THE EFFECTS OF EDUCATIONAL POLICY ON CRIMINAL PEER ABUSE

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A Dissertation

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DEDICATION

This is for my amazing husband, Karne Frost, who ate countless dinners alone and sacrificed many vacations so that I could get my homework done and finish writing my dissertation. For my daughters, Linda Diamantopoulos and Laura Sieglitz; you both were my two most important reasons for working a little harder and meeting the next challenge. When I wanted to give up, you were beautiful little reminders of how important education was and continues to be, to all of our lives.

To Linda Ichiho, thank you mom! When I needed a second pair of eyes and a confidence boost, you were with me going through every sentence and word. When you told me I would meet my deadlines and finish on time, I took a deep breath and decided you were right. To Roy Ichiho, thank you for all the Sunday snacks! Your guacamole is fantastic, and I simply cannot resist the chocolate macadamia nuts which are one of my favorites! All that great food kept mom and me going for all those hours we spent working.

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Thank you to Dr. Wayne Reid whose book, *Teachers and Parents: The Anti-Bully*, inspired me.
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K-14
Abstract

of

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by

Valinda Frost

Known commonly as “bullying”, criminal peer abuse is a serious problem in our schools and the most common form of violence in our society. Across the country researchers have found that 75% or more of all students suffer from some form of peer abuse. Children, the most vulnerable citizens in our society, are left susceptible to criminal behavior without the protection of the criminal justice system even though sections of criminal, civil and education codes were specifically designed for students’ protection. Further, enforcement of behavioral codes in public education is given with virtual autonomy to school district administrators by the California Education Code. Further, this study explores the workings of policies in the educational and legal systems concerning the protection of students’ civil rights with regard to criminal peer abuse. Laws are designed and exist to protect children but are ineffective for victims of criminal peer abuse due to fragmented and equivocal political, educational, and legal systems as well as cultural and family systems that tolerate and promote violence.
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Chapter 1

INTRODUCTION

Known commonly as “bullying”, criminal peer abuse is a serious problem in our schools and the most common form of violence in our society. Cohn & Canter (2003), estimate that approximately 3.7 million students per year, in sixth through twelfth grades, abuse other students. Additionally, 3.2 million students in the same age group are being abused by their peers. Across the country researchers have found that 75% or more of all students suffer from some form of abuse at the hands of their peers. In 2008 a study conducted by University of California Los Angeles (UCLA) psychologists led by Dr. Jaana Juvonen, chair of UCLA’S development psychology program, revealed almost three out of four teenagers have been cyber bullied. 85% of those teens say that the abuse continued off-line, followed them onto school grounds where it became physical and verbal. The UCLA study also found that of the students who stated they had been peer abused, only one out of ten told their parents about the abuse (Juvonen & Gross, 2008).

Multiple deaths of children and youth in our society have been attributed to criminal peer abuse: Phoebe Prince, a fifteen-year-old Massachusetts student committed suicide after being cyber abused and physically assaulted at her school (Kaminer, 2010). In 2006, Megan Meier, from Missouri, committed suicide at the age of thirteen after being cyber abused; and Tyler Clementi committed suicide in 2010 after a recording was made of a personal moment and up-loaded to the internet by his room-mate (Davis, 2011). Many more victims across the nation have committed suicide after being abused by their peers. They have been verbally attacked with despicable and vulgar language;
they have had beverage cans thrown at them, been spit on and assaulted in hallways and on busses; they have been hounded and humiliated over the internet by hundreds of participants and stalked and beaten-up on their school campuses. Bystanders have watched and done nothing or worse, joined the “fun” or actually recorded the violence which is generally uploaded on the internet for all to see. Most criminal peer abusers are never held accountable for their abusive behavior even after their victims have taken their own lives, and most bystanders do not acknowledge their culpability in instigating and behaving in ways that sustain criminal peer abuse and emboldens the abusers (Insoo & Hazler, 2009). Compounding this tragic and insidious fabric of our society is the fact that only twelve states have criminal sanctions against criminal peer abuse which helps perpetuate the belief that bullying is unimportant (Stopbullying.Gov, 2012).

**Lack of Reporting**

Many people believe that the problem of criminal peer abuse is absolved by the fact that our society has laws intended to protect students, however, the increasing rate and means by which criminal peer abuse occurs points to ineffectiveness at multiple levels. Evidence of this can be weighed by the large number of students being victimized by their peers, the number of students ending their lives, and the lack of accountability exacted from criminal peer abusers. The laws, as they are, fail to protect the most vulnerable.
The Behavioral Codes: California Criminal, Civil and Educational Codes

There are three sets of behavioral codes guiding student behavior in California’s schools: Civil Code, Criminal Code, and Educational Code. California Civil Code §1708 states that every person has the right to live without being harassed, threatened, or having their rights to a peaceful existence infringed upon. Civil violations that infringe upon the rights of people to live free of harassment and violence are considered criminal when a willful pattern of conduct can be proven by the victim. The Ed. Code incorporates elements of civil and criminal codes that govern student behavior while attending K-12 classes. The California Department of Education publishes a sample policy for bully prevention in California schools that begins with the words, “school districts believe that all students have the right to a safe and healthy school environment…” (State of California, 2012).
**Criminal Code**

The phrase, *willful pattern of conduct*, becomes very important when trying to understand both civil and criminal violations. A willful pattern of conduct means that a victim of, for example harassment, must be able to prove a pattern and therefore must endure being harassed at least twice before being able to prove they have been the victim of a crime. In addition to willful and repeated civil violations, California’s Criminal Justice System also defines other levels of criminal behavior. The most serious type of crime is a felony, such as murder, rape, and robbery, as well as assault with the intent to commit robbery; for example, a person who assaults another person while burglarizing their house has committed a serious felony. Assaults that occur in isolation of other crimes, may also be considered a felony if serious bodily harm has occurred to the victim. People convicted of felonies are always sentenced to state prisons for their crimes (State of California Criminal Code, 2012).

Another level of crime is the misdemeanor which is a less serious offense compared to a felony. For example, if a person gets angry, slaps another person in the face and the police are called, the assault would most likely be classified as a misdemeanor. The offender could be fined, placed in a county jail and/or tried in a civil court for violating the Civil Rights of the person who was assaulted. The victim may seek civil damages depending on the level and severity of the assault and the extent of provable damages such as doctor bills and lost wages. The police are not always called; however, a private individual may still sue in a civil court if damages from the assault can
be proven by the victim. In either case, a judge would decide whether or not the victim was able to adequately prove damages (California State Legislature, 2012).

Civil Code

The Civil Code speaks to the rights of citizens and defines protection from “bodily restraint or harm, personal insult, defamation, and injury to personal relations” (California Civil Code §43) and California’s Civil Code §1 protects all citizens regardless of race, religion, sexual orientation, age, gender, or disability. The Civil Code also defines the action that can be taken by citizens who have been damaged civilly in California Civil Code §52.1 which says that citizens have the right to protect themselves against the interference of their just civil rights by seeking relief from the offender through court action taken on behalf of the people of the State of California through a city attorney’s or Attorney General’s office (State of California, 2012).

Education Code

In regards to students in the K12 system, California’s Education Code (Ed. Code) §32260, Interagency School Safety Demonstration Act (ISDA) of 1985, is specific in stating that one or more acts of any kind of abuse, including harassment and/or cyber abuse, violates the civil rights of students to attend school in a safe and secure environment. However, there is the previously mentioned caveat: children and youth who are victimized bear the burden of proof demonstrating a willful pattern of conduct by their victimizer. Being responsible for establishing burden of proof means that minor-aged victims who should be concerned about tests and homework and who most likely
know little or nothing of criminal and civil courts must be concerned with paper trails and laws.

**Who has Legal Responsibility?**

Another issue with enforcement of behavioral codes and laws created to protect children lies in the definition of who is responsible for governing student behavior during the course of the day. According to California’s educational code, parents share responsibility with school officials for their under-age children during school hours, (usually defined as between 7 am to 4 pm) under the doctrine of *in loco parentis* – meaning *in place of the parents*, first defined by Sir William Blackstone, an eighteenth century jurist and politician (Higher Education Law, 2012). Outside of the K-12 system, violations of criminal codes are generally understood to be enforced by local sheriff and police departments and then prosecuted by the District Attorney’s (DA) office. Within the K-12 system, violations of Educational Code are handled by school and district administration and parents must be called when an incident occurs. The California Ed. Code frequently uses wording such as, “if the Superintendent or the principal determines…” in regards to how behavior code is to be enforced in public schools (California Ed. Codes §48900-48927). Local law enforcement personnel are generally assigned to work with individual schools and parents as part of the Safe Schools legislation required by state Ed. Code §233-233.8.

If a behavioral problem occurs or a criminal law is broken by students during the school day or during a sanctioned school event such as a football game or dance, the students involved are referred to school site administrators, such as principals and
counselors or district office administrators, responsible for interpreting and enforcing educational code. In most cases school administrators decide how issues between students are to be handled, even when student behavior can be legitimately classified as criminal. If one student assaults another, designated members of school administration have full authority to determine appropriate discipline. In K-12 institutions, school administrators decide whether or not a crime has been committed. An administrator may decide not to investigate and the police may or may not even be called.

According to the State of California (2012), an effective educational leader is one who “promotes the success of all students by advocating, nurturing, and sustaining a school culture and instructional program conducive to student learning and staff professional growth. An effective leader also promotes equity, fairness, and respect among all members of the school community” (California Department of Education, 2012). In fact, placing an effective administrator at the helm of a school can be the single most important approach to prevent bullying (Sampson, 2002). An ineffective principal can have the opposite effect. Principals who fail to meet minimum leadership standards are failing to keep the educational environment safe for all students which is in violation of in-loco parentis professional responsibilities and which may have devastating consequences to students in the school system.

If a student offends outside the boundaries of jurisdiction for the individual school districts, then regular law enforcement would be required to respond to the violation, even if the offense took place on school grounds; however, law enforcement does not
always respond when students commit crimes against other students from 4:01pm until the following morning at 6:59 am and weekends.

Table 2

Supervision of Students within Codes

Information at the federal level states there are no federal laws that directly deal with criminal peer abuse, however, peer abusers begin to become identified as criminals once the offender has reached the age of eighteen (StopBullying.Gov, 2012).

Nonetheless, the victim must still prove a willful pattern of abuse. Whatever the reasons for the large period of time unaccounted for outside the jurisdiction of schools, youth
who are left under the sole guardianship of their parents are often excluded from the
general protection of the law enforcement and educational behavioral codes.

**Behavioral Code Enforcement**

Most parents assume their children are safe while they attend school; the ISDA
indicates that students in California’s schools are supposed to be able to attend classes in
peace and safety (California Criminal Code §32261). However, children, the most
vulnerable citizens in our society, are left susceptible to criminal behavior without the
protection of the criminal justice system even though sections of the behavioral codes
were specifically designed for students’ protection. The reality of the matter, which many
parents of targeted children and youth come to realize, is that because enforcement of the
behavioral codes are given with virtual autonomy to school district administrators by the
California Ed. Code, the protection of students is dependent on the personalities, biases,
moral fortitude, knowledge of
criminal law, and
professionalism of K-12
administrators resulting in
inconsistent enforcement from
person to person, school to
school, district to district, and
state to state. There is no
standardization. For example,
an administrator may decide to
give an athlete who sexually assaults a female student a stern warning because of the athlete’s value to the school’s athletic program but if an adult athlete sexually harassed another adult, the victim would be able to charge the offender with a criminal felony or misdemeanor case of sexual harassment and/or abuse. This incongruency in the enforcement of the same criminal behavior speaks to the large gap in protection for our children and youth despite the multiple layers of policies and laws.

**Problem Statement**

Children and youths are abused every day by their peers. Too often the abuse may be classified as criminal but juvenile assailants of criminal peer abuse are seldom held accountable. Known more commonly as *bullying*, peer abuse in the high schools commonly reaches criminal levels. Because of jurisdictional ambiguity, lack of standardized accountability and the arbitrary interpretation of codes and cases, these crimes of abuse against children, clearly defined by California Criminal Codes as felonies and misdemeanors, are often considered insignificant and may not be equitably investigated or prosecuted under existing laws.

**Case Requirements for Criminal Courts**

Lack of Criminal and Education Code enforcement leaves students with few resources to protect themselves from abusive peers. This also leaves parents of targeted students unable to legally protect their own children. The following provides further detail as to the reasons for this. Current law regards students as being children until they graduate from high school and/or turn eighteen years of age. As “children”, society’s expectation is that childish behavior is being governed by parents and schools. Criminal
peer abuse is perceived to be bullying which is generally considered childish behavior and which society does not generally perceive as criminal behavior. Non-criminal infractions are not investigated because, perceptually, no laws have been broken and cases that are not investigated are never prosecuted by the DA.

The problem is well illustrated in considering the case of Phoebe Prince: Massachusetts teenager Phoebe Prince, committed suicide in January 2010 after being severely bullied by her peers for three months. Her peers assaulted her, criminally harassed her, and generally made her life miserable. Her predicament, while known by school administrators and teachers, was ignored until she died (Miller, 2010). Her death along with other teenage deaths has initiated a nation-wide debate on whether teen peer abuse can or should be criminalized (Davis, 2011). The teen perpetrators who bullied Phoebe ultimately faced criminal charges of harassment, stalking and statutory rape (Goldman, 2010). While she was living through the abuse, the actions of her peers were largely ignored; no one reported the actual crimes being committed against Phoebe Prince. Her death finally prompted action by both police and school administration.

If the police do not initiate an investigation, the DA’s office will not investigate or prosecute. If a case is investigated by police, the DA’s office will review the case to determine whether or not the case is winnable in a court of law. In Sacramento, as reported by KCRA 13 (2011), a DA spokesman made the following statement: “Our responsibility is to review cases after they have been investigated by law enforcement agencies to determine if we can prove a case in court. There is no category of cases we do not review” (Sacramento County District Attorney, as reported by, CBS Channel 13
Sacramento, 2011). Most criminal peer abuse cases are never investigated. However, of those cases that are investigated, the DA will determine if the case is worthy of prosecution – winnable in a court of law. If it is, the case is pursued. If not, the case is dropped. The DA’s general policy may assume that the majority of criminal peer abuse cases would not be winnable in a criminal court and therefore, a waste of funds to prosecute. Parents would then be forced to try to protect their children through other means with the purview of the law unavailable to them.

Case Requirements for Civil Courts

Under civil law, parents may file a civil suit to hold criminal peer abusers accountable. However, this is very difficult for parents to prove since the burden of proof rests with the victim. Victims must prove they have been damaged by the behavior of a peer and usually the abuse must have happened more than once in order to establish a pattern of abuse. In some cases, this would mean that a parent would have to tolerate their child being re-abused which may even include physical abuse in order to prove and establish a pattern. The state criminal code defines what constitutes harassment as, “a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, torments, or terrorizes the person, and that serves no legitimate purpose”. This course of conduct must be such, “as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person” (State of California Criminal Code, 2012). The words willful course of conduct means that in order to be called harassment, a pattern of abuse must be established and it is incumbent on the victim to establish both the pattern and the willful conduct of the
criminal peer abuser. Victims must also prove they have been damaged significantly in order to legitimately seek relief or damages. Since harassment can be both verbal and physical, legally, a person must be emotionally or physically damaged more than once in order to establish a pattern of harassment (State of California Criminal Code, 2012).

Many parents are unaware of the level of peer abuse their children are experiencing and must continue to experience if a course of conduct is to be proven in a civil court to protect their children. Juveniles and their parents may have no idea how to navigate the educational or political system or how to achieve and sustain the standard of proof required by the justice system to initiate and enforce existing laws. They may be unaware that their children must be harmed more than once to establish a pattern of willful conduct of the abuser and that under-aged victims are held responsible for proving they have been damaged. A common behavior of victims is their reluctance to tell anyone, especially their parents, they are being peer abused (Delara, 2012). Without adult help, many victims do not realize they need to document the abuse in order to press civil charges proving criminal behavior which means the torment being suffered by the victims continues, often escalating, before a pattern of conduct can be substantiated.

