the other person's immediate family.

Penalty: M-1

2903.22 Menacing

Elements:

- (1) Knowingly
- (2) Cause another to believe
- (3) That the offender will cause physical harm to the person or property of the other person, the other person's unborn, or member of the other person's immediate family.

Penalty: M-4

Verbal

May include racial, religious, sexual orientation, etc.

Criminal Charge

2903.21.1 Menacing by Stalking

Elements:

- (1) By engaging in a pattern of conduct
 - (2) Knowingly
- (3) Cause another to believe that the offender will cause physical harm to the other person or property of the other person or cause mental distress to the person

Penalty: M-1

Physical

Can accompany verbal bullying and involves things like kicking, hitting, punching, biting, hair pulling or threats of physical harm.

Criminal Charge

Ethnic Intimidation must include:

2909.06 Criminal Damaging

Elements:

- (1) Cause or create substantial risk of physical harm to property or another without consent
- (2) (a) Knowingly, by any means or
- (b) Recklessly, by fire, explosion, flood, poison gas, poison, radioactive materials, caustic or corrosive material, other inherently dangerous agency of substance

Penalty:

M-2 or if risk of harm to person M-1

Cyberbullying

Through email, IM, chat rooms and camera cell phones, cyberbullies can spread hurtful messages and images

Criminal Charge

Division A (3) (4) or (5) of 2917.21 Telecommunications Harassment

Elements:

Division (A)

- (1)Knowingly
- (2) (a) Make a telecommunication

or

- (b) Cause telecommunication to be made
- (c) Permit a telecommunication to be made from a telecommunications device under the offender's control
- (3) The caller fails to identify the caller to the recipient to the telecommunication and makes the telecommunication with purpose to harass or abuse any person at the premises to which the telecommunications is made

Penalty: M-1 or could be enhanced to Felony

Sexual

Involves unwanted physical contact, sexually abusive, inappropriate or unwanted comments of any type

Criminal Charge

2907.06 Sexual Imposition

Elements:

Engage in sexual conduct

- (1) (a) Have sexual contact with another, not the spouse of the offender (or)
 - (b) Cause another, not the spouse of the offender to have sexual contact with the offender
 - (c) Cause two or more persons to have sexual contact

Penalty: M-3

Sexual

Involves unwanted physical contact, sexually abusive, inappropriate or unwanted comments of any type

Criminal Charge

2907.02 Rape- (Date Rape)

Elements:

Engage in sexual conduct

- (a) With another by purposely compelling submission by force or threat of force or With another not the offenders spouse if living separate and apart it:
 - (i) For purpose of preventing resistance, offender substantially impairs victims judgment or control by administering any drug, intoxicant or controlled substance by force or threat of force or deception ,or
 - (ii) less than 13 years of age
 - (iii) Impairment because of mental physical condition

Penalty: F-1

Ohio Civil Protection Orders

Victims of domestic violence or stalking have the right to get a protection order from the court demanding that the person harassing or abusing you stop doing so or be punished by the Court. These are the different types of protection orders in Ohio:

A **temporary protection order**. This order can only be issued when criminal charges for domestic violence or stalking are filed against the person abusing or harassing you. This order will only last while the criminal case is before the Court. To find out more information on how to get a temporary protection order, contact the prosecutor's office for your city.

A **civil protection order**. This order can be issued at any time (even when criminal charges have not been filed), can last up to five years, and is used when the abusive person is a member of your family or living with you. If this is what you want,

A **stalking protection order**. This order can also be issued at any time and can be used when the person harassing or abusing you is a total stranger.

Remember 3 Things

- 1. Complete incident reports
- 2. Document who, what, where when
- 3. Maintain discipline files

In all cases, confer with your local law enforcement, prosecutor and SRO



- Warning of impending violence
- Attempts to intimidate or frighten
- Thrill of causing a disruption
- Attention seeking, boasting
- Fleeting expressions of anger
- Jokes
- Figures of speech

No Magic Formula or Crystal Ball

There is no formula, prescription, or checklist that will predict or prevent all violent acts. School and community authorities must make reasoned judgments based on the facts of each individual situation, and monitor situations over time.



Resources

- ☐ Litigation on Cyberbullying: Legal Issues for School Personnel
 - olweus.org/public/document/legal_issues_regarding_cyber_bullying
- "Cyberbullying Fact Sheet: Review of Relevant Legal and Policy Issues
 - http://www.cyberbullying.us/cyberbullying legal issues.pdf
- "Educators Guide to Cyberbullying and Cyberthreats"
 - http://www.cyberbully.org/cyberbully/docs/cbcteducator.pdf

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TAKE ACTION VIDEO CONTEST

High school students (grades 9-12), this is your chance to TAKE ACTION!

Ohio Attorney General Mike DeWine's office is accepting entries for the 2011 Take Action Video Contest.

Produce a 60-second video promoting Internet safety. Protect yourself and your fellow students from getting ripped off by deceptive advertisers and Internet scammers, and discover that free isn't always free.

Submit a 60-second video on one of these topics:

- 1. Read the fine print
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The top three winning teams will receive:



1st Place Team \$2,500 Scholarship*



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The top videos will be featured on the Ohio Attorney General's Web site, www.OhioAttorneyGeneral.gov







For details on how to enter, official rules & eligibility requirements, go to www.OhioAttorneyGeneral.gov/TakeActionContest or call 800-282-0515.

Video entries will be accepted September 15, 2011 - December 15, 2011.







www.OhioAttorneyGeneral.gov

* Please see contest details for special requirements and conditions

The next webinar in this series:

Topic: School Climate

Date: January 4, 2012

Time: 3:00 pm

URL: Visit www.ode.state.oh.us use Search Term "Bullying Resources" Click the Topic link to access an Anti-HIB webinar

Legal Ramifications Evaluation

Please click the link below to complete the evaluation for this Anti HIB Webinar

http://www.surveymonkey.com/s/3MTWLWY

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