

Foreword

The year 2009 marked the 40th anniversary of the Internet, which has done more to transform the world than any technological advance since the printing press.

The Web has revolutionized communications, turned the business world upside down (nearly killing off entire industries, like music stores, and creating new ones, like social networking sites), and enabled people everywhere instant access to dizzying amounts of information. For young people, who today often begin typing on computers and cell phones before they can read and write, the distinctions between physical space and cyberspace are increasingly melting away.

As executive editor of *The New York Times Upfront*, a national news magazine for teenagers, I've come to realize that the Web is to this generation of young people what the playground, schoolyard, and shopping mall were to mine. It's where teens (and preteens) go to explore and socialize: they surf, carry on multiple IM conversations simultaneously, and fill their Facebook pages with photos, hourly updates, and—too often—diary-like confessions.

But it's also a place where they're extremely vulnerable to attack, from complete strangers and even people they know: today's cyberbullies. I have experienced the old-fashioned kind of bullying. As a fifth grader, I was tormented for almost a year by a boy who smacked me and challenged me to hit him back (I refused) until he lost interest and found other prey.

Those schoolyard bullies still exist, of course, but cyberbullying can be just as terrifying, though in a very different way: The aggression is carried out online, with victims subjected to harassment or public ridicule. And thanks to the viral nature of the Web, the audience can be virtually limitless.

According to the *Journal of Adolescent Health*, between a tenth and a third of young people have been victimized by a cyberbully, and schools around the nation are scrambling to create policies to deal with the phenomenon. Not surprisingly, as with most things

related to the Web, the law is still playing catch up when it comes to figuring out how to handle cyberbullying. But it IS beginning to catch up.

That's why Judge Jacobs's book is so valuable. Using real court cases and stories of both cyberbullies and their victims, he provides a road map to the current state of the law regarding online harassment. In addition, he offers practical advice on how to make sure your own online communications—including private emails and texts—don't get you into trouble.

It should be required reading not only for victims of this 21st century form of bullying, but also for school administrators, teachers, parents, and young people who need to have their wits about them when they're exploring the vast and still uncharted territory of the Internet.

Ian Zack
Executive Editor
The New York Times Upfront

Introduction

Technology is likely part of your natural environment as a teen today. You were born into a technology-rich “wired” world, heavily influenced by the Internet. Consider these statistics:

- 16 million children ages 2 to 11 were online in May 2009. The 2- to 4-year-olds were exposed to the Internet while on their parents’ laps in front of a computer.
- Among 12- to 14-year-olds in the United States, 88% use the Internet. This figure trails Great Britain (100%), Israel (98%), and the Czech Republic (96%).
- More than 90% of teens are online and more than half of them have profiles on social networking sites.
- 85% of teens communicate through digital writing.
- 85% of high school students spend at least one hour daily on the Internet.

This Web-based culture has resulted in exciting new ways to communicate, learn, socialize, stay informed, entertain yourself, and foster your creativity. However, it has also presented new challenges for you and your friends that were not faced by your parents or grandparents, or perhaps even by your older siblings. For example, you may be asking yourself daily questions such as:

“Are there limits to what I can do once I’m online?”

“How do I know who sees information once I post it on a Web site?”

“THE INTERNET IS ALWAYS A WILLING LISTENER, ANY TIME OF THE DAY OR NIGHT.”

—Rachel Dretzin, “Growing Up Online,” *PBS Frontline*, 2008

- France has made access to the Internet a “human right.”
- Internet access is a “legal right” in Finland as of July 2010.
- In 2009, Uruguay became the first Latin American country to provide every student in public elementary school with a computer through The One Laptop Per Child program.

“Can I share my feelings online about others—my classmates, teachers, or principal—without getting into trouble?”

“Can my school discipline me for what I do on my cell phone or my home computer?”

“Are there things I should never post or send online?”