**Cyber Abuse**

The internet is notorious for protecting the identities of criminal cyber abusers wanting to remain anonymous while they use technology to criminally harass their peers. When a victim is cyber abused, establishing who the harasser is, let alone how many times a victim has been harassed by the same individual, is extremely difficult. UCLA’s 2008 study on cyber abuse found that 73% of students who reported being cyber abused
knew from whom the abuse was being instigated. Juvonen, who led the study, said that based on the findings of her research, the notion that cyber abusers are anonymous is a myth (Juvonen & Gross, 2008). However, a victim who thinks they know who is cyber abusing them is completely different from a victim who has the legal burden of proof in front of a judge in a court case. Judges and attorneys need proof of someone’s wrongdoing and will not accept a victim’s gut feeling as actual proof of peer abuse. Additionally, a victim might know who instigated the cyber abuse but have no way of determining how many other people might have become involved by joining in and contributing to the offensive diatribe. Adding to the complexity, even if the peer abuser’s identity is proven beyond doubt, many peer abusers quote what they believe to be their Constitutional First Amendment Freedom of Speech rights to say anything they want over the internet especially if what they are saying is being created from their own home.

Social Networking sites are springing up all over the Internet as well as sites specifically designed to allow participants to rate best friends, teachers, bosses…anybody. These sites encourage participants to post their opinions of other people no matter how embarrassing, harassing, vulgar, or untrue. Site managers will not remove the offending material citing the First Amendment rights of their clients. While Criminal and Ed. Codes indicate that verbal and cyber harassment are crimes, peer abusers who harass their targets cite Freedom of Speech rights as the ultimate law to defend their behavior. This major disparity between what is defined as a crime at the state level and what is considered Freedom of Speech at the federal level has provided a manifesto by which criminal peer abusers justify their criminal behavior and in some
cases has prompted related lawsuits in multiple states across the country. To date, the US Supreme Court has declined hearing peer abuse cases and there is no federal precedent to clear up the confusion (StopBullying.Gov, 2012).

**The Plight of School and District Administration**

Another element of accountability rests with problems encountered by administrators trying to enforce the codes. Many school administrators who attempt to intercede in acts of abuse are targeted by criminal peer abusers who retaliate for the deserved discipline. Administrators may also be sued by parents who are circumspect in protecting their own children even when their child has discernibly committed criminal or inappropriate acts. This places the administration in an untenable position of being caught between Ed. Code and abusive perpetrators, with no viable legal state protection against lawsuits.

**Bullying/Criminal Peer Abuse**

Compounding these serious issues is the terminology employed in our society that minimizes the nature of peer abuse. Many people do not see bullying as criminal behavior and in fact the myth that “kids will be kids” continues to be prevalent in our society (Cohn & Canter, 2003; Sassu, Elinoff, Bray, & Kehle, 2004). Some school researchers make a distinction between bullying behaviors and aggressive or violent behaviors. Bullying is physical, verbal or psychological attacks that occur repeatedly with the intent of causing harm to the victim. However, bullying behaviors do not always include aggression or violence and abusers who are aggressive or violent are not necessarily bullies (Ttofi & Farrington, 2010). Many people confuse criminal behavior when
committed by school aged children as *bullying*, unaware that bullying is behavior defined as ‘criminal’ by California Criminal and Civil Codes. Under the umbrella description of *bullying*, criminal peer abuse may not be investigated or prosecuted because of the abstruse nature of behavioral codes and their varied enforcement by many educational administrators.

**Purpose of the Study**

This research objective examines the intersection of Civil, Criminal, and Educational Codes and the jurisdiction, accountability, and ambiguity within the K-12 system of education that fails to apply criminal codes to criminal behavior allowing students to commit a range of crimes, including those of a heinous nature, without being held appropriately accountable.

**Theoretical Base**

This study is using a qualitative, case study approach (Creswell, 2007). Focusing on the issue of juvenile peer abuse and illustrating the importance of the issue through a single bounded case, this method provides a means for fully exploring the complexity of a system of rules and laws that has a tremendous impact on the lives of all individuals within the system.

**Systems’ Theory / Introduction**

Human systems are complicated and have two main parts. One part is the physical: those elements that create basic environments which are relatively stable such as governments and laws. The second part deals with human behavior and the activities in which components continuously shift and interact with each other within their
environments in a constant state of flux (Laszlo & Krippner, 1998). In describing criminal peer abuse that exists within this system, it is necessary to define major elements that contribute to the creation of the problem.

Modern society is based on complex interrelated organizations of governments, institutions, laws, cultures, families and individuals that create and influence the rules which impact the activities of everyone living within what Stewart and Ayres (2001) call a network. The network is created when each system interacts with every other system in the whole. As demonstrated within societies and by individuals, criminal peer abuse does not exist in isolation from other systems; it is a problematic phenomenon within a social network of predictable human behavior. A workable solution must not be separated from the problem within the network and the problem must be studied holistically as manifested within the network to find the solution.

The systems residing within the criminal peer abuse network begins with the students and their interactions with every other student with whom interpersonal contact is made. Students bring to their relationships all they have become as people due to interactions with other people from within and without the network. Student’s earliest developmental interactions are with their families. A student’s parents decide what characteristics to develop in their children and which skills and values to promote. The stability of the parents within the family system from which students gain their earliest perceptions of the world underscores their behavior and their relationships with others (Sanders & Mazzuchelli, 2013; Tuck, 2012).
Student behavior is also heavily affected by the cultural system in which they reside. For example, technology has profoundly impacted the cultural flow of information. Today’s child is being culturally influenced by television programs, music and the internet (Jih-Hsuan, 2013). The typical child is potentially exposed to a variety of visually rich programming from multiple genres every day. At no other time in human history have children had so much exposure to high quality, high definition (HD) forms of entertainment that are beautiful, developmental, and necessary in today’s world but also mature in content, violent, and aggressive and some are entirely inappropriate for younger, emotionally developing populations.

In the United States, students enter the K-12 educational system at approximately five years of age and generally remain until their late teen years. Children are in classrooms for about seven hours per day, five days per week for up to twelve years. The K-12 system has a significant impact on all aspects of development in children, Fabiano, et al., (2013), particularly the individual management capabilities of teachers and administrators.

The basic purpose of the legal system is to define rules and guidelines that were created to enforce agreed upon social institutions that govern the behavior of citizens. Abuses of the rules may be addressed through law enforcement and through the courts, both civil and criminal, which serve to hold accountable those violations.

The laws, which are enforced by the judicial system, are written by state legislators working within the state’s political system and who are influenced by state and federal constitutions and by the needs of the general population who agree to be governed
by those rules. Only the legislative branch has the authority to make laws. (California State Legislature, 2012).

Table 4

The Network of Systems

![Network of Systems Diagram]

**Abuse of Power**

For peer abuse to occur there must be an imbalance of power between the abuser and their victim (Olweus & Limber, 2010; Raskauskas, Gregory, & Harvey, 2010). Peer abusers are more powerful in some way than their victims. The power may be overt, which is physical power over a victim, or it may be relational, or non-physical. Relational peer abuse may occur because the abuser is more popular or may have social or political connections the victim does not have (Cohn & Canter, 2003; Harvey, 2010; Raskauskas, Gregory, & Hong & Espelage, 2012; Ttofi & Farrington, 2010). In American society, the
imbalance of power is considered normal and may even be glorified such as the imbalance of power inherent in the nation’s most popular sporting events. Bullying behaviors have been made a laughing matter on television, on movie screens, and in books, suggesting that the abuse of power is acceptable in our system. When children experience peer abuse, society has generally accepted the behavior as normal, denying that it exists as an insidious and portentous problem within the system (Cohn & Canter, 2003; Juvonen & Gross, 2008).

Exerting power over another person is one way of getting something by force whether it is a desired object or feeling (Bess and Dee 2008). Dr. Joel Haber, clinical psychologist and bullying prevention expert says that the abuse of power is a human trait. People want to dominate each other in an attempt to feel more powerful. The worse a victim feels the more likely the abuser will continue and repeat the abuse (Haber, 2012). Paulo Freire speaks to the imbalance of power of one person over another referring to the stronger of the two as the oppressor and the weaker as the oppressed. The oppressor feels powerful through oppressing someone who is perceived to be weaker or as an object available for the sole purpose of satiating the whim or compulsion of the instigator. The victim is not viewed as a person with feelings and rights but rather an object to be used for the sole purpose of the oppressor (Freire, 1993). According to Haber, the oppressor’s goal is to feel powerful and to gain social status, continuing to oppress, possibly becoming addicted to feelings of power regardless of how much damage is done to the victim (Haber, 2012; Tattum & Tattum, 1992). Through action or inaction, society
promotes this form of acquiring power as part of the fabric of the culture, subsequently, interpreting the behavior as “normal” rather than aberrant.

**Expectations of Students and Parents**

Parents send their children to school believing that they are safe within a system that was created to protect and educate. Being compelled by the system to go to school with the expectation of sitting in a classroom and learning all that the system feels they must learn, children must be able to think and be able to socialize effectively with others. As the world becomes more technical and complicated, so too must children learn to function inside ever increasing social complexity. Since their attendance in the educational system is compulsory, their safety must be paramount. A way must be found to refine the already existing system of laws and educational code so that criminal peer abuse is addressed in fair, legal and appropriate ways; society’s failure to be circumspect concerning this problem carries serious and escalating threats for social and personal liability.

Regardless of the methods employed by the abusing offender, the victim seeks ways to stop the assault. Some victims will seek help by speaking to a school counselor, administrator, teacher, or parent. How well these authority figures deal with the situation is vital to the effectiveness of the response; however, with frightening frequency, authority figures may minimize the severity of the issue, leaving the victims vulnerable, battered and without recourse. The effectiveness of the response to those seeking help rests on how well these authority figures deal with the situation. For example, football is a national pastime in the United States and in many communities high school football is
glorified; talented players are frequently scouted for college and professional teams. In an article published in *Sports Illustrated* concerning the Penn State scandal, the term coined by Louis Freeh, former FBI Director, “culture of reverence”, was used to explain their inordinate efforts to protect athletes regardless of their behavior. Some believe that football is a part of American cultural conscience and so deeply embedded as to be taken for granted that football heroes deserve special recognition in daily life. Subsequently, when a football player engages in criminal peer abuse, the likelihood that the football player will remain the hero is very high. This culture of silence as defined by Freire, (1993), protects those who uphold the sport in public view and who contributed to the cover up of sexual abuse of youth victimized under the Penn State scandal.

Research done on the effects of power sports, such as football, on high school children shows that contrary to current belief, being involved in a power sport does not lessen aggressive behavior in students. The opposite seems to be true. Participation in a power sport promotes peer violence (Endresen & Olweus, 2005). Our culture encourages the development of athletic prowess in children via competitive sports then protects the resulting violent social behavior from accountability.

Peer abuse may be overlooked when the abusers carry some level of social capital. They may be talented athletes, popular, come from wealthy families, or even be politically savvy enough to blame the target for instigating the abuse (Raskauskas, Gregory, & Harvey, 2010; Wolff, 2012;). A school may simply be overrun with too many students and not enough resources or may deny that an abusive climate even exists. There are state laws that prohibit assault and abuse, however in schools, state laws may be
completely ignored by administrators who have autonomy under the Ed. Code to deal with disciplinary issues but who also have absolutely no protection under current legislation from lawsuits filed in retaliation to applied discipline.

California creates laws to protect students under the Ed. Code but does not protect school administrators who must enforce the laws. Parents of victims may file a lawsuit against schools and districts for not protecting their child from peer abuse, while parents of peer abusers may file lawsuits against schools and districts for holding their child accountable for criminal behavior, commonly alleging violations of freedom of speech and due process under the law. The federal government has been silent on this matter and there is no overarching federal law to help states define a standard of practice that will protect students, their parents, and school personnel (StopCriminalBullying.Gov, 2012). Children can no longer be left alone to grow up “normally” within a broken educational and legal system while being abused, sometimes to death, by their peers.

**Operational Definitions**

Bullying, Criminal Peer Abuse, Bystander, Systems’ Theory

**Assumptions, Limitations, Scopes, and Illuminations**

Determining the number of teens who have committed suicide because of criminal peer abuse is impossible due to a lack of reliable record keeping quantifying the actual reasons students commit suicide which contributes to an overall lack of available disaggregated and focused data. A statistical search of the California Department of Education website yielded aggregated information concerning the overall number of student referrals to administrators; however, there is no disaggregated data showing how
many students were referred for harassing, assaulting or otherwise abusing their classmates. Those kinds of records are not maintained at the state level or even at the school level.

Evaluating school behavioral databases in an attempt to determine just how significant a criminal peer abuse problem is would be impossible because there is no standardized way of keeping those records. School level records are maintained by administrators who may or may not be entering information uniformly. For example, a student who is referred to administration for using a cell phone during class to cyber harasses another student might be cited for electronic misuse or cyber harassment depending on the mood or perceptions of the administrator. The administrator may decide to code the incident under an electronic device infraction rather than harassment of another student even if the administrator knows about the harassment. One violation could be coded in multiple ways depending on the judgment of a single administrator.

Cyber abusers enjoy an inordinate tremendous amount of legal anonymity which makes it difficult for their victims to identify the abusers with a standard of proof that would satisfy the legal requirements of civil and criminal courts.

Because so many people simply do not believe that a problem actually exists, the true extent of the problem remains understated.

Conclusion

Students go to school and they are abused by other students. The laws are not protecting victims due to current educational policies which create both autonomy and vulnerability to school district administrators required to enforce behavioral codes and
state law. The results have been increasing numbers of students who commit suicide, drop out of school, are chronically truant and have developed physiological and mental health symptoms requiring medical care. With a single click of a mouse, cyber abusers are able to harass other students in anonymity and expose victims to large numbers of bystanders and/or recruit willing participants literally in the speed of light. Cyber abuse is often connected to other types of abuse. For example, a student may be physically assaulted while someone uses a cell phone to create a video of the physical violence. Targets/victims of peer abuse are often punished for defending themselves under current educational policy. Many school administrators will hold both the victim and the criminal peer abuser accountable in the event of a fight, ignoring who started the fight or why the students are fighting. Many victims have been suspended for trying to defend themselves against a peer abuser as illustrated in the compilation of student stories of peer abuse in the book *Bullying in America* (Brenda High, 2012).

While targets of peer abuse have few paths with which to seek relief from peer cruelty, the abuse is frequently dismissed as a normal part of growing up or ignored by those who have authority to put a stop to it. As a result, peer abuse has reached epidemic levels often wrecking lives; it is a cogent expense costing society billions of dollars every year in mental health costs, legal fees, and costs associated with the high dropout rates of high school students (Olweus, 2011; Phillips, 2012).

Every Student needs to be protected both in and out of school and every student should be held accountable for his/her abuse of other students and any other crimes that they commit. Society needs to stop defending peer abuse by calling it bullying and
spreading the myth that being bullied and criminal peer abuse are somehow rites of passage throughout childhood. Those who assume that peer abuse is a normal part of childhood should be corrected. Children who seek help and relief from abuse should be protected, not demeaned for being weak or causing their own abuse. Adults who believe that kids should just get over it should remember that adults are protected by laws that defend their human rights and no adult would tolerate harassment, assault or any other type of crime without trying to hold the perpetrator accountable under state criminal codes (Reid, 2009). Minor children should not be denied the protection of their human rights as defined under the Declaration of the Rights of a Child (1959). Anti-peer abuse education should begin in elementary school and continue throughout K-12. Older students who break any criminal law should be held accountable legally and administrators should be given adequate criminal law training and legal protection from lawsuits when responsibly performing the duties for which they were hired. Freedom of Speech should not include the right to verbally harass, malign, and slander others.
Chapter 2

REVIEW OF RELATED LITERATURE

This section of the study will review the nature of peer abuse, peer victimization, teacher administrator awareness, intervention techniques and teen aggression within a complex system of educational rules and policy. These issues contribute to current difficulties stemming from peer abuse as manifested in age groups old enough to be held accountable for behavior that is criminal by definition. Further, this study will explore the workings of policies in the educational and legal systems concerning the protection of students’ civil rights. The aspiration is to clarify the existing system that intended to serve and protect children attending K-12 schools. Laws are designed and exist to protect children but are ineffective for victims of abuse due to fragmented and equivocal political, educational, and legal systems.

