

Dallas Police Department
Computer Crimes Unit
Cyber-Bullying
Sexting
And
Criminal Consequences



Prepared by Detective Russell Stephens
Computer Crimes Unit
Dallas Police Department
214-671-3545

Cyber-bullying

Cyber-bullying can range from embarrassing or cruel online posts or digital pictures, to online threats, harassment, and negative comments, to stalking through emails, web pages, text, and IM (instant messaging). While any age group is vulnerable, children, teenagers, and young adults are common victims, and cyber-bullying is a growing problem in schools.

Cyber-bullying occurs through the use of technology such as computers, cell phones and other electronic devices. Cyber-bullying is taking schools by storm. Publicized cases – some of which resulted in the suicide of the victims – show that this kind of virtual harassment is every bit as harmful and damaging as the old-fashioned bullying a parent or educator might associate with hallway or school bus threats. While students are frequently warned to contact a teacher or other person in authority if in-school bullying occurs, children are often at a loss about whom to talk to when the offenses occur after school and in cyberspace.

The National Crime Prevention Council's definition of cyber-bullying is "when the Internet, cell phones or other devices are used to send or post text or images intended to hurt or embarrass another person. StopCyberbullying.org, an expert organization dedicated to Internet safety, security and privacy, defines cyber-bullying as: "a situation when a child, tween or teen is repeatedly 'tormented, threatened, harassed, humiliated, embarrassed or otherwise targeted' by another child or teenager using text messaging, email, instant messaging or any other type of digital technology." Other researchers use similar language to describe the phenomenon.

Cyber-bullying can be as simple as continuing to send e-mail to someone who has said they want no further contact with the sender, but it may also include threats, sexual remarks, hate remarks, ganging up on victims by making them the subject of ridicule in forums, and posting false statements as fact aimed at humiliation.

As outlined by the National Cyber Security Alliance, the definition of harassment via the internet outlines abusive behavior that relies on offensive postings, direct messages and third-party emails to accomplish its goal. This form of electronic harassment includes the creation of websites with the express intent of posting compromising or doctored photos and the setup of Facebook groups that have the stated goal of discussing the shortcomings of a person, divulging personal information or making fun of the individual. In many cases it also can involve the

use of other social networking sites, such as Twitter or MySpace or any web site, to disseminate offensive postings about someone.

Examples of cyber-bullying include:

- Sending hurtful, rude, or mean text messages to others
- Spreading rumors or lies about others by e-mail or on social networks
- Creating websites, videos or social media profiles that embarrass, humiliate, or make fun of others.

Bullying online is very different from face-to-face bullying because messages and images can be:

- Sent 24 hours a day, 7 days a week, 365 days a year
- Shared to a very wide audience
- Sent anonymously

Cyber-bullying can have particular affects on those who are targeted. Research has found that young people who have been cyber-bullied are significantly more likely to:

- Use alcohol and drugs
- Skip school
- Experience in-person bullying or victimization
- Be unwilling to attend school
- Receive poor grades
- Have lower self-esteem
- Have more health problems

Source: **Stopbullying.gov**

Cyber-bullying harassment should be reported to the authorities. Whether a child falls victim to an online predator or to a group of vindictive classmates, the United States Computer Emergency Readiness Team (CERT) advises that the local police department is an excellent first contact when taking legal action against the harassment.

The State of Texas Online Harassment laws can result in serious charges filed against an adult, student, cyber-bully, or group of cyber-bullies. For example: A group of students create a fake Facebook web page using a photo of the victim and the victim's name or variation of the name without the victim's consent. The students then post messages on the web page making fun of the victim and then

decide to pose as the victim and post untrue statements that the victim is depressed or may harm students at school. The victim then becomes angry and tells his parents who report the incident to local police. A police report is made by the victim's parents. Police investigative follow-up can result in subpoenas for all information from internet service providers, social networking sites, and search warrants served by officers at all the students' residences for all computers, cell phones, and digital storage media that would be submitted for computer forensic examination. The students could be charged with Online Harassment/Felony 3rd and found guilty. What was thought to be a funny joke by a group of teenagers can result in serious charges and civil consequences that can affect the rest of their lives.

TEXAS LAWS PERTAINING TO ONLINE HARASSMENT AND SEXTING

On September 1, 2009, a new Texas law, Texas Penal Code 33.07 Online Harassment, made it a crime to engage in various activities on commercial social networking sites or by e-mail, instant messaging, texting, video, etc. You can read the relevant section of the law below. Texas lawmakers have made it clear they don't want people impersonating others on the Internet in order to harm, threaten, intimidate, or defraud anyone. Online Harassment can be classified as a Class A Misdemeanor or a 3rd Degree Felony.

- A **3rd Degree Felony** is punishable by imprisonment for 2 to 10 years, and in addition, you may be fined up to \$10,000.
- A **Class A Misdemeanor** is punishable by imprisonment for up to 1 year, and in addition, you may be fined up to \$4,000.