The growth of the Internet has added a new complexity to issues regarding your free expression as a student—both on and off school grounds. And in addition to opening up positive new ways to communicate, it has also given rise to endless new ways to threaten, harass, abuse, insult, and bully others. Gone are the days when bullying meant a shove in the hallway or an insult yelled across a classroom. Bullying has entered the digital age. With the click of a button or touch of a screen, a photo, video, or conversation can be shared with a few people in an email or text . . . or broadcast to millions on a Web site. Pictures and messages that used to be scribbled on paper and passed in class are now posted online.

Have you ever received a hurtful email, text, or instant message? Has someone made cruel comments about you on an online profile or blog? Has someone taken a picture or video of you at school or outside of school and posted it on a Web site like YouTube, MySpace, or Facebook? Have you sent what you thought was a personal message to a friend and later found out it’s all over your school? And finally, have you ever done any of these to someone else? If you answered, “yes” to any of these questions, you’ve been involved in *cyberbullying*.

A New Breed of Bully

In Singapore, a 16-year-old girl created fake profiles on MySpace and Facebook in order to befriend kids she didn’t like at school. Once she connected with the kids, she turned on them with nasty insults. “The new breed of bullies is narcissistic (self-centered). They treat the Internet as their stage, with an instant audience of thousands—or even millions,” said Dr. Carol Balhetchet of Singapore Children’s Society.

Most cyberbullying involving kids and teens is done by their peers and occurs as early as 2nd grade. Cyberbullying takes many forms, with the most common being:

- sending insulting or threatening emails, texts, or instant messages directly to someone using a computer, cell phone, or other e-communication device
- spreading hateful comments about someone through emails, blogs, online profiles, or chat rooms
- stealing passwords and sending out threatening messages using a false identity
- building a Web site targeting specific people

This book provides an inside, in-depth look at the current cyberbullying epidemic. Presented here are real cases

of tweens and teens who were harassed or caught harassing others online, on camera, in a text, or using a cell phone. Some cases were harmless pranks or creative musings, while others caused serious emotional and physical injury to others. Your teachers, school administrators, and parents may be up to their ears in information about monitoring your use of the Internet and cell phones.

85% of middle school children report being cyberbullied at least once.

32% of American teens who use the Internet report some form of online harassment.

In a recent study, 72% of participants, ages 12 to 17, claimed they knew who was doing the cyberbullying.

“KIDS DON’T KNOW HOW COMMON CYBERBULLYING IS, EVEN AMONG THEIR BEST FRIENDS.”

—Professor Jaana Juvonen,
Developmental Psychology
Program Chair, UCLA

It’s time for *you* to know about what’s happening to your peers, learn what your legal rights are, and decide for yourself how you will use these devices for your benefit.

Most of the teens discussed in this book engaged in cyberbullying behavior, whether their target was another person or the school

in general. And each of the teens paid a price, even those who eventually won their cases in court. Many served suspension days; others were hospitalized for evaluation or screened by a doctor or psychologist; some were banned from sports or other activities; and a few were expelled from school or jailed. In some manner, each teen and his or her family were adversely affected due to consequences at school, police involvement, legal proceedings, and, in a few cases, needing to relocate to another city.

In addition to perpetrators, several victims of cyberbullying are also discussed here, including Megan Meier, Rachael Neblett, Jessica Logan, Sam Leeson, Holly Grogan, Megan Gillan, Jeffrey Johnston, and Ryan Patrick Halligan. For these teens, experiences of being bullied online led to devastating ends. The Internet is a modern wonder with unlimited potential . . . but if abused it can also wreak havoc on individuals,

It's now more important than ever for you to **think before you click.**

One Teen's Comments About the Internet

To be a teen is to be in the process of creating the adult you will one day become. Every new thing you are exposed to might be compared to a seed that, depending on whether it's one of the few that you choose to cultivate, may blossom in your adulthood.

Until very recently, these "seeds" were provided only by a teen's direct surroundings and the relatively limited and pre-selected things found in books and magazines, and on the radio and television. However, teens today have found a channel through which they can expose themselves to almost anything with just a click of a mouse. The Internet has changed our world immeasurably, affecting us socially and psychologically probably more than any other invention, and propelling us into a new age driven entirely by information.