Ludwig von Bertalanffy, 1968 advanced what he referred to as *General System’s Theory*, arguing that the behavior of people or their misbehavior is predictable which is why laws were written and why efforts to protect individual liberties were made (BCSSS Bertalanffy Center for the Study of Systems Science, 2012; Laslo & Krippner, 1998).

**Protection from Harm: Federal Government within the System**

_When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation._

_(Thomas Jefferson; Opening statement of the Declaration of Independence, 1776)_
The American system of government is based on the notion that human beings are born with unalienable natural rights. The system also acknowledges that human rights must be protected from predictable forms of abuse. Thomas Jefferson, recognized author of the Declaration of Independence, studied and borrowed English philosopher John Locke’s ideas of the natural rights of human beings. Locke theorized concerning a human “state of nature” in which all people lived peacefully in a society in perfect equality. He said that in order to protect individual natural rights in this society, people would agree to be governed in a system that would punish those whose behavior infringed upon the natural rights of others (Locke, 1690).

Jefferson wrote the Declaration of Independence, a document that stated why American colonists were seeking separation from their perceived tyrant King George III. The opening lines of the Declaration of Independence became the base of which all of American society would be constructed. It also became a powerful symbol of freedom and of the recognition of individual human rights for the modern world.

The United States Constitution built upon the ideas of protecting individual human rights and created a system of leadership dependent upon the sovereignty of the people to govern themselves when it began with the venerated statement. The United States Constitution: We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America (1787).
The American system of government is based on the notion that citizens are capable of governing themselves in an environment within a governmental system that protects the individual rights of its citizens against other citizens. George Mason, delegate from Virginia in 1789, recognized that unless human rights were specifically and deliberately spelled out, they were in danger of being abused by both the system and the citizens living within the system. When James Madison drafted the original document that was to become the Bill of Rights, he borrowed heavily from work that George Mason had already completed. The Bill of Rights became the legally binding document that specifically addresses the civil rights of the people (Congress of the United States, 1789).

The Bill of Rights, by its very creation, predicted that the rights of citizens would be violated and a method of protecting citizen’s rights within the system would have to be created and maintained by the judicial branch of government which is specifically recognized as having the fundamental powers of judicial review as follows: “the power to judge the constitutionality of any act or law of the executive or legislative branch” (United States Government Archives, 2012). The Supreme Court of the United States has become extremely powerful, having the responsibility to insure that the rights of citizens are maintained and that federal laws meet the standards of constitutionality. Once established, federal law guides state law, which guides educational codes and school policy, which guides the behavior of administrators and teachers thereby governing equal protection and freedoms of all students and their parents.
The Problem within the System

Given the layers of policy and law that govern people’s lives, believing that victims of violence have some way of acquiring relief from the system is understandable. And yet the following information about peer abuse and violence within the system is startling and demonstrates a problem that has been neither efficiently nor effectively addressed.

The American Academy of Child and Adolescent Psychiatry (AACAP) reports that approximately half of all school aged children are bullied and 10% of these children are bullied daily (Psychiatry, 2012). Additionally, sexual harassment, another form of peer abuse, affects 80% of high school students and 94% of middle school students based on results of surveys conducted across the United States (Lichty & Campbell, 2011).

Research shows the effects of criminal peer abuse on victims, their parents, schools, economies and the bullies themselves. In a study of types of criminal peer abuse and patterns of involvement of 7,508 students in grades six through ten, Wang et al. (2010) identified types of abuse that included verbal, physical, spreading rumors, social exclusion, and cyber bullying. These types of criminal peer abuse were further categorized into three main classes: all-types, verbal/social, and non-involved. The study found that students, 4% of girls and 10.5% of boys, who are considered “all-types”, are at the highest risk for becoming involved in self-destructive behaviors such as using drugs or carrying weapons. Further, most students who are verbal/social bullies, 29.3% for boys and 29.4% for girls, have been shown to also belong to the all-types group which may
debunk the commonly held perception that verbal/social abusers are mostly female and physical abusers are mostly male, suggesting that female bullies may be more physically abusive and that male bullies may be more socially abusive than previously understood.

Students who are peer abused are more likely to drop out of school, suffer from mental disorders, commit crimes, or abuse a spouse (Baldry A. C., 2002; Bauman & Del Rio, 2006; Bray 2004; Cuadrado-Gordillo, 2011; Cohn & Canter, 2003; Craig, Pepler, & Blais, 2007; Hung & Espalage, 2011; Juvonen, 2008; Marusi, 2010; Olweus, 1993; Patchin & Hinduja, 2012; Rigby, 2012). Some victims of peer abuse commit suicide. Given the significant numbers of children affected by peer abuse and the possible painful and tragic consequences, one could logically conclude that peer abuse is increasing with over 70% of school aged teens stating they have been abused (Graham, 2012; Juvonen, 2008). According to the National Association of School Psychologists (2012), two-thirds of K-12 students do not think that schools respond effectively to incidents of peer abuse. To underscore the pervasive lack of attention to the issue, 25% of teachers do not believe that criminal peer abuse is a serious problem and as a result, as little as 4% of reported criminal peer abuse may receive teacher intervention (Cohn & Canter, 2003). Consequently, peer abusers and their co-conspirators, fearless of legal retribution for their cavalier behavior, continue causing immeasurable harm to targeted victims through methodical and relentless attacks.

The Nature of Peer Victimization

Students attending high schools must deal with verbal, emotional, and physical abuse daily. They stroll down hallways between classes calling each other names,
slamming each other against walls, and slapping and punching each other just for fun. The word gay is heard reverberating through the hallways as well as whore, slut, fag, bitch and a plethora of other obscenities. Students seem to think vulgar language is funny and cool. A study of almost 3000 high school teenagers yielded evidence from the participants that students intend to do harm with their abusive behavior and understand the connection between the fun being had and the impact of their fun on other students (Cuadrado-Gordillo, 2011). The more damaging the impact, the more powerful the offender feels and the more fun it is to abuse others, (Rigby, 2012). Salmivalli (2012) emphasizes the importance of group dynamics for individuals who show off publically in order to gain group approval for shocking behavior and vulgar language. Joliffe and Farrington (2006), in a study of approximately 750 teenagers living in the United Kingdom, were able to connect a lack of empathy to students who were chronic peer abusers. A study by Ponari and Wood (2009), found that students who had high levels of moral disengagement also tended to rationalize their abusive behavior thus avoiding taking any kind of personal responsibility for the consequences of their actions.

Characteristically, criminal peer abusers re-offend the same target multiple times (Dodge, Bates, & Pettit, 1990; Olweus, 2011; Rigby, 2012). Criminal peer abusers pursue the feeling of power and the verbal and physical aggression being suffered by the victim tends to become increasingly more violent when it becomes apparent the victim is in pain or is being affected in any adverse way. For example, some victims may try to fight back or seek revenge which may do nothing more than motivate the abuser to come back and re-establish dominance (Mahady-Wilton, Craig, & Pepler, 2000). Victims may try to
forget what has happened or try to diplomatically extricate themselves from the situation which sends the message to the abuser that behavior accountability is unlikely making the current victim a good target for future incidents of abuse (Mahady-Wilton, Craig, & Pepler, 2000).

Sexual Harassment is a problem in middle and high schools that students are subjected to in alarming numbers. Researchers have found that the vast majority of high school students, over 90% of girls and 80% of boys, have experienced some type of sexual victimization and that it is perpetrated by their peers (Centers for Disease Control and Prevention, 2012; Hill & Kearl, 2011; Lichty & Campbell, 2011). Additionally, most sexual harassment experienced at high schools is considered to be “hostile environment” harassment which means that the abuse is unwanted, persistent, and affects the victim’s ability to function appropriately in a school environment (Hill & Kearl, 2011).

Aggressive harassment is defined as sexual violence by the Centers for Disease Control, (2002) and is addressed as a hate crime by California’s 2011 legislation named after suicide victim Seth Walsh (Ammiano, Seth's Law Fact Sheet, 2012). The internet plays a large role in the sexual victimization of students, carrying over to school campuses where sexual harassment victims are further abused in person (Hill & Kearl, 2011). Surveys conducted nationwide by the American Association of University Women (AAUW) find that 44% of students who admitted to sexual harassment thought their behavior was not that important and 39% really thought they were just being funny (AAUW Educational Foundation, 1993). Like other forms of criminal peer abuse, sexual harassment may be clumped together under the encompassing banner of bullying and as such, its severity and
the damage done to victims is minimized and invalidated. Predictably, many students who sexually harass their peers are never held accountable (Gruber & Fineran, 2007).

**Why Aggressors Commit Peer Abuse: The Psychology of Aggression**

Children are more likely to abuse their peers when certain factors are present in social situations (Rigby, 2012). The abuser may want to feel powerful by harassing someone who is perceived to be weaker (Cuadrado-Gordillo, 2011) or maybe the victim is not considered popular and is socially isolated. The abuser might be athletic and a valued member of a sports team or come from a wealthy home or be physically bigger or politically connected (Craig, Pepler, & Blais, 2007; Raskauskas, Gregory, & Harvey, 2010; Olthof et al., 2009) found that abusers had a greater desire to enhance or be more dominant in social groups than their non-aggressive peers and used both prosocial and coercive strategies to victimize their chosen targets.

Researchers have discovered two general reasons why students engage in abusive behavior: some may be socially deficient when dealing with peers, others may be skillfully manipulating the social environment to acquire a desired feeling or object (Olthof et al., 2009; Salmivalli & Peets, 2009). Some researchers believe that abusers intend to be either physically or verbally violent because harming others may serve to fulfill some need or desire which means the action of causing harm is intentional and planned and perhaps addicting (Tatum & Tatum, 1992). Menesini and Camodeca (2008) found that feelings of shame and guilt normally found in prosocial children were felt significantly less by aggressive children suggesting that peer abusers do not empathize with the pain they cause nor feel any responsibility for the abusive actions being endured.
by their victims. (Gini, Albiero, Benelli, & Altoe, 2007; Munoz, Qualter, & Padget, 2011). The abuser may be a narcissist which is a trait that has been connected to both physical and relational abuse in male and female abusers (Ojanen et al., 2012) and plays a role in the preference of some abusers to dominate others in front of an audience such as in a classroom (Atlas & Pepler, 2001). All these studies support the belief of researchers that peer abusers intend to cause harm indicting that peer abuse is no accident (Olweus & Limber, 2010).

Students with chronic behavior problems are more likely to engage in violence against their peers (Bosworth, Espelage, & Simon, 1999). Studies strongly suggest that students who view violence regularly and who come from severely violent homes are more likely to engage in the abuse of their peers (Dodge, Greenburg, & Malone, 2008; Knous-Westfall, Ehrensaft, Watson MacDonell, & Cohen, 2012). Further, children who experience physical abuse early in their lives are more likely to develop problems with their own chronic aggression later in their lives (Dodge, Bates, & Pettit, 1990).

Peer abusers may also have problems with anger. Researchers have studied student anger relative to the frequency that students abuse their peers and found a measurable connection (Bosworth, Espelage, & Simon, 1999), possibly modeling behaviors learned from a violent home life. This theory has been tested with distinct results indicating that students whose parents engage in violence, whether verbal or physical, are at more risk of becoming abusive toward peers at school. Significant correlations have been found between the violence that children experience at the hands of their parents and the violence that children engage in at school (Baldry, 2002).
Whether as the result of a desire to be violent or because violence is a domestically learned behavior or even because of a lack of empathy for other people in emotional distress, the actions of peer abusers are frequently deliberate and methodical and extremely damaging.

**Peer Victimization, Depression and Suicide Ideation**

Children being abused by their peers face difficulties in getting the help they need. Many children do not tell their parents about being abused because of a fear their parents will not believe them or may blame them and they will not get the help they need. Many parents may not have a clear definition of what constitutes peer abuse. Others do not realize their child is being abused while other parents know their child is probably being peer abused but feel that it is a normal part of growing up (Sawyer, Mishna, Pepler, & Wiener, 2011).

Most members of peer groups know that peer abuse is occurring. This bystander group may watch peer abuse in action and do nothing or they may actively join the criminal peer abuse and become abusive themselves. Since criminal peer abusers thrive on an audience, the presence of bystanders is significant either providing the impetus for keeping the abuse going or, if even one bystander intercedes on behalf of the victim, bystander action could redirect the outcome of the attack and minimize the consequences (Hazler R., 2000). Older bystander students are more likely not to intervene on behalf of the victim while other studies show that older bystanders also have more creative and mature ways of intervening and stopping the abuse from going any further (Rock & Baird, 2012). Unfortunately however, rather than report or try to stop the abuse, older
students tend to walk away or ignore the abuse (Insoo & Hazler, 2009; Trach, Hymel, Waterhouse, & Neale, 2010). 85% to 88% of criminal peer abuse occurs in front of bystanders (Hawkins, Pepler, & Craig, 2001). The inherent power of bystanders to stop the abuse from continuing or the unspoken permission for the abuser to continue because of the inaction of bystanders show that bystander behavior can circumscribe the outcome of the attack. Gender is also a strong indicator of bystander behavior. Girls are far more likely than boys to intervene on behalf of the victim and they use strategies to stop the abuse that are pro-social and constructive. However, the older girls become, the less likely they are to intervene on behalf of the victim (Insoo & Hazler, 2009; Trach, Hymel, Waterhouse, & Neale, 2010).

When peer abuse victims are being harmed they want to find a way to stop the pain. They will seek out people they trust, perhaps a parent or teacher. However, if victims perceive that no one will help them or that telling someone will only make the abuse worse, the sense of isolation can be overwhelming, leaving victims of peer abuse to withdraw and suffer in silence. They are prone to depression and some begin to think about suicide (Baldry 2004; Hawker & Boulton, 2000). The more the victim is abused the deeper the level of depression they may experience blaming themselves for the peer abuse they suffer even though someone else has instigated the pain (Harper, 2011). Some succeed in taking their own lives as the final solution to a seemingly unsolvable and highly traumatic problem. Suicide among the age groups of fifteen to nineteen is the second-ranked cause of death in the United States (Hazler & Carney, 2002).
Teacher and Administrator Awareness of Peer Abuse

Teachers are the gatekeepers for behavior that occurs in the classroom and they are the first line of defense against peer abuse; they are the first to see developing student relationships within classrooms and in common areas of the campus. Being in a strong position to develop close relationships with students, teachers can have a significant positive impact in individuals and groups within the teacher’s sphere of influence. When they become aware of peer abuse occurring within the student population, the actions of teachers might be the difference between life and death for some students.

Teachers tend to see peer abuse in two different ways within a school setting. Relational aggression involves peer abusers who harass or tease and who use their words to harm peers or deliberately seek to isolate their victims from the group. Overt aggression is when peer abuse becomes physical making the abuse far easier for teachers to recognize (Olweus D., 2003) and respond to more readily than they do to relational aggression (Bauman & Del Rio, 2006). When fights occur, they often occur without warning and anyone in the immediate vicinity is immediately placed at risk of becoming collaterally damaged. Relational aggression however, is much harder to recognize because it can occur in private, on a piece of notebook paper, in a text message, or on the computer outside the immediate purview of teachers and is not bloody or exhibiting broken bones. Consequently, teachers may fail to recognize the emotional damage suffered by victims (Bauman & Del Rio, 2006; Raskauskas, Gregory, & Harvey, 2010; Stauffer, Heath and Coyne, 2012) and the possibility that relational aggression may be a precursor to overt aggression and may become an overt reality. Having less contact with
their students throughout the school day than do their counterparts in elementary schools increases the difficulty teachers encounter in readily identifying developing adversities between targets and tormentors. Teachers may simply not be aware that a problem exists until it escalates and becomes obvious after someone has been emotionally or physically damaged by peer abuse (Leff, Patterson & Kupersmidt, 1999).

District and school administration are challenged by both relational and overt peer abuse and must make determinations concerning what may have happened, holding students accountable for their actions. While there has not been much research done on the roles of administrators to the problem of peer abuse, it is known that they are also responsible for enforcing school and district policies such as zero tolerance that may not treat the victims of abuse appropriately nor hold the abusers truly accountable (Rigby, 2012). School principals are aware of the possibility of law suits instigated by parents who may be unwilling to acknowledge the anti-social behavior of their child.