Texas Penal Code Sec. 33.07. Online Harassment

(a) A person commits an offense if the person uses the name or persona of another person to create a web page on or to post one or more messages on a commercial social networking site:

- (1) without obtaining the other person's consent; and
- (2) with the intent to harm, defraud, intimidate, or threaten any person.

(b) A person commits an offense if the person sends an electronic mail, instant message, text message, or similar communication that references a name, domain address, phone number, or other item of identifying information belonging to any person:

- (1) without obtaining the other person's consent;
 - (2) with the intent to cause a recipient of the communication to reasonably believe that the other person authorized or transmitted the communication; and
 - (3) with the intent to harm or defraud any person.
- (c) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (b) is a Class A misdemeanor, except that the offense is a felony of the third degree if the actor commits the offense with the intent to solicit a response by emergency personnel.

SEXTING AND CHILD PORNOGRAPHY LAWS

Sexting is the act of sending sexually explicit messages or photographs, primarily between mobile phones. Sexting that involves people sending explicit photographs of themselves to their peers has led to a legal gray area in countries that have strict anti-child pornography laws, such as the United States. Some teenagers who have texted photographs of themselves, or of their friends or partners, have been charged with distribution of child pornography, while those who have received the images have been charged with possession of child pornography; in some cases, the possession charge has been applied to school administrators who have investigated sexting incidents as well. – Source: Wikipedia

If the cyber bullying is sexual in nature or just involves sexting, it can cross over the lines and break Child Exploitation and Indecency Laws (Child Pornography laws).

For example, your child is 17 years old or older and exchanging nude pictures and messages with someone they met online and thought was 18 years old but in reality the other child is actually 12 years old. The mother and father of the other child just happened to check their 12 year old child's computer or cell phone and discovered your child's messages and nude images and report the incident to local authorities.

Another example would be if a student used a smart phone and took a nude photo of another student in the locker room without that student's consent and sent the photo on the internet to other student(s) or posted it on a web site to make fun of the student as a joke.

The examples above may result in a police report being filed by the victim's parents, search warrants for all the suspect's and family's computers and cell phones, child pornography charges, and your 17 year old boy or girl ordered by a judge to register as a sex offender.

The following section of Texas Law pertains to Child Exploitation and Indecency Laws:

Texas Penal Code Sec. 33.02: Online Solicitation of a Minor.

(a) In this section:

(1) "Minor" means:

(A) an individual who represents himself or herself to be younger than 17 years of age; or

(B) an individual whom the actor believes to be younger than 17 years of age.

(2) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section 21.01.

(3) "Sexually explicit" means any communication, language, or material, including a photographic or video image, that relates to or describes sexual conduct, as defined by Section 43.25.

(b) A person who is 17 years of age or older commits an offense if, with the intent to arouse or gratify the sexual desire of any person, the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, intentionally:

(1) communicates in a sexually explicit manner with a minor; or

(2) distributes sexually explicit material to a minor.

(c) A person commits an offense if the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, knowingly solicits a minor to meet another person, including the actor, with the intent that the minor will engage in sexual contact, sexual intercourse, or deviate sexual intercourse with the actor or another person.

(d) It is not a defense to prosecution under Subsection (c) that:

(1) the meeting did not occur;

(2) the actor did not intend for the meeting to occur; or

(3) the actor was engaged in a fantasy at the time of commission of the offense.

(e) It is a defense to prosecution under this section that at the time conduct described by Subsection (b) or (c) was committed:

(1) the actor was married to the minor; or

(2) the actor was not more than three years older than the minor and the minor consented to the conduct.

(f) An offense under Subsection (b) is a felony of the third degree, except that the offense is a felony of the second degree if the minor is younger than 14 years of age or is an individual whom the actor believes to be younger than 14 years of age at the time of the commission of the offense. An offense under Subsection (c) is a felony of the second degree.

(g) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

FINAL NOTE:

Everything done on the internet is stored, logged, and archived on your computers, cell phones, cell phone carriers, social networking sites, internet service providers, servers, and computer clouds. Students' internet activities may have long term consequences in their future when employers may require an internet history background check for employment application.

Parents should get involved with their child's internet activities and may consider monitoring or auditing their child's internet activities with software. Early intervention and counseling by parents and educators is crucial so that students are aware of the criminal, financial, civil, and long term consequences of cyber bullying and their internet activities.

Sources and Links To More Information:

www.stopbullying.gov provides comprehensive research and resources

www.ncpc.org provides information about stopping cyber-bullying before it starts

www.cyberbullying.us provides cyber-bullying research, stories, cases, downloads, fact sheets, tips and strategies, news headlines, a blog, and a number of other helpful resources on their comprehensive public service website.

www.stopcyberbullying.org has a fun quiz to rate your online behavior, information about why some people cyber-bully, and how to stop yourself from cyber-bullying.

www.wiredsafety.com provides information about what to do if you are cyber-bullied.

www.stopbullyingnow.com has information about what you can do to stop bullying

www.staysafeonline.org provides information about cyber-bullying