With the aid of the Internet, we can observe the world as we might observe something through a glass wall, and though this cannot even begin to compare to learning about and experiencing things directly, seeing something through a

families, schools, and communities. Virtual-world speech often carries real-world consequences.

Attempts were made to personally interview each of the teens whose cases are presented in this book. Their thoughts and comments are reported in the “What Is ___ Doing Now?” section of each chapter. Thanks to all who contributed to this endeavor, and good luck in your current pursuits.

I’m always interested in hearing from teens about their experiences and questions. If you’d like to get in touch with me, you can contact me in care of:

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Or you can email me at help4kids@freespirit.com

I look forward to hearing from you!

Tom Jacobs, J.D.

glass wall is better than not seeing it at all. In this way, teens today are able to endow themselves with many more “seeds” than those of previous generations could have imagined.

The result—scary to some and inspiring to others—is that it’s easier than ever for kids to grow into an adult that is entirely different from the people among whom they were brought up. Growing up has never been devoid of bad influences, and the fact is that most teens slip up some time in their lives—whether they grew up in the 21st century or in the 1st. As the saying goes: “*With freedom comes responsibility.*” Part of being a teen is learning to have the responsibility to make the right decisions.

The Internet, like the world it imitates, is full of terrible and fantastic things, allowing young people more freedom than ever to choose who they will become, and, essentially, redefining what it is to be a teenager.

**—Theodora Ballew, freshman at North High School,
Phoenix, Arizona, 2008**

When Creative Writing Becomes Criminal Content

Case: *Nick Emmett v. Kent School District* (2000)

Act: creating an unofficial school home page with fake obituaries for students

Charge: harassment, intimidation, and disruption of school's educational process

The Unofficial Kentlake
High Home Page

Vote for who will be
the next to die

Nick Emmett was an 18-year-old senior at Kentlake High School in Washington. He was the co-captain of the varsity basketball team and an honor student with a 3.95 GPA. He had no disciplinary record at school. As a junior, he had taken a creative writing class in which students were asked to write their own obituaries. With this in mind, Nick created “The Unofficial Kentlake High Home Page” and his father helped with the graphics. He posted mock obituaries of his friends and asked viewers to vote on who would die next—that is, who would be the subject of the next fake death notice. He included a statement that the site was for entertainment only and was not sponsored or endorsed by the school. Nick even praised some of the teachers and administrators who in turn commended Nick on his Web site. Some students asked to have their obituaries written and added to the site.

Nick never used the words “hit list” but a television news story about the site mistakenly characterized it as such. That night, Nick removed the site from the Internet. The next day the school placed him on emergency expulsion for harassment, intimidation, and disrupting the school’s educational process. This was modified to a five-day suspension that included basketball practice and a play-off game.

No evidence suggested that Nick intended to intimidate or threaten anyone or that any student felt threatened by his Web site. Nick filed a complaint with the court asking for immediate relief from the school’s action. He explained that he “went to court to fight for my rights because I don’t think administrators should be able to make unfair punishments. I care about school and want to go to class.”

HOW WOULD YOU DECIDE THIS CASE?

Do you think posting fake death notices of your friends constitutes a “hit list”? When a television reporter called it a “hit list,” did it in fact become one? Why or why not? If no one felt threatened by the obituaries, should Nick have been punished for his writings? Did he cross the line of acceptable expression and create a potentially disruptive situation at school? If so, how?





WHAT THE COURT DECIDED

After considering *Tinker*, *Fraser*, and *Hazelwood* (see pages 11–14), the court found that Nick’s speech was entirely beyond the school’s supervision or control. The court recognized that “Web sites can be an early indication of a student’s violent inclinations and can spread those beliefs quickly to like-minded or susceptible people.” But in this case, Nick’s writings were not intended to threaten anyone, did not pose any actual threats or manifest any violent tendencies. Nick’s speech was not directed to a school assembly as in *Fraser*, nor was it in a school-sponsored format such as the *Hazelwood* newspaper. Consequently, the court ordered the school to lift the suspension, permitting Nick to return to school. The school also agreed to pay Nick nominal damages of \$1.00 and his legal fees of \$6,000. Nick commented that he “felt good that the judge understood my rights as a student.”