**Peer Abuse Interventions**

The Gun Free / Schools Act of 1994 under the authority of the federal government has mandated that every school receiving federal funds initiate a zero tolerance policy concerning the use of weapons on school campuses. Many school and districts have expanded the notion of zero tolerance to include undesirable student behavior such as fighting (Gregory & Cornell, 2009). In theory, zero-tolerance means that any child who is caught fighting will be punitively dealt with regardless of the reasons for the fight or even who may have started it and why. Zero-tolerance behavioral policies may have been initiated by schools based on the belief that students who abuse their peers have a desire
to do so. If this abusive desire is addressed with zero-tolerance punitive measures such as suspension from school or expulsion from the school or district, then peer abuse would theoretically stop the criminal peer abuse from continued abusive behavior because the consequence outweighs the desire to do harm (Tattum & Tattum, 1992). However, data is showing a disturbing trend: first, peer abuse does not discriminate. It occurs across all socioeconomic groups, races, religions, genders and school levels. Zero tolerance policies do appear to discriminate. Studies conducted in 1994 of a large Midwestern school district by Skiba (2001), showed that African American students, who made up 52% of the researched middle school’s population, also accounted for almost 90% of the total suspensions and expulsions. This inequity of enforcement has not changed over time. Brown–Dianis (2011) has found similar disturbing data in schools within Pennsylvania and Philadelphia. In order to be affective, strategies used for targeting and stopping peer abuse need to be spread across all social groups represented in schools – not disproportionately and punitively concentrated on persons of color.

Zero tolerance does not address a criminal peer abuser’s motivation for abuse and as a behavior policy it is reactive rather than preventative or instructive. Zero tolerance policies become the punitive means of dealing with peer abuse after it has taken place and already caused harm. Also, many victims of physical peer abuse are forced to fight in order to defend themselves. Despite the fact that the victim did not initiate the fight, did not instigate the issue and probably tried to avoid the aggressor, victims are also punitively criminalized along with their abuser thus punishing the victim for being beaten up by an aggressor. By the time a teacher or school administrator shows up to the scene
of a fight, knowing who the actual aggressor is can be extremely difficult to determine and in some cases simply impossible. Both students wind up being suspended from school under a zero tolerance policy and the actual criminal peer abuse gets away with behavior that may not have been appropriately addressed while the victim is further victimized by the system and, as a byproduct of the policy, vulnerable to be attacked again by a further empowered criminal peer abuse.

Additionally, “getting into more trouble” or believing that telling someone will only make the situation worse are main reasons that victims may choose to remain silent, not telling anyone about the abuse (Centers for Disease Control and Prevention, 2012; Cohn & Canter, 2003; US Department of Health and Human Services, 2012). Punitive approaches such as zero-tolerance may not be effective in most cases of criminal peer abuse. Zero-tolerance policies may simply cause victims to retreat further into isolation out of a fear of administrative punishments leading bullies to believe that they are exempted from full accountability for their actions. Zero-tolerance may simply push the peer abuse deeper underground making it harder for teachers and administrators to know when it is occurring.

There has been much work done trying to determine the effectiveness of intervention programs and trainings. Salmivalli (2005) led studies of elementary aged children and their teachers in forty-eight classes in sixteen different schools in Finland. The study lasted twelve months and the results were mixed. In schools that had a high degree of implementation of the intervention there were measurable positive effects. The interventions were also more effective in the younger fourth grades but the researchers
also found that the same positive results were rarely found in the fifth grade finding that even a one-year age difference could be significant in reducing peer abuse. A reason may simply be that the older children were less likely to follow the teacher’s instructions and rules (Salmivalli, Kaukiainen, & Voeten, 2005). Olweus (1991) used anti-bullying strategies that reduced peer abuse by over 50%, a success rate that instigated the implementation of similar intervention strategies in 10 other countries with mixed results (Farrington, Baldry, Kyvsgaard, & Ttofi, 2008). Some intervention techniques work better than others depending on variables that may or may not be within the control of those seeking to initiate the intervention. If stakeholders do not believe that a problem exists or that an intervention is helpful, they may not be motivated to fully participate in the strategies, making the use of interventions pointless (Stauffer, Heath, Coyne, & Ferrin, 2012).

In 2006, Finland began implementing a prevention program called Kiusamista Vastaan (KiVa) which means “against bullying” in English. The acronym “KiVa” means “nice”. The KiVa program places emphasis on reaching out to bystanders. While the behavior of bystanders is recognized as having a powerful influence on both stopping peer abuse or keeping peer abuse going, most bystanders choose to encourage the abuser by smiling, laughing, pointing, or joking ultimately reinforcing the actions of the criminal peer abuse. The goal of KiVa is to educate students as to the roles of bullies, victims and bystanders and provide support and social education to all students. The hoped for result is that bystanders will stop supporting the criminal peer abuse and instead support the
victim and stop the abuse (Salmivalli & Poskiparta, 2012). Studies have been conducted that tests whether or not KiVa is effective and the results are positive (Karna, 2012).

**Conclusion**

The significantly growing number of students who are being abused daily by their peers is unacceptable. These violent encounters have reached levels of harm that constitutes a criminal act based on the definitions of crime that exist in California State Civil and Criminal Codes and the federal charters that form the basis of government within this country. The United States government has created laws that were designed to protect the civil and natural rights of citizens; however, it has been silent in regard to any formal decisions concerning criminal peer abuse as a problem, how to stop it, and how to ensure equitable accountability for those responsible in its engagement. The expectation of most people is that when their rights are violated, the person responsible will be stopped from continuing the abuse. Given the nature of the way in which federal, state and local laws and policies intersect and react to one another, victims of criminal peer abuse may not be adequately protected within the networked system.

Many people do not realize the criminal level of abuse in which growing numbers of school aged children are exposed and who suffer harm from peers abusing them. Additionally, some criminal peer abusers are using the system that was meant to protect targets from becoming victims as a means to avoid taking responsibility for their actions and justifying their cruel and illegal behavior. Many people have expressed confusion over the role of parents’ proper supervision of their own children. Others have demanded to know why school administrators are allowing students to abuse their peers or why
classroom teachers are not putting a stop to the problem. Some believe a problem does not exist because “we have laws to take care of that” not realizing the laws are failing to protect school-aged victims. The problem of criminal peer abuse is not a problem that will be solved by placing blame solely on parents or educators. It will not be solved by ignoring it, or by blaming state and federal governments. Criminal Peer abuse is a problem that must be solved by the societal systems involved in overseeing K-12 education.
Chapter 3

METHODOLOGY

Chapter three briefly outlines the research design used by the researcher beginning with the reasoning behind using a case study method of research. The role of the researcher and the association between researcher and participants is also discussed followed by research questions, how data will be collected and analyzed and finally how participants will be protected and data destroyed at the conclusion of the project. Ultimately, recommendations will be made concerning changes that need to be made at state and local levels if targets of peer abuse and the abusers themselves are to be adequately protected in classrooms across the state and country.

Research Design

Qualitative case study is for the purpose of exploring the in depth experiences of an individual or a phenomenon. Case study analysis provides a method of researching the breadth and depth of a singular interesting phenomenon and creating generalizations, identifying problems, activities and other themes that continue to appear with regularity. Robert Stake (1995) states that as the researcher moves through the rich details of a single phenomenon, the apparent generalizations become more refined creating a path to greater understanding of an event or issue. Criminal peer abuse is a cultural phenomenon requiring such in-depth analysis. Talking about criminal peer abuse from the perspectives of several people representing different systems within which criminal peer abuse occurs will serve to bring understanding to the problem of peer abuse, the devastating effects of
peer abuse and the failure of a societal organizational system currently ineffective in preventing criminal peer abuse and its consequences.

**Role of Researcher**

The researcher is currently a California high school teacher working with extremely diverse student populations across all socio economic levels in grades nine through twelve. The researcher’s goal is to acquire an understanding of the laws and policies governing the behavior of students, particularly in the secondary educational system in California.

**Setting and Sample**

Like untold numbers of teenagers across America, Michael Joseph Berry committed suicide. He brought a gun to his Northern California high school campus. During third period, he asked to use the bathroom and he never came back. A teacher reported hearing a shot. The school’s vice principal went to investigate and found Michael’s body on the bathroom floor. He had shot himself in the head. He left a suicide note and a few weeks later, Michael’s mother and father finally had access to their son’s email and Facebook accounts. The accounts showed that Michael had been a victim of extreme criminal peer abuse. Neither parent had any idea of the abuse to which Michael had been subjected. Michael’s story illustrates the possible devastation caused to victims of criminal peer abuse justifying the necessity for further study of the relationship of systems in which a child’s death due to abuse was made possible.

The adult participants were chosen based on their knowledge and personal experiences of the peer abuse problem: Lisa Ford Berry, is Michael’s mother, and a peer
abuse prevention activist. Another participant is a retired police captain who continues to work as a volunteer against criminal peer abuse in his retirement. A civil attorney was chosen to present a legal perspective of the problem and a K-12 administrator will speak to issues of general school policy. A representative from Senator Steinberg’s office will discuss current legislation and state policy, and an adult ex-criminal peer abuser will talk about personal experiences with peer abuse both as a victim and an abuser. Interview sessions with each participant will be limited to no longer than ninety minutes at locations of the participant’s choosing.

**Instrumentation and Materials**

A tape recorder will be used during each interview. Participants will determine where and when the interviews will take place and the researcher will be accommodating participant schedules whenever possible. Interviews will be transcribed and coded for specific themes which will surface upon examination and participants will have an opportunity to check their own data for accuracy.

**Procedures/Data Collection**

Individual copies of interview transcripts will be given to participants for review and corrections of any part of the researcher’s interpretation that is not consistent with their intended meaning. Necessary corrections will be made and rechecked to ensure accuracy of content and meaning. At the conclusion of the research, all recordings and transcriptions will be destroyed.
Protection of Participants: No children will be participating in this study. All participants are adults who have volunteered to an interview. Lisa Ford Berry has agreed to use her real name as well as her son’s name.

Data Collection and Analysis

The story of Michael, as told by his mother Lisa along with her views of peer abuse and its prevention, will be captured on tape to insure the accuracy and clarity of the egregious nature of emergent circumstances connected with his death. Additional taped interviews will be acquired from a retired chief of police, a currently working high school administrator, a civil lawyer, a policy analyst working for a state senator, and an ex-criminal peer abuser. Themes will be discovered and extracted from the interview process.

All interviews will be approximately ninety minutes and will be held in varying locations depending on who is being interviewed and where/when is the most convenient for them. My goal is not to interview participants more than once. However, given the sensitive nature of the study and pursuant to comprehensive disclosure of all known elements, follow up interviews may be considered relevant. Also, if the participant needs to stop, we will resume when they are ready to continue the interview. When the interviews are over, the recordings will be transcribed and the process of finding common themes will begin. My objective is to discover similarities and differences amongst the participants as well as common themes, events, or observations. Once discovered, the themes will be isolated and organized in order to identify relevant generalizations which will be analyzed within the System’s Theory framework.
Protection of Participants

Participants are all adults and currently three have agreed to the use of their real names, however, I will use pseudo names for all participants with the exceptions of Michael Joseph Berry and Lisa Ford Berry whose names are already heavily publicized on the internet and in the media. Transcriptions will be destroyed at the conclusion of the project. Interviewees will be shown the product and invited to make corrections if necessary.
Chapter 4

ANALYSIS OF DATA

Many people think of bullying as behavior in which young children pick on others in their age group. Some adults may remember an elementary level bullying experience either as the bully or maybe as a victim; subsequently, bullying is considered a common phenomenon and accepted as simply a normal part of growing up. As children physically and mentally mature, they become capable of inflicting increasingly sophisticated levels of harm against one another, levels that by definition become criminal acts of violence. This case study seeks to present a hypothesis as to how students in California high schools are able to commit serious crimes against their peers with virtually no repercussions or consequences for their actions.

To truly understand the devastation caused by criminal peer abuse, the perspectives many facets of the problem must be studied. As previously noted in chapter two, suicide rates among teens are increasing at alarming rates. California enacted AB 537 in 2000 because criminal peer abuse was impacting every high school in the state which considers the suicide rate to be epidemic in proportion and which connects peer violence and teen suicide. The National Institute of Mental Health, (NIMH) had determined that by 2007, suicide was the third leading cause of death for young people ages fifteen to twenty-four.

One victim of what has come to be termed bullycide by Marr and Field (2001), Michael Joseph Berry, a high school junior, left a note describing to his parents the nature of abuse that he experienced at the hands of his peers before he died on September 15,
2008. According to his mother, Lisa Ford Berry, one of Michael’s abusers began a verbal assault of Michael prior to the summer of the 2008 school year. This initiator of the abuse instigated a homophobic smear campaign designed to publically embarrass and humiliate Michael under the fabrication that he was gay. When school began again in the fall, the harassment continued. Michael and his criminal peer abuser shared a fourth period math class and within the first week of school, Michael was being harassed by other class members who had been invited to participate in Michael’s abuse. He began receiving hateful homophobic text messages, e-mails and Facebook postings from a growing number of students. Student bystanders all over the campus were fully aware of what was occurring and no one stepped in to defend Michael or report the criminal harassment to a school authority. The behavior of the bystanders is notable because of their power to stop or greatly reduce abuse by standing up for the victim. As Trach (2010) observed, older students are less likely to report abuse.

The severity and obscenity of the criminal harassment and cyber abuse as well as the number of bystanders involved in Michael’s case escalated. Finally he asked directly for help from campus adults. He spoke to three counselors, one vice principal, and his fourth period math teacher. The counselors repeatedly refused to change Michael’s math class and no one spoke to Michael’s abuser even though Michael reported criminal peer abuse as the reason he wanted a different math class. Michael made three appointments with the Vice Principal who stood him up all three times. Michael finally went to the math teacher and asked for help. He was told to simply ignore the abuse.
Michael was a gentle young man with a great sense of humor, and a kind disposition. He was ill acquainted with such intense cruelty and unprepared to endure homophobic hate speech every day, all day, at school, at home, on his cell phone, and in his Facebook account. He had been taught to do what all children are taught to do and that is to go to a teacher or a principal for help if a classmate is abusive. Michael realized that he was caught in a system where there was no filter or barrier that protected him from a student with a thick academic record of chronically disruptive and criminal level behavior. The tragic truth of Michael’s final days was that he played by the rules as he had been taught to do. He asked for help from all the right people and no-one stopped to listen to Michael or take his complaints seriously. As his mother says, “he broke” (Ford Berry, 2012).

Michael’s death is not quantifiable. His experiences and his death are tragic by-products of a system of rules and laws that continue to allow students to criminally abuse one another under the guise of childish “bullying”. The circumstances surrounding Michael’s death are also not rare or uncommon. Criminal Peer abuse is adversely affecting students every day.

**Data Gathering**

Data was gathered from the interviews of six participants who by virtue of their role or position impact and influence the well-being of children within K-12 educational systems. The participants were interviewed for approximately ninety minutes each. The interviews were recorded and digitally backed up on a cassette recorder, then transcribed by the researcher. Once transcribed, participants had the opportunity to review their
individual interviews for accuracy, making changes or adding details and clarifications. Several participants agreed to a follow-up meeting for comprehensive elucidation which proved to be particularly useful from the political and law enforcement perspectives.

Coded data was employed for the purpose of identifying major themes that became apparent upon examining the written transcripts. Each transcript was analyzed by the researcher and compared for common themes as well as differing perspectives amongst participants. Common themes were further divided into subthemes that provide greater depth and understanding of the issue. Therefore, the researcher’s assertions are based on the aggregative interpretation of data presented by each interviewee, as well as supporting documentation from the State of California Department of Education, Legislative Analyst’s Office, and recent instances of peer abuse publicized in the media.

In the data analysis, participant identities are protected with the exception of Ford Berry and her son Michael. Ford Berry has told Michael’s story in multiple public venues and has given permission to use both their names in this research. The other participants are identified only by an acronym representative of their professions. The researcher felt that knowing the profession of the person making the statement is essential to the reader in understanding the interactions of the systems within which criminal peer abuse is active.

The researcher is a twenty-year veteran, highly qualified, high school classroom teacher and approaches this topic from that perspective.
This case study examines the phenomenon of criminal peer abuse at the secondary level within a system’s theory framework, working to provide understanding of the interactions of various political, educational, state and federal governments, and socio-cultural systems affecting the interpersonal relationships of teens being impacted by peer instigated abuse in school systems in California. Participant data was analyzed using the following steps.

1. The researcher interviewed each participant and typed each transcript thus avoiding losing as many subtle or obvious nuances as possible.
2. Each participant was given a copy of their transcript and invited to change or clarify any of the wording to insure accuracy of data.

3. Several participants agreed to follow-up meetings as part of the member checking process.

4. Data was open coded.

5. Data was vertically sorted by each participant and horizontally compared against other participant responses.

6. Six major themes were found among the data: Family/Parenting, Cultural Acceptance of Violence, Education System, Legal System, Political System, and Accountability.

7. Data was triangulated with a middle school teacher, a special education teacher, and both the civil attorney and retired police captain.

8. All data was evaluated based on the intensive interpretive process required of case study methodology and combining the perspectives of the participants, available research, current laws, and policies, recent news reports, and legal cases.

Each of the research questions was designed to bring focus to the issue of criminal peer abuse and the overall systems through which this issue flows. After analyzing the coded data, the researcher found that participants held an overarching attitude concerning their belief of the way things should be, how policies need to change, and how changes might serve to protect students from criminal peer violence which every participant acknowledged existed within the California K-12 system.
Research Question #1: Introduction of the Participants

What is the Participants Experience with Peer Abuse and Peer Abuse Induced Suicide?

The notion that peer abuse exists and is a problem is incontestable thanks to researchers who for the past forty years have studied the frequency of peer violence along with possible causes, consequences, costs, prevalence and a host of other associated issues. The intention of the researcher is not to prove that peer abuse exists. Rather, there needs to be a discussion of the interacting systems in which peer abuse as a cultural phenomenon is manifested.

The first research question was designed to introduce participants and establish the specific system by which each participant, in terms of the experiences, knowledge and perspectives of their representative professional framework, is predominantly influenced in their responses to the researcher’s questions.

MD

MD is a medical doctor and a policy analyst for a California State Senator. MD states that he has, “staffed committees that have written policy for Senator Steinberg on bullying and peer abuse. I also have a nineteen-year old son with autism and have worked on a number of behavioral issues and developmental issues concerning K-12 students in California. There have been several studies that have identified that individuals with disabilities, developmental disabilities in particular, are susceptible to higher incidences of bullying and peer abuse. I have both a professional and personal interest” (MD, 2012).
LFB

LFB, is a business woman and the mother of a son, Michael, who committed suicide due to criminal peer abuse. After the death of her son, LFB founded the non-profit B.R.A.V.E. Society© and is a full time criminal peer abuse awareness and prevention activist who says her involvement with peer abuse began with the bullycide of her son. “My son Michael Joseph Berry shot himself on his seventeenth birthday September 15, 2008. He was a victim of bullycide” (LFB, 2013).

PYC

PYC, is an ex criminal peer abuser and current youth Pastor in one of the largest churches in the area, who for the past eight years, has worked with troubled and at-risk students from over forty high schools within Sacramento County.

“In eighth grade, I was going to school and I was getting picked on so bad. I weighed ninety pounds. I was a runt. I got beat up. I had this kid who was chasing me and it came to a head. He chased me behind a basketball game and he was about to jump me when his friend talked him out of it. That year, my mom changed schools. In my freshman year or my sophomore year, I decided to wrestle. The night before wrestling season started, my sophomore year in high school, and my team was competing for the state title. In West Michigan wrestling was a big sport, much bigger than what it was in other parts of the country. I had nothing else to do so I wrestled. I started wrestling and I don't know how it happened my sophomore year, my first year ever wrestling, I made it all the way to the state tournament! I was in the final sixteen in the state of Michigan. It
was cool for my confidence. It wasn’t so cool for the way I began to treat other people” (PYC, 2012).

C.Att

C.Att is a civil attorney working primarily in Northern California. After years of experience in civil litigation, C.Att believes that peer abuse is a problem that has civil remedies but there are problems within the legal system that must be worked out first. “As an attorney and a parent, I think peer abuse is an important issue. With every law, somebody has lost something. The law is reactionary to society and events that occur and it does not proactively handle problems. Law is a profession that relies on facts and the rules we can apply to those facts. I think the American judicial system is the best legal system in the world but it doesn’t address all of society’s evils, especially on a timely basis” (C.Att, 2012).

RPC

RPC is a recently retired police captain and currently a volunteer working to promote peer abuse awareness and prevention in Sacramento County. “The police finally started addressing domestic violence. That was in, I think, 1983. So I became one of the first certified domestic violence trainers. That’s when we finally starting addressing domestic violence” (RPC, 2012).

HSP

HSP is currently a high school principal working in rural Northern California. Adding to the complexity of his already demanding job, HSP has significant gang issues that intensify peer abuse issues on his campus. “I deal with this issue almost on a daily
basis, whether it be some type of allegation, or something that we have to investigate further. Sometimes we have to give some disciplinary action to a student; sometimes, it involves law enforcement (HSP, 2013).

Research Question #2:

What are the Conditions that may Foster Peer Abuse, at Home, School and in Public?

The second question was developed as a way to ascertain possible contributing factors promoting the conditions for peer abuse as well as the participant’s perceptions of those conditions. The participants believe strongly that peer abuse begins with families at home within a socio cultural system that is permissive and even dismissive in the way that domestic violence and neglect of children is viewed by overlapping systems in law enforcement, education, and county, state, and federal governments.

Family System

The first major theme addresses the perceptions of participants concerning the origins of violence and their emanations from within homes. There was a general consensus among participants that in some homes, very young children may not be properly supervised, cared for, or even loved. Some children are exposed to violence and abuse in their homes that result in depressed, angry, and vulnerable children who may also have been taught by parents that violence is a way to solve problems. The participants believe that lack of appropriate parental instruction during a child’s early stage of development contributes to the tendencies of some children to begin school pre-wired to be aggressive and/or lacking the self-confidence necessary to thrive in social
interactions. The participants expressed that violence begins in the homes of many children.

RPC (2012): When we started addressing domestic violence [police officers], it was the tip of the iceberg because with domestic violence, kids are exposed to violence and turmoil from the parents. Violence is learned. Statistically, if you look at domestic violence, you find child abuse. Then you find that the child bullies. That’s their first introduction to criminal peer abuse – seeing the man hit the woman.

A study done in Finland tested the hypothesis that domestic violence and violent crime were associated with criminal peer abuse and found strong connections that boys witnessing violence were more likely to become victims of criminal peer abuse and girls were more likely to become criminal peer abusers (Mustanoja, et al., 2011). Other studies have found similar connections between domestic violence experienced by children and criminal peer abuse (Mustanoja, et al., 2011).

RPC worked with domestic violence for over thirty years as a police officer and has seen firsthand the connection between domestic violence and peer abuse. He tells the story of a little five-year-old girl who saw her mother murdered when her father used a hammer to beat her mother to death. As a witness to the murder, her statement was taken. She described the arguments and constant physical fighting and then she described the murder as casually as if she had seen it in a movie. According to RPC, a few weeks later, when the child went to school, a boy in her class began to verbally abuse and harass her. She came to school with a hammer. When the boy began abusing her again, she calmly
hit him in the head with the hammer. Fortunately, the boy was not killed however, he was seriously hurt. RPC believes that the girl learned how to handle problems with extreme violence when she saw her dad beat her mother to death.

LFB (2012): Cruelty is modeled behavior. Cruelty is what children are learning from home. You can talk to kids all you want at this age about their behavior. Unless you address the hate that is allowed and tolerated in the home, and therefore spewed to the rest of us, that is the biggest disconnect socially. I get asked all the time if I know who started all the crap with Michael. I think about this kid [Michael’s abuser] who had access to my child. I had no idea the trouble he’d [Michael’s abuser] been in… Because these kids [in public schools] who are juvenile delinquents, they are in and out of jail. My sons were never in trouble. As old fashioned as it sounds, my boys were good boys. I’m not saying that because I am some deluded mother. I could tell you my kid’s good points, bad points and everything in between. My children were not thugs. Some parents say “It’s my child’s right to have access to a public education…” Ya, well, it’s also the right of the teacher [and other students] not to have to deal with hateful kids.

Anda, Butchart, Felitti, & Brown (2010) have found similar results in their studies on “Adverse Childhood Experiences” (ACEs) finding connections between domestic violence and the development of criminal behaviors, drug and alcohol abuse issues, depression, in children. Murrell, Christoff, & Henning (2007), show that children who see violent acts in their home are also often physically abused by their parents. Having
seen and experienced violence at early ages, these children struggle with depression, substance abuse, and are exposed to acts of general violence, that may become more extreme with the child’s increasing age. Kliewer, et al., (2006) noted the severity and frequency of violence experienced by children leads to more serious acts of violence by those children as they mature.

PYC (2012): Some parents are abusive so kids are going home to alcohol drugs and abuse. I don't want to categorize all of America as having a problem with substance abuse and violence but many of the students I work with have to deal with it daily. I work with high school students every single day. I don’t go a day without being in a high school student’s life. The majority of students I work with are experiencing drugs, alcohol, and abuse at home. Let's say the student struggles with heavy insecurity and depression because dad has been physically or verbally abusing the kid their entire life. We [counselors, coaches, community volunteers] finally get some breakthrough and then that kid has to go home. It doesn't matter how effective the one or two hour counseling session was, they have to a go home to hell. And if kids are going home to hell, every day, they will only be able to come and act a certain way out in the world. Do you know how many parents I’ve talked to who have even encouraged their kids to go to school and handle business physically? …When a kid gets suspended from school, you don’t punch them in the face for it. There is such horrific parenting going on at home. How can we expect these high-
schoolers to rise above it? …In order for discipline to happen, you have to have parents who are willing to walk their children through the consequences. If parents are too lazy, or don’t care to discipline effectively, or they don’t want to deal with the hassle, or sit through meetings, kids suffer. ...Based on the interactions with my students, I would bet 50% of fathers are not even in the home at all and of the 50% that are, I think there are only about 25% that are actually engaged in the kid’s life. I think that we are probably looking at 25% to 35% total of engaged fathers, fathering their children. There is this travesty of missing families and broken home situations where a lot of students have to deal with parents who are drug addicts and alcoholics.

Many teachers have called a parent to discuss a child’s behavior only to be verbally abused. In a 2011 Special Report by Judy Cooper, two-thirds of social workers in the United Kingdom (UK) described being verbally abused by hostile parents. Vik Tuck (2011), also of the UK, discusses parents he refers to as “resistant parents” who through their abusive and negligent behavior will undermine efforts of educators and other child advocates. A resistant parent uses a variety of non-compliant behaviors such as missing important meetings, yelling at educators, lying, and even becoming violent. As a twenty-year veteran teacher, the researcher has had many experiences with resistant parents who cuss at and threaten educators who are attempting to report failing grades or poor behavior. Tuck makes a connection between the abusive nature of resistant parents
towards other adults and the parent’s abusive behavior towards their own children, denying their own abusive behavior exists and failing to recognize any harm to others.

Research done by Haapasalo and Tremblay (1994) found that family adversity and poor parenting predicted delinquency and aggression specifically in boys. Boys and girls who live in poverty, whose parents suffer from intimate partner abuse, drug abuse, alcoholism, and neglect, struggle with their own issues of depression, violence, and delinquency in greater numbers than other children (Fagan & Wright, 2011). Clearly, children require home environments that are stable, safe, and interactive. Lacking such home environments, many children suffer long-term, and potentially devastating emotional damage leading to a host of behavioral and emotional issues that affect juvenile behavior in other environments, particularly, schools.

LFB (2012): Those of us who are not free range parents, we're stuck. Our kids are stuck with having to deal with this cruel behavior in public places and schools which was caused by poor parenting. At what point do you say you can’t blame society for the shitty job parents do. I am so sick of the excuses… they’re poor, they’re a single parent family, they’re this… they’re that… We don’t have that kind of work ethic where people are responsible for their own stuff anymore. It’s about blaming the other guy all day long. I’m sick of it.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) reports that one in four people living in the United States is under the age of eighteen. The number of single parent households has doubled from 12% to 27% since 1970. Given this statistic,
the logical assumption would be that juvenile crime has also gone up. However, the OJJDP states that juvenile crimes have decreased by 43%, and yet criminal peer abuse has increased by 5% and is the most prevailing genre of violence in the United States. Clearly, there is a disconnect between data suggesting on the one hand that juvenile crime is down but failing to acknowledge the prevalent problem with peer abuse that is according to Juvonen (2003), affecting moderately or seriously 3.2 million students per year.

**School System**

Education is mandated which means that all children are entitled and required to attain a public education. In California, children must attend school from the age of six through eighteen (Legislative Analyst's Office, 2004). Since education is compulsory, students attending school come from varied backgrounds. Students who have never committed an illegal act or harmed another person are forced by California State law to attend classes in public schools with students who have developed a history of abusive and/or illegal behavior. All the participants feel that by the time students get into high school, they are more than old enough to recognize that harassment, assault (including sexual assault), theft, cyber abuse, stalking, racist and homophobic hate crimes and other crimes are inappropriate. However, in a culture that generally misunderstands the differences between bullying and criminal peer abuse, and views criminal peer abuse as bullying and therefore as a “normal” rite of passage, participants felt that innocent teens have few resources with which to attain relief from peer inflicted abuse in the school environment in which they are compelled to be.
PYC (2012): I think the big thing is all vernacular really. ‘Cause ten years ago, twelve years ago now I guess, there was no verbiage of bully. I definitely would never have labeled student behavior as bullying because we [students] didn’t use that phrase. The word bully was out there but it was more of a playground thing. You know, a kid taking your lunch money or something like that. You didn’t use the term “bully” up in the high school level.

Many students have been harassed and abused and they have gone to teachers or school administrators and asked for help. The researcher is currently working with a victimized child who has asked for help with getting her abusers to stop their harassment of her and found it difficult to get the attention of school administrators, one of whom asked if the girl was making the report of abuse merely to get attention. Brown, Aalsma, & Ott (2012) in their study of the experiences of parents who try to report criminal peer abuse to their child’s school administration, discovered that the participants frequently received no help or support from school officials leaving the victims one of two choices: either stay in their school and let the abuse continue or change schools.

LFB (2012): Michael was never prepared for this kind of abuse. He was not prepared to have his life dismantled in such a public fashion. And he really wasn’t prepared to have the people that he trusted betray him. Michael believed that when teachers and the VP told him, “hey, you got a problem, come to us”. Michael believed he could go to the teachers, the administrators. He believed that if you had a problem at school you could
solve it by talking to an administrator. He believed them. That's a hard pill to swallow.

*Bullying* is the civil term used in the behavioral Codes to describe criminal behavior in K-12 schools. The California Ed. Codes defines bullying as “any severe or pervasive physical or verbal act or conduct… including all acts defined in §48900 to include; assault, possession of a firearm, knife or other dangerous weapon, committing obscene acts, sexual assault, harassment, threatening or intimidating other students hazing and others including cyber bullying (Legislative Council for the State of California, 2011). Without help from administrators, victims are left to handle crimes being committed against them in an environment that Reid (2009), refers to as a “wild west” atmosphere where no one seems to be in charge and the bad guy never gets caught.

RPC (2012): Here’s another little loop-hole. The Ed. Code is not criminal, it is civil and yet somebody commits a criminal act within the Ed. Code… …There is a difference between when we are talking about the criminal code and the Ed Code. But wait a minute… they have the same definitions? Yes they do. The Education Code gives a lot more leeway.

The participants felt that teachers really do not understand the seriousness of criminal peer abuse thinking instead of juvenile bullying behavior that is considered normal in the K-12 system. However, playground scuffles tend to turn into criminal level assaults when kids *willfully intend* to harm other kids and as children get older they become more physically able to cause each other terrible damage.
RPC (2012): In school shooting incidences, where in interviewing the shooters, in 80% of the cases, there was something going on in the classroom where the school shooter was a victim at one time. Their issues were being ignored. At some point, they [abused students] took matters into their own hands. There is not one school shooter that is ever going to see what I call “public day light” again. They will only see sunlight from inside the walls of a prison. You’ve got to ask yourself, had those issues been addressed early on, what would have been the outcome.