HOW DOES THIS DECISION AFFECT YOU?

As you can see, even something written tongue-in-cheek can backfire. Although Nick won his case and had his school record cleared, he and his family had to put their lives on hold to deal with the school and legal issues. What began as a humorous project went seriously astray. In weighing student speech, on or off campus, both content and intent are vital in determining whether the speech is protected or not.

The bottom line: Whether you’re writing a poem, essay, or screenplay, or creating a poster, diagram, or any other form of art, consider your audience and possible consequences. A good rule of thumb may be to expect the unexpected.

WHAT IS NICK DOING NOW?

Nick ended up serving one day of the suspension before the court intervened. He graduated with his class and went on to college.

RELATED CASES

Murakowski v. University of Delaware (Delaware, 2008)

Maciej Murakowski was a 19-year-old sophomore at the University of Delaware. In 2005, he created a Web site on the university's servers that included violent and sexually graphic material. He wrote fake movie reviews and satirical essays ranging from "How to Skin a Cat" to "Maciej's Official Guide to Sex." His postings were online for months before anyone complained.

When the school discovered the site, Maciej was suspended for one semester. He was prohibited from living in the residence hall until evaluated by a psychiatrist. He sued the university for violating his free speech and won in September 2008. The court called his essays "immature, crude, and highly offensive" but not a serious expression of intent to inflict harm. The judge denied his claim for actual damages but awarded him \$10.00 in nominal damages.

Anthony Latour v. Riverside Beaver School District (Pennsylvania, 2005)

Anthony was a 14-year-old rapper who attended Riverside Beaver Middle School. For several years he had been writing and recording his own music at home. Some of his titles included "Murder, He Wrote," and "Massacre." His songs made reference to staff and students at his school even though he did not have a history of violence. There was no evidence that anyone felt threatened by Anthony's "battle raps" or that he communicated messages directly to anyone named in the songs. Still, the police considered his songs "terroristic threats" because they described acts of violence, and Anthony was arrested and taken from school in handcuffs. He was expelled for the following year.

Anthony sued the school district, and the court determined that no true threats were made against anyone and that the school had not been disrupted. He was allowed to return to school. A settlement was reached with the school district for \$90,000, and with the police department for \$60,000, for an alleged false arrest.

In the Matter of Singh (Wisconsin, 2003)

It wasn't the rap song that Sashwat Singh used when he campaigned for class treasurer that got him suspended. Instead, it was the honor student's 14-track CD that came to the attention of Brookfield High School's principal. One of the songs warned the principal that if he didn't leave the school, Singh would, "beat your ass down." The CD also contained a few sexually explicit slurs about Singh's classmates. He was suspended for five days. Since no evidence existed that he planned to act on his lyrics, the school board decided not to expel him. Sashwat did agree to see a counselor.

Imel v. Charles A. Beard School (Indiana, 2006)

"The Teddy Bear Master" was an off-campus movie made in 2006 by four Knightstown High School sophomores in Indiana. It was about an evil teddy bear that orders other stuffed animals to kill a named middle school math teacher. Apparently, the teacher had embarrassed one of the boys. The prosecutor's office reviewed the movie and declined to file any charges. However, since the 78-minute movie contained offensive language and threatened a teacher, the boys were expelled. Three of them challenged the decision in court. A settlement was reached in 2007. The expulsions were cleared from the boys' records, and they received \$69,000 to split among themselves. They also wrote a letter of apology to the teacher and his wife.

THINGS TO THINK ABOUT

The Columbine High School killings of 1999 (see page 124) have focused attention on any threat of violence at school—even *hints* of violence. If you include a warning in your creative work or use such words as "unofficial" or "for entertainment only," will this protect you from being disciplined at school? Could someone still misinterpret your message and feel threatened? What is the difference between creative expression in an essay, song, or movie, and a threat to do someone harm?



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