Some educators may fully understand the nature of criminal peer abuse as well as the potentially severe consequences of ignoring the problem and may genuinely want to provide assistance to a student. For example, a teacher trying to report a student’s criminal abuse complaint has several concerns with which to contend such as the truthfulness of the reporting student, knowing the exact circumstances of the abuse and who instigated the action, knowing whether the reporting victim is entirely innocent or did that student participate in any causal behaviors, deciding when or if to call a parent, and hoping for a positive and appropriate reaction and response, and most importantly, protecting a victim from further attacks once a process of action has been decided. Additionally, resources available at the school site may or may not be effective and administrators and/or counselors may or may not be supportive.

PYC (2012): …We never informed the school [that I was being bullied] because that is what started it in the first place. The bully had stolen something from the teacher and when she asked, I told her who it was. Because of
that incident, the bully started to pick on me. After that I didn't want to risk further bullying. I never reported the abuse to school administrators.

Cyber bullying is a relatively new crime with devastating consequences. Cyber bullying can occur at any time originating either from a student’s home or while a student is at school. Cyber bullying and physical bullying often overlap each other. Research by Juvonen (2003) shows students who are cyber bullied are further bullied on their school campuses which escalates the intensity of the abuse and the potential of physical violence.

LFB (2012): I was at a teacher workshop and a school principal thought I was too negative concerning the problem of peer abuse. I thought, ‘Wow! If you think I’m negative you better not talk to any of the other grieving moms and dads I know.’ So I said in this meeting, ‘Let’s just suppose I leave this meeting,’ and I pointed to the vice principal and I said, ‘Let’s just suppose that I think you’re an idiot. I asked how many kids go to this school – 1000 …so let’s just say I e-mail all the parents and I say the VP is an idiot and these are my reasons why.’ On my way home, I say to myself, you know what? I’m not satisfied emailing all the parents saying what a bone-head that vice principal is. Now, I’m going to use my phone and tell all my contacts what an idiot you are. Tell me, do you think I can dismantle your life? Do you think I can hit you were it hurts? Do you think I can rip away how you see yourself? As adults, it’s our careers that are important. Do you think I can’t dismantle your career? What if I follow you out to
your car and as I drive by you I throw my water bottle at you and hit you in the head? The kids who abused Phoebe Prince threw soda bottles at her. My point is that everything I have just said has been pulled from a headline; a child has suffered from all these things and is now dead. Well, the vice principal said, “oh my God. I’ve never thought about it like that before”. I said, “My point is this is how it starts… this is how it happens… this is how it takes on a life of its own… It’s not just… “oh you’re Gay”!

That is not how these kids are breaking. It is that kids can’t get away from the abuse. It is the cruelty: The blatant slam, punch, or slap! The school environment is everything to students. Just like if I emailed all the parents and told them how stupid I think you, the vice principal are, that would be everything to you.

Normalizing violence tends to create environments where people expect others to be harmed and when students are victimized, the response may frequently be to shrug a shoulder, walk away, believing that normal life is occurring and the victims of that normal life need to have these experiences in order to mature. Instead of conveying the message to students that any kind of abuse is unacceptable, they are being told through action and words of the people controlling their juvenile lives that they need to get tough. A victim’s feelings of emotional or physical pain may be invalidated by the people whose job it is to protect and/or teach. Not only is there no hope of justice, some victims may be punished for feeling victimized because, after all, isn’t peer abuse a normal part of
growing up? “Kids can be cruel.” Isn’t that a common message in our culture
along with the notion that until children mature, criminal peer abuse is just
something to tolerate?

**Culturally Tolerated Violence**

MD (2012): I really worry - some of the programs that we see on television, some
of the stuff where basically they're [the shows] kind of like intended to be
funny, but are really based on disrespect - people suffering in some form.
It may be physical; it may be social… any embarrassment, humiliation…
that isn't funny. It's hurtful, it’s painful. There is a misperception that
bullying is teasing which is kind of seen as acceptable, as a [normal] form
of behavior with kids growing up.

Many children are raised viewing and/or experiencing violence as part of their
normal daily lives. As previously discussed, some children are exposed to extreme
domestic violence which can have a significant effect on their emotional health. There are
other less obvious forms of violence to which children are exposed such as violence on
television, in musical lyrics, and sports. Public celebrities engage in violence and it is
validated and in some cases celebrated in newspapers, magazines, and television.
Children learn and they are affected by the models of behavior to which they have access.
Most children have ready access to the above mentioned venues.

The American Academy of Pediatrics Committee on Public Education (AAPCPE)
(2001), reports that children learn by modeling behaviors visible in their worlds.
Aggressiveness is learned by children imitating behaviors they survey. The AAPCPE


points out that the manner in which violence is portrayed makes a significant difference. For example, violence that is portrayed as behavior that causes sadness and tragic loss contributes to teaching children that violence is tragic and should be avoided. However, the violence portrayed as a thrill without depicting human tragedy is the most marketed, because of its profitability. Thrill violence is the most damaging to impressionable children, particularly violence that is contextually funny or sexual because violence is associated with positive feelings while others are being harmed.

RPC (2012): The amount of violence we take for granted… we’re busy talking about kids and computer games and the violence on computer games…

Your child could turn off the computer and sit down and watch TV with you and there is the same kind of violence on TV. What’s the difference? You can’t just say, “turn the TV off” because more often than not if your child wants to watch something on TV and they can’t watch it at home, and parents don’t know where their kids are going after school, kids will find a place where watching that violent stuff is ok.

Additionally, “the good guys” are frequently violent. Children see their heroes behave with violence and the modeled behavior portrays violence as fun and the perpetrator is frequently the hero. Louis Freeh, the attorney leading the Penn State investigation, coined the phrase “culture of reverence” in reference to the way American culture glorifies its cultural heroes. This phrase has accurately captured the expectation of an exalted status that many celebrities may see as their just right by virtue of an ability to play a game, acquire wealth or political status, or act in a movie. In the case of Gerry
Sandusky of Penn State, children had been brought to facilities at the University by Sandusky and molested. For fourteen years those who knew what was happening and who saw glimpses of the abuse, chose to do nothing to protect the children and instead opted to protect Penn State, its illustrious coaches, and the university’s reputation. In his remarks announcing the release of the independent investigative report of Sandusky and Penn State, Freeh talked about the victims of the now convicted Sandusky.

Freeh: Our most saddening and sobering finding is the total disregard for the safety and welfare of Sandusky’s child victims by the most senior leaders at Penn State. The most powerful men at Penn State failed to take any steps for fourteen years to protect the children who Sandusky victimized. …Taking into account the available witness statements and evidence, it is reasonable to conclude that, in order to avoid the consequences of bad publicity, the most powerful leaders at Penn State repeatedly concealed critical facts relating to Sandusky’s child abuse from the authorities, the Board of Trustees, Penn State community, and the public at large. Although concern to treat the child abuser humanely was expressly stated, no such sentiments were ever expressed by them for Sandusky’s victim (Freeh, 2012).

Other well-known celebrities who have been in well publicized in magazines and news and who may have been inexplicably excused from wrong doing are OJ Simpson, who is widely believed to have gotten away with murdering his wife. The American Society for the Prevention of Cruelty to Animals (ASPCA) (2007) helped convict a
professional football player of animal cruelty. Michael Vick, who was found guilty of animal cruelty and dog fighting, served almost two years in a federal prison. Upon his release, he went to playing football for the Philadelphia Eagles. Mathew Broderick paid a fine of $175.00 for killing two people that he hit while driving his car in Ireland on the wrong side of the road. Roman Polansky raped a thirteen-year-old girl, pleaded guilty to unlawful sex with a minor, and then fled to London. He was never held accountable.

Kobe Bryant was accused of raping a nineteen-year-old hotel worker. The case was settled in Civil Court. Bryant never admitted to any wrongdoing.

MD (2012): It [tolerated abuse] all goes back to the culture [of a school or of the community]. There has to be a sense of respect and tolerance from everyone who should be taking an active role in preventing abuse.

Impressionable children see their popular media heroes in violent roles and want to become just like their heroes. Hence, a strong market for public media venue’s such as YouTube has been built. YouTube has made it possible for anyone owning a cell phone with video capability to create digital recordings of just about anything. Children upload those recordings to the internet helping them imagine becoming an overnight media sensation within their local social groups. Needless to say, not all the uploaded content is appropriate.
**Haile Wiggins Ketchum**

In this highly publicized Southern California cyber bullying case, Haile Wiggins-Ketchum was a student at Corona Del Mar High School when she was targeted by three “superstar” athletes belonging to the school’s football, basketball, and lacrosse teams. On a day that the three young men were drinking, they recorded themselves from one of their homes. They exercised what they felt was their First Amendment, Freedom of Speech right to utterly bash Gays. Next, they randomly selected a female classmate who just happened to be Ketchum. Ketchum had recently performed in a high school musical production of a musical titled “Rent” which highlights characters who are dealing with social issues such as suicide and homosexuality. The boys began to describe how they wanted to force Haile into the bed of a truck where she would be raped and then shot in the head. The video was uploaded to the Internet by the boys and viewed by approximately 600 of Haile’s fellow students by the next day. When Haile came home from school, she was distraught and told her mother what had happened. Haile’s parents went online, saw the recording and went to Corona Del Mar High School to file a complaint against the boys with the school’s administration. They were referred to the assistant football coach who failed to discipline the boys appropriately. Haile’s father sent the following letter to the Newport Mesa School District superintendent.

Wiggins: The video consists of the three boys talking to their friend and to the larger community of the high school. They address Haile directly. One tells her that he wants to kill her – "Haile, Joey told me that he wants to kill you. That he wants to legitimately kill you." Another says "I hope
Haile watches this. And then you take a sniper to her forehead.” One discusses raping her in the back of a truck, and, in a mockery of her last name, asks if she "catches cum in her mouth" (Michael Wiggins, 2009; Dibernado, 2009).

When the principal began conducting an investigation, due to district level pressure to do so, all three boys were suspended from athletic events pending the principal’s findings. Haile began to be harassed and threatened by growing members of the student body who blamed her for their star players being excluded from upcoming games. The boys were ultimately suspended for five days but were allowed to graduate with their class. Meanwhile, the barrage of abuse that Haile was experiencing was growing. She was tormented, stalked and received frequent death threats. The school failed to protect Haile from criminal harassment under state law and from violations of her civil rights (Ketchum, 2009).

Haile and her parents partnered with the American Civil Liberties Union (ACLU) to file a civil action against Corona Del Mar High School for allowing the violation of her civil rights. Despite winning her case, the district did not abide by the orders of the judge to close the case by providing a simple written apology to Haile, training staff to deal with criminal peer abuse more effectively, and by holding the three perpetrators responsible for their actions. Haile’s parents made the following statement. "We thought at the end of the settlement, the wheels of justice would start moving," Ketchum says. "[The continued inaction] is so beyond disappointing; it's demoralizing" (Ketchum, Karyl & Michael, 2009).
Haile was victimized by three star athletes who enjoyed the protection of an environment that can be accurately described by Freeh’s “Culture of Reverence”. The local hero athletes behaved badly and then further victimized Haile because no one stopped them. Some students and staff were more intent on protecting the reputations of their athletes, and winning athletic competitions then holding those boys accountable for their atrocious behavior and inexcusable lack of judgment, as well as the elevated statements of violence which consisted of persistent public threats to end Haile’s life.

MD (2012): My own sense is that it's really more of an issue of changing the cultural perception or the awareness of criminal peer abuse or the enforcement of existing laws. But it [peer abuse awareness and prevention] really has to start among peers and the students and even among the teachers and administrators. Peer abuse, bullying and teasing just cannot be tolerated.

There are principals who use social media against the criminal peer abusers. Some students love to post images of themselves committing crimes or showing off for their peers in inappropriate ways and they may not realize that social media sites can be monitored by adults as well as their peers.

HSP (2013): Well, a lot of times a kid will come in and say so and so is bothering me. These are the texts or the Facebook pages…We have a real good campus supervisor who gets real involved with things…he’ll sometimes look at things [Facebook messages or other social media]. He’ll call me to say we might want to look in to something. He actually has a fictitious
Facebook account where a lot of these kids have actually friended him. So when parties are going on, we find out about it. Recently, we weren’t having a real gang issue up until this school year and we had a couple kids move in from outside the area. They started kind of showing their colors and bringing their groups together. We were trying to put a stop to that. Well, what wound up happening was our campus supervisor found out there had been a fight that took place between these two gang members on one of our elementary school campuses. One boy had no previous problems; the other boy had a previous fight on one of our campuses where he had yelled some gang epithets. We found out about the fight. It had been placed on Facebook. At that point we felt that we had enough to move for expulsion. Another thing the campus supervisor found was a number of pictures of the students in gang attire posing in their gang shot there on campus. We went after them and disciplined them.

In addition to tolerated abuse in the media, and on the Internet, societies in the United States have a history of ignoring domestic crimes. While progress has been made, there is still hesitancy on the part of law enforcement to intervene in cases of spousal or child abuse.

RPC (2012): If you had domestic abuse, there was child abuse. The kids weren’t exempt from domestic abuse. There is a famous 1983 case, Thurman versus Torrington Police Department, Tracy Thurman, who was a victim of domestic violence went to the police and said, “My husband is violating
the restraining order. You got to get him out of here”. What are you going to do? The police said, “We can’t do anything about it. He’s your husband. You need to move out of town away from your husband”. Buck Thurman went to Tracey’s house one day, chased her down and stabbed her repeatedly. When law enforcement eventually responded to the call, Tracy Thurman was lying on the ground. Buck Thurman went over to her bleeding body, in front of a police officer, and repeatedly kicked her in the head, permanently damaging her spine and rendering her a quadriplegic for the rest of her life. The responding officer did nothing to stop the attack nor did he try to handcuff Buck Thurman or restrain him in any way even when he picked up his three-year old son and screamed, “Look at what I did to your mother”. …The police probably weren’t going to arrest him (Buck Thurman). Tracey sued the Torrington Police Department and won 1.9 million dollars. During the trial, police officers were asked why Buck Thurman wasn’t immediately arrested and placed in the police car. They really couldn’t justify why they let him walk around other than it was the routine. It was a family fight. This is a social issue. Tracey Thurman forced the Torrington Police Department and those officers to rethink the way they handled domestic calls, how they handled child abuse calls, how they handled family fights. A restraining order is a restraining order. A restraining order means stay away. If he doesn’t stay away, then he violates the restraining order. It’s the culture of dealing with families
and their issues. Couldn’t fix them yesterday... Can’t fix them today...
Can’t fix them tomorrow... Historically, that’s been the mentality. Even today the police have such a laid back attitude that I think contributes to the level of violence in homes. The philosophy was and still is to a significant degree, what goes on behind closed doors, stays behind closed doors. Honestly, I think it is the culture in our society.

Another reason police may not investigate family violence or criminal peer abuse could be a lack resources or attempts to restructure the local justice system in order to create more efficiency. The Sacramento Bee (2010) reported on a decision made by Sacramento County’s District Attorney’s (DA) office not to prosecute misdemeanor crimes and instead try to reduce those misdemeanors by definition to “infractions” which is the least significant offense and does not require an incarceration and therefore will not demand a jury trial. Sacramento County believes this strategy will reduce the need for jurors in petty cases saving time and money. However, many critics believe that once petty criminals realize the lack of legal follow through for their now “petty” offenses, crime rates will increase diminishing the quality of life for many people.

Research Question #3:

*Are the Civil Rights of Victims Being Protected by School and District Administrators, Law Enforcement, State and Federal Policy*

When systems within societies are broken, increased levels of abhorrent behavior is experienced, including criminal peer abuse. Espalage and Swearer (2011) point out that
the process by which peer abuse is manifested is dynamic and involves the interactions of multiple social systems including the family, schools and peer groups. Dov Cohen (1998) makes the argument that organized societies may reign in anti-social behaviors through the interactions of multiple societal systems such as family, community, and religion. As discussed earlier, societies that are not stable generally have increasing societal discord. For example, growing poverty is a symptom of an ailing society and is strongly correlated to higher levels of child neglect (Connell-Carrick, 2003). As a stressor, poverty triggers undesirable societal interactions such as higher levels of domestic abuse and adult crime as well as adolescent criminal behavior that can be assumed to include criminal peer abuse (Kliewer, et al., 2006).

RPC (2012): Most of us have been brought up with the thought that it [bullying] is a rite of passage, it’s just kids, it’s not that serious, a black eye heals… the system’s broken! There are so many parts that need to be repaired.

Parents, educators, and all stakeholders may express the opinion that a criminal peer abuse problem does not exist or they might ask the question, “Isn’t there a law for that?” The following tables illustrate the system under which student behavior is governed. Yes, there are laws designed to protect students from criminal peer abuse. However, the real issue is the effectiveness of those laws.
Table 6

The System Under Which a Student Accesses Protection from Criminal Peer Abuse and their Individual Civil Rights

State Constitution

Civil Court

Penal Code

Ed. Code – California Dept. of Ed
K-12 Civil Rights

District Level Administration

Legal Guardian Required

AB 537

AB 9, Seth’s Law

Legal Guardian NOT Required

Involuntary Legal Guardian Required

Drugs / Gangs / Weapons: Juvenile Crime

Law Enforcement

Classroom

Students

Criminal Peer Abuse

Site Level Administration

Legal Guardian Required

Legal Guardian NOT Required

Harassment
Assault
Theft
Extortion
Stalking
Fraud
Destruction of property
Cyber Abuse
Sexual Harassment
A discussion of the role of the systems presented in the model above is contained in the following sections.

**The Systems in Play**

MD (2012): My sense is that there are provisions that are currently in laws and statutes within California's Ed. Code that should protect and are intended to protect and if implemented would prevent or protect students against bullying. But I think the real challenge is having knowledge about these provisions as well as being able to enforce these provisions.

**The State Constitution/State Law**

The State Constitution guarantees the civil rights of its people and the remedies people may seek if those rights are violated. When existing law fails to protect citizens’ civil rights, new laws are created by passing bills. Since 2000, several bills have been written to protect the rights of students who because of their personal identities, might fall into a class of personhood that is prone to discriminatory acts of hate called “hate crime”. What follows is a list of bills, introduced in chronological order, speaking to criminal peer abuse that is classified as a hate crime.

Each one of the following bills, in its opening paragraph, states, “Existing law provides that it is the policy of the State of California to afford all persons in public schools and post-secondary institutions, regardless of their sex, ethnic group identification, race, national origin, religion or mental or physical disability, equal rights and opportunities in the educational institutions of the state” (Ammiano, AB 9, 2011; Kuehl, SB 777, 2008; Kuehl, AB 537, 2007; Levine, AB 394, 2008). 2000: AB 537
prohibits a person from being discriminated against based on race, color, religion, ancestry, national origin, disability, gender, or sexual orientation or the perception that a person has one or more of these characteristics. All persons that have any of the above mentioned characteristics also have the right to equal opportunities and rights.

The bills continue to be very similar to one another except with variations of their defined purpose.

2007: AB 777, Student Civil Rights Act, standardizes the language used in AB 537 and in the California Ed. Code for the purposes of alleviating confusion for teachers and school personnel who are encouraged to implement and/or comply with the law.

2008: AB 394, The Safe Place to Learn Act, requires the department of Education to monitor school districts to insure that they are in compliance with AB 537, insure that districts are providing training resources to schools that address bias-related discrimination and harassment, and develop public websites outlining the obligations of educators to provide a safe learning environment.

2012: AB 9, Seth’s Law, attempts to ensure that existing laws are effective and enforced by requiring every school district to take concrete steps to improve school climate. (Full documents are referenced in the Appendix)

While each of these bills is different in some way from the others, the redundancy is unmistakable. The bills also have key missing elements in common. There is no language in any of the bills defining a method of enforcement or accountability.

LFB (2012): You can look at federal laws, state laws, the Ed code, the language is the same. You are not supposed to make abusive statements, harass,
intimidate, or stalk peers over things such as national origin, race, religion, sexual orientation sexual identification, etc. From federal to state to the Ed Code, the verbiage is all the same. But, the facts are that the number one reason that kids are abused by their peers is over their appearance. It’s their weight; it's how they look, the way they dress. None of those kids are protected under Seth’s Law at all. …a lot of times, common sense gets left at the front door. From zero tolerance to willful disobedience, should you choose to follow the Ed code or Seth’s law, the problem is there are no consequences for failure to comply.

The language in the legislative bills above suggests that criminal peer abuse should be reported, however, there is no enforcement written into the bill. The State of California (2003) publishes a thirty-seven page booklet on how to report child abuse. If an educator fails to report child abuse, that person could be fined, jailed, and lose their credentials to teach. If an educator fails to report a crime committed by a student, generally, there are no consequences for peer abuse cases.

LFB (2012): What I want is accountability. What I want to see happen is the same kind of mandatory reporting for peer abuse that you see for child abuse - that somebody’s feet will be held to the fire should peer abuse be ignored just the way it is for child abuse.

The Legislative Analyst’s Office (2012) says that there is language in current legislation that requires schools to report criminal behavior. When peer abuse occurs, the incident might be recorded into a student records database under any number of
categories. The data that is generated by schools statewide is collected and made public. For California, simply going to data and statistics on the California Department of Education web page will provide the aggregated information. The data is not disaggregated in any way. For example, California combines violence and drugs into one category (California Department of Education, 2011). There are also suicide statistics at state and national levels but the reasons for suicide may not be known because of the type of data collected and the inability to disaggregate the data. The result is that a fight or a suicide becomes a part of the statistical data for tracking school violence but the act of criminal peer abuse that started the fight or instigated the suicide is unknown or overlooked.

Finally, these bills do little to address the fact that the Ed. Code (2013) provides school administrators with autonomy of their sites and they are the authority who decides when or if law enforcement will be brought in to deal with a criminal offense. Essentially, laws can be effective only when people are enforcing them.

RPC (2012): This is a can of worms, a kid acts in a way that is criminal but it is only treated as a crime when administrators call the police and make it criminal.

There tends to be excitement generated with the passage of a new bill that will provide remedies to victimized children. Many parents do not realize that the language written into bills limits the reach of a bill’s adjudication. The realization that certain bills address specifically hate crimes is vital. Criminal peer abuse that is not associated with some sort of discrimination or bias is not covered under the most recently passed
legislation which is AB 9, Seth’s Law. Without legislative protection, parents and victimized children are dependent on school administrators for justice and relief from criminal peer abuse; this gap in enforcement is evident to the participants.

**Criminal Code**

The Legislative Analyst’s Office (LAO) (2012), for the State of California, defines the juvenile crimes that when committed, must be reported by schools to law enforcement. As of 2001-02 crimes that are motivated by hate based on a person’s real or perceived race, religion, disability, gender, nationality or sexual orientation must be reported as well as four major categories of crimes which are: drugs and alcohol offense, crimes against persons to include battery, assault with a deadly weapon, and robbery, property crimes, including vandalism, burglary and theft, and other crimes such as weapons possession, bomb threats, and trespassing. In reporting these crimes, the LOA says that the age of the perpetrator does not matter. However, the problem is that the reporting process is “fundamentally flawed” because suspension policies and enforcement are handled differently in every school within every district compounded by the individual personalities of the administrators handling the student referrals. A principal might suspend and recommend expulsion for a crime at one school site. The same crime at a different site might be tolerated and the offending student’s behavior record may never indicate there was an incident and subsequently, a report to law enforcement would never be made (Turnage, 2002).

RPC (2013): Law enforcement gets involved because it [drug possession] is a crime under health and safety, it is almost mandated that it be reported as a
crime. But when discipline time come up, they [authority figures] may not necessarily use the Health and Safety Code within the school district because believe it or not, you can use disciplinary codes, Discipline under the Ed Code can be more effective in a school district then the Health and Safety Code would be. For example, possession of a certain drug, you might get six months or one year probation in the juvenile court system. Under the school district, there is a mandated expulsion so it does two things; gets the student out of the school and gets the student out of the school district.

The OJJDP (2013) lists the major crimes that juveniles commit as murder, violent sexual assault, robbery, aggravated assault, and simple assault and they also report that juvenile crimes have declined by 43%. However, according to the LAO, the true number of juvenile crimes committed on campuses is unknown due to a deeply flawed reporting system between school system and law enforcement. Knowing precisely the true level of crimes taking place between students may be an impossibility given current access to available data.
Neil Sullivan – A Case of After School Assault

The OJJDP’s, (2013) most current data shows that a significantly larger proportion of juvenile crimes are committed after school hours. Demonstrating major gaps in the legal system is a particularly disturbing case in Carmichael, California. Neil Sullivan, a Sacramento teen, was lured to an unknown local school campus or local park, at about 6pm, by a teenaged girl, aiding and abetting, where by a pre-arranged agreement, another teen was waiting to assault Neil as soon as he arrived, conspiracy to commit assault. The assailant cornered Neil, repeatedly slapped him in the face, and refused to let him leave the grounds; misdemeanor assault and unlawful detention. The perpetrator took Neil’s money which was handed over by Neil who pled with his attacker to please leave him alone; criminal extortion. The offender stole Neil’s bike, and assaulted him in front of a crowd, felony theft and felony assault. Adults were at the scene who knew in advance what was going to happen but did nothing to help Neil, instead, cheering on the perpetrator contributing to the delinquency, criminal solicitation/aiding and abetting. One of the bystanders recorded the incident and posted it on YouTube, conspiracy to commit felony assault, and criminal harassment (News, CBS 13, 2011) (California State Legislature, 2012).

Neil’s mother contacted the police when she saw what happened to her son by viewing the YouTube posting. She was not given an official response from law enforcement, but later, when CBS reported the incident, the police stated publically that they did not investigate cases of this nature because the incident only occurred once and a
willful pattern of abuse had not been established (Suzanne Sullivan 2011 CBS News, as reported by Koula Gianulias).

Under the California Ed. Code, there must be a willful pattern of abuse. The problem is that the incident was not being investigated under the Ed. Code by school administrators. One reason they did not investigate may have been due to lack of in loco parentis authority to adjudicate criminal acts that occur between teenagers outside the school day or that did not occur during a school sanctioned event.

The District Attorney’s office did not investigate because there was no investigation by law enforcement. Without an investigation to prove illegal activity, the DA has nothing to prosecute (CBS Channel 13 Sacramento, 2011). The DA prosecutes cases based on their perceived ability to win them. Criminal peer abuse cases are notoriously hard to prove because children are not the most skilled at gathering and keeping evidence and there is frequently a lack of parent awareness that criminal peer abuse has occurred. The DA’s office does not have unlimited funds to deal with juvenile cases and neither do many parents. Neil’s mother has the option of hiring an attorney and pursuing a civil action against the offending minor and his parents; however, she would need to have the resources to pay for an attorney. The financial inability of some parents to protect children is noted by every participant.

C.Att (2012) I hate to admit this, but only the wealthy will come to court. Only the wealthy can afford to hire lawyers.

Some attorney’s will agree to take cases and delay their receipt of fees until a case is won in court, making the victim’s acquisition of strong evidence
crucial prior to speaking to a lawyer. Without evidence, there is little that can be done to stop the abuse or hold abusers accountable. If school administrators were to keep accurate reports, victims might be able to use those records in a court which is another reason why accurate reporting is vital.

LFB (2012): Where the hell is our stake holder accountability and why is it that children are not being protected? Most people think there are laws that protect kids until they are in a fire fight and it is their child being hurt. They realize, oh my goodness! There is nothing. Then it is too late. If you’re an adult, there is a legal end to harassment or assault under the criminal code. Can you imagine an adult being harassed or assaulted at work and who goes to the human resources department to report being abused and the human resources person tells the worker to “quit whining”, “stick and stones”, get over it…? You [stakeholders] can just willfully disregard student behavior. “Willful disregard” is the dumping ground for everything.

In legal terms there are at least two definitions regarding the meaning of “willful disregard”. Willful disregard can refer to the knowledge that some type of impending danger exists and those who are in a position to prevent the danger from occurring fail to do so. Willful disregard may also refer to a conscience act that injures another person with “reckless indifference” to the consequences that an action incurs in regards to the safety of all involved (US Legal, 2013). Law enforcement policies that fail to investigate criminal peer abuse are willfully disregarding the safety of children according to the legal
definition of the term. In Neil’s case, the female student who lured Neil to the site where he was to be attacked was also willfully disregarding Neil’s safety as was the criminal peer abuser who committed a felony by physically assaulting Neil and stealing his money and bike. The bystanders present were also willfully disregarding Neil’s safety for their own entertainment and the person making the recording is legally as guilty as Neil’s attacker according to the legal definition of conspiracy, US Legal (2013) which is a voluntary agreement to participate in an unlawful act.

A peer abuser who targets, victimizes and stops without going any further has not necessarily committed a crime unless the action is a physical assault of some kind, or the peer abuser victimizes the target more than once. The second the peer abuser initiates a second attack, the Criminal Code (2013) says that willful, repetitive abuse has occurred, making the actions of the abuser potentially provable and criminal regardless of the nature of the abuse. The criminal peer abuser becomes a criminal perpetrator. In Neil’s case several felonies were committed starting with his unlawful detention and escalating to felony assault.

C.Att (2012): You have criminal issues associated with any peer abuse. So, if you have harmful or offensive touching, if you have a fight, hateful speech, if you have speech that is going to incite some sort of activity or concerted effort by other kids, than you have criminal issues that are associated with that behavior and relegated to the criminal code and aren’t just a juvenile issue. These are laws that apply to all of us equally as human beings.
Neil’s problems with pursuing his abusers included that there were no school administrators who even knew that criminal peer abuse was taking place. Nor did his mother know about the attack until she saw her son when he came home and then was able to see the video on YouTube after it had been posted. As CBS has reported (2011), the police were called but refused to get involved which compelled the DA’s office to refuse to prosecute. The only reason Neil could not get any help was because both he and his attacker were minor children at the time of the attack.

Civil Courts

The purpose of the civil court system in California is to substantiate legislative activity, provide citizens with a platform for the state’s initiative process, and importantly, provide equal and fair access to the laws of the state thereby providing justice to all citizens (Vechten, 2010). The Civil Courts hear complaints from people who believe their civil rights have been violated and who are seeking justice. However, with criminal peer abuse, courts may never have an opportunity to hear the cases of juveniles because of their ages. Children under the age of eighteen cannot be heard in a civil court without a legal guardian or court designated legal counsel present.

C.Att (2012): A minor child is not allowed to go into a civil forum to address their grievances from a peer. They have to be represented by a guardian or an adult; those are the only people who can come into a civil forum [on behalf of the child]. So, plaintiffs have to be eighteen years of age or
older. A parent would have to be designated as the guardian ad litem which is where the court appoints that parent to represent the minor. It’s difficult. There has to be a significant amount of public resources in preparing these types of literature. These families do not have the resources.

Minors are dependent on their parents or guardians to defend them from harm. However, there are many children who live in negligent or abusive homes, or whose parents may not speak the language or have the money to seek a civil solution to criminal peer abuse. Without adequate adult attention, minors have no way of legally accessing their civil rights.

California Department of Education/Ed. Code

The California Department of Education’s (CDE) stated mission is to, “… provide a world-class education for all students, from early childhood to adulthood. The Department of Education serves our state by innovating and collaborating with educators, schools, parents, and community partners. Together, as a team, we prepare students to live, work, and thrive in a highly connected world” (State of California, 2013).

The California Department of Education policy is to delegate the responsibility for dealing with behavioral issues to each individual district and school site (State of California, 2012). However, the California Ed. Code regulates the educational system and provides the guidance by which districts operate. The Ed. Code is a massive document consisting of sixty-nine specific sections; the final section listed is number 101050.
through 101060. The sections are assigned numbers which are referred to as “codes”.
Within each code are parts and sub parts each identified with a letter.

The language of the Ed Code is difficult to understand unless the person reading it
has some basic understanding of law, is an experienced educator, or is extraordinarily
persistent. The Ed Code is also convoluted in its presentation of information, explaining a
specific code by referring to another code to be found somewhere else within the Ed.
Code or in other documents such as the Criminal Code. For example, below is the
opening statement to §200-201 which addresses the rights of students.

Ed. Code §200: It is the policy of the State of California to afford all persons in
public schools, regardless of their disability, gender, gender identity,
gender expression, nationality, race or ethnicity, religion, sexual
orientation, or any other characteristic that is contained in the definition of
hate crimes set forth in §422.55 of the Criminal Code, equal rights and
opportunities in the educational institutions of the state. The purpose of
this chapter is to prohibit acts that are contrary to that policy and to
provide remedies therefor (Ed. Code §200-201)

Ed. Code §200 might seem pretty straight forward to some people. However, the
Institute of Education Sciences published the National Association of Adult Literacy
(NAAL), (2003) which tests the nation’s literacy level and finds that 13% of American
adults are proficient readers, 44% are intermediate, 29% are basic, and 14% are below
basic. §201 G of the Ed. Code defines the remedies to violations of students’ rights
referred to in §201’s final sub-part.
Ed. Code 201G: It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with §11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), §504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes (Ed. Code §201g).

An argument can be made that based on the language used and convoluted references to multiple other policies and laws, the Ed. Code is incomprehensible to most people. The fact that Ed. Code is not Criminal Code may also be misunderstood by the public in general.

RPC (2012): The Ed. Code is not criminal, it is civil. Civil discipline is enforced under the Ed. Code. I think that was the first thing that I had to learn. The criminal justice department probably said, “let’s put this under the Ed
Code”. At some point in time I think that the school districts probably said, “We really can’t do anything about this behavior because this is criminal in nature and all the authority of the school districts fall under the Ed Code. So, we can’t address this criminal activity because we don’t have the authority”.

The language in the Ed. Code that defines criminal offenses was taken directly from the Criminal Code. The difference is that the Ed. Code is civil code under the authority of educational administrators. As previously discussed, police may not be called for an assault that occurred on a school campus. The decision to involve law enforcement is in the hands of a school administrator.

**District Administration**

At the school district level, there are two governing bodies. The first is the elected school board which is the controlling body of each district. Elected local school board members represent the values and ideals of the parents and their children attending classes in schools throughout the district. The primary job of school boards is to support student learning. The school board also hires the district’s superintendent whose job is that of an executive administrator, overseeing the daily operations of the entire district.

Publically, districts will say that they have policies in place to protect students from violent behaviors of fellow students. Most schools have those policies written in the student handbook. However, each school varies as to what policies are in place and how those policies are enforced by school and district administrators. This variation in
enforcement occurs because of the complex and convoluted policies currently in place at all levels of educational governance.

If a student has a criminal peer abuse problem they feel is not being handled properly at the school site, there is a process by which students may make a formal complaint at the district and state levels.

RPC (2012): The California Department of Education has an administrative process for addressing a problem within any school district. The first thing Cal Dept. of Ed does, when they get a complaint from a parent is to send that complaint back down to the school district. The school district then sends it down to the school. In the administrative process, there are X number of days to appeal and you’ll see that under Uniform Complaint Procedure, there are X number of days for the school district to respond. They’ll [The Department of Education] will give the district a chance to respond, who in turn gives the school site a chance to respond. You may read under the Uniform Complaint Procedure that once the problem appears that this [whatever the problem is] is going to take four weeks to address. However, it really ends up taking six months to a year. When it takes that long to address a complaint it means there is a student somewhere who is not in school or who might be expelled from the site in the interim. When you’ve got this kind of situation, how can you get anything fixed.
The Uniform Complaint Procedures form (UCP) can be found at the State’s Department of Education web site. The intention of the UCP is to create an avenue by which parents address their perceived violation of their child’s civil rights by the child’s school of attendance or by the district in which the child attends school. The process to file a UCP may be difficult for many parents. Similar to the Ed. Code, the language used in the UCP is complex and difficult to fully understand. Also, according to the instructions, parents must go to the school district about which the complaint is being filed to get the procedures for filing the complaint and provide the district with any evidence related to the complaint.

**School Site Level Administration**

Site level administrators could be the school’s principal, its vice principals, the counselors, resource officers, or any teachers on site with administrative credentials. HSP (2013): We have our own SRO (School Resource Officer) he has an office that is sitting next to mine. He’s been assigned to our high school but he also serves our elementary.

Administrators, particularly school principals, have a great deal of power over students and their parents. Especially in larger districts, principals will generally work on administrative duties other than student discipline which is usually relegated to vice principals (VPs). In smaller schools, the resource officer may have administrative authority and will also have a law enforcement background making dealing with criminal student behavior more effective.
HSP (2013): Recently, we weren’t having a real gang issue up until this school year and we had a couple kids move in from outside the area. They started kind of showing their colors and bringing their groups together. We were trying to put a stop to that. Well, what wound up happening was our resource officer found out there had been a fight that took place between these two gang members on one of our elementary school campuses. One boy had no previous problems; the other boy had a previous fight on one of our campuses where he had yelled some gang epithets. We found out about the fight. It had been placed on Facebook. At that point we felt that we had enough to move for expulsion. Another, thing he [the resource officer] found was a number of pictures of the students in gang attire posing in their gang shot there on campus.

One of the participants was a law enforcement administrator at a school site and responsible for managing student criminal behavior campus-wide. In California and other states, counselors are also certificated underneath an administrative credential; however, their involvement is not to discipline but rather to work with students from the emotional side of an issue. In smaller schools a VP may also be the school counselor. There are many teachers who hold administrative credentials who have chosen to teach rather than take an administrative position. In the event of an administrative absence, a site emergency, or even just an extremely busy day, these teachers are invaluable.

The actions of any administrator concerning criminal peer abuse will likely determine a positive or negative outcome for students. For example, if two or more
students are brought in for fighting, the administrator’s actions will probably determine the immediate futures for all students involved. If weapons were involved, law enforcement must be called or administrators could run the risk of losing federal educational funding. If the criminal peer abuse was an assault and no weapons were used, school administrators decide whether or not the crime will be reported.

Several participants have experienced zero tolerance policies stating that most of the time, the administrator may have no choice but to enforce zero tolerance policies. Zero tolerance policies may be worded differently between districts, however generally, the cause of the fight and the person who actually started the fight are irrelevant. If two students are fighting, both students will be held equally accountable. Parents are called to pick the students up and both are generally suspended for three to five days.

MD (2012): The other thing that strikes me is that many of our laws also do not make a clear distinction in terms of the actions that are taken on the victims and perpetrators. Often they are both expelled or both put under certain sanctions – zero tolerance policies… So, I think again… one of the actions that I also think is important is to institute positive behavioral strategies because expulsion certainly has inappropriate impact on certain groups such as Students of Color who are expelled in much larger proportions than Caucasian students.

**Katyi Gaston – A Case of Zero Tolerance**

Katyi Gaston was recently featured on KCRA’s Channel 3’s expose on “Bullying Causes and Consequences” (March 2012). A freshman cheerleader from Rio Linda High
School in Sacramento, California, Katyi was approached by another female student who accused Katyi of being interested in a particular boy. A bystander was videotaping this exchange as the assailant walked up to Katyi and started an argument. The by-stander clearly had prior knowledge that Katyi had been targeted for victimization aiding and abetting/ conspiracy. In the recording, Katyi pivots on her left foot in a clear attempt to walk away from her assailant who can be clearly seen grabbing Katyi to keep her from leaving the scene and then pushing and punching Katyi assault who was then forced to defend herself.

Both students were suspended from school and Katyi was thrown off Rio Linda’s championship cheerleading squad ruining her chances and any possible future scholarships. The person making the video was never part of the KCRA discussion and was most likely never held accountable for their role in Katyi’s criminal assault.

C.Att (2012): Someone who agrees to record a criminal assault capitulates the rule for proving a conspiracy. That means, two people got together, had a meeting of the minds, in order to create or accomplish a criminal act and they took substantial steps in the furtherance of completing that act. The evidence is clear that the person recorded the incident knowing that a crime was about to occur. A lot of times criminal statutes will say that in a conspiracy, whatever crime was committed by the original perpetrator will be applied to the co-conspirator. So if you and I are together and we are planning to commit a murder, and I didn’t do the murder, but I knew about it and I aided you, I too am responsible for a murder. You’re going to go
down for murder and I am going to go down for murder. So in the same sense, this co-conspirator who is recording can be charged with assault, battery… whatever crimes can be applied to their conduct. They are equally responsible.

The director of Student Services from Rio Linda High School was recorded by KCRA (2012) stating that violence is never appropriate and students should find other ways of dealing with their issues. Under the district’s zero tolerance policy, both girls were suspended. Administrators completely ignored the video demonstrating the fact that Katyi was attacked and forced to defend herself in a situation that left her no time to figure out a non-violent method of protecting herself (News, 2012).

HSP (2013). Campus policy says if students fight – that’s it. They’re suspended. If we can prove that one of the kids did everything in his power to get out of the situation, we’ll try to discipline using something other than suspension. A lot of times now we have the video thanks to the kids. What I’ll tell parents is that we have school rules that say you don’t fight. However, I have two young sons right now, and I hate to do this, but the advice that I am going to give them [my sons] as they get older is, if they’re being attacked, they need to defend themselves. They will face whatever consequences their school has. That’s me to my sons. If they are being physically attacked, they need to defend themselves.

Katy tried out for the cheer leading squad again only to be declined. She believes the reason is because the high school no longer believes she is a good representative for
the school. She states, “It is hard to know that for me defending myself, there is a possibility that my whole future is ruined… I feel like I’m suffering all the consequences for defending myself” (Katyi Gaston, 2012).

C.Att (2012): It’s tragic… it’s tragic that the victim is being held responsible for actions the victim did not create. Because the victim was blocked from leaving the area – her movement was limited, that is actually the definitional elements of false imprisonment which is not only a crime but a civil wrong as well.

Katyi was not attacked because of her gender, skin color, or religion. She was attacked because she dated a football player. Therefore, AB 537, SB 777, AB 394, and AB 9 do not apply to her.

C.Att (2013): In regards to Seth’s law and AB 537, kids who do not fit the definition of a hate crime do not have a complaint that is pertinent. There’s no remedy for those kids. It is insane.

(Katyi’s attack can be seen at the following address. Her segment begins approximately 16 minutes, 35 seconds into the video. http://www.kcra.com/news/KCRA-3-Special-Criminal peer abuse-Watch-part-1/-/11797728/16922860/-/tmgxa7z/-/index.html)

In Katyi’s case the abuse was a criminal assault. If the abuse is not physical and instead is verbal or some form of cyber abuse the problems compound quickly for an administrator. Administrators may receive tremendous criticism for not responding appropriately to student’s complaints of criminal peer abuse. In some cases the criticism is justified, in others, it is not. Beginning with a student’s initial complaint, a principal has to ascertain who may have instigated the incident and may have to do so based solely
on the testimony of each student involved. Without proof of any kind, determining and proving criminal harassment can be extremely difficult. Both students could be merely warned with no notations made in either student’s behavioral records. This would be the worst case scenario because the victim would not even have a record of the meeting with a school administrator.

A behavioral notation could be made in both students’ records however, the context of the notation becomes very important. In order to document ongoing instances of abuse, such details matter. Most schools now have student behavioral databases that are networked through the district’s mainframe computer. Types of infractions are grouped together making it possible for administrators to click on a series of buttons to record a behavioral incident. Written details can be added by the administrator addressing the issue. If no details are added, the victim’s behavioral record might simply show a general disruption which begins a record of behavioral infractions against a potentially innocent victim which could significantly bolster and embolden the criminal peer abuser to continue. Additionally, behavioral data must be submitted to the CDE yearly. Depending on how information is entered into the database, the CDE may or may not be getting accurate data.

If an administrator writes out specific details and statements from the students, a non-verbal action based warning is delivered to the perpetrator that an adult is watching and paying attention. Without placing blame on anyone, an administrator could at the very least, have the perpetrator thinking twice before acting again to victimize this student and perhaps stop the abuse from escalating.
Classroom Teachers

Teachers are on the front line of education. If the student chooses to complain to the classroom teacher, the teacher will also have several choices which include doing nothing, dealing with the incident right then and there, referring a perpetrator to site administration, or referring both the perpetrator and the victim for further disciplinary action. There are at least two variables that help predict what a teacher will do. One is the training the teacher has received concerning peer abuse, another is the amount of time and resources a teacher has available to enforce school rules and protect students.

RPC (2012): So, the kids go to school and everyone expects that teacher to take up the slack. That’s great for the teacher who gets in the business and accepts that [raising other people’s children] is a component of the business. Let’s face it, in any job there are some people who are there for the money. They don’t really care. So they don’t put forth an extra effort to do a better job teaching these kids. But I also don’t think it is fair to place all that responsibility on teachers. …Look, the teachers are going to say, “I don’t have the time, the authority, or even the ability to try to stop bullies”. We all [administrators, teachers and police] should know more about criminal peer abuse.

When Michael died, the last person he went to for help was his fourth period teacher. He asked to have his seat changed and asked for her help getting his class changed. The teacher’s response, according to Michael’s mother, was to tell him to ignore the abuse. There is no way of knowing whether or not this teacher would have
responded differently with peer abuse prevention training or if she just did not want to be bothered. LFB has repeatedly stated that if Michael had been in a classroom two doors away, he might be alive today because the teacher in that room would not have allowed the criminal peer abuse to continue. LFB has also said that Michael wrote out the details of the abuse he was experiencing in a letter conveying the failure of the teacher, counselors and vice principal to protect him from criminal peer abuse. This letter was the last communication Michael had with anyone (Ford Berry, 2012).

Students

Victims of peer abuse are isolated within an organized system of abuse. They are designated a position of victimization within society and their role as victim has been defined by their abusers within the system (Freire, 1993).

LFB (2012): There is another teacher in Connecticut who has gone through this [daughter committed suicide] and she said, “We are trained to respond, to be aware of the awkward child, the autistic child, and all the children in our classes. We need to be as equally trained to be aware of the straight A student, the child with seemingly no issues…” If Michael had a history of issues, if he was difficult, if he had poor grades, everybody would have responded differently. They [counselors and administrators] blew him off because, as far as they knew, there were not red flags. They [counselors and administrators] didn’t stop long enough to listen, to hear him out. They were too busy doing their jobs to listen to one student.
Students who are being criminally peer abused are confused, frightened and socially disoriented. Olweus (1993, 2012) describes a victimized student as anxious and insecure, afraid of becoming the source of further attention and afraid of abuse continuing. Victims may even be worried the peer abuser will get into trouble.

There are well documented reasons why so many cases of peer abuse go unreported. Some victims feel they won’t be protected and the abuse will become worse; some are afraid of getting into trouble along with the peer abuser as many school districts punish the abuser and the victim; some students fear retaliation by the abuser. Many fear that they will not be believed or maybe the nature of the abuse is embarrassing (Centers for Disease Control and Prevention, 2012; Cohn & Canter, 2003; Graham 2012; Sampson, 2002; US Department of Health and Human Services, 2012). Criminal peer abusers violate their victims in a number of ways that might be labeled as something other than peer abuse. For example, intimidation, destroying the victim’s property, harassment, isolation or spreading rumors; these events are common on school campuses (Sampson, U.S. Department of Justice, 2002).

School administrators often do not know the difference between a case of peer abuse and a random campus fight. Boys may not want to appear weak or unpopular to their other peers so they might not tell an administrator the reasons for the fight. Some students are embarrassed by the verbiage used by abusers which can be intensely obscene which LFB thinks may have been one reason why Michael did not tell her or his father about his own abuser. Another reason Michael may not have said anything to his parents was a desire to protect his family and handle his problems himself.
LFB (2012): Do you know what it's like to watch your kids leave in the morning, to think that everything is fine? My son Robbie has to live with this. I think Michael was so concerned about protecting us and Michael so wanted to be grown up. I think at first Michael did think that he could handle it [the abuse]. It was bigger than he was capable of handling.

If the victim says nothing, the risk of the perpetrator deciding to continue the abuse increases because there are no consequences. Once the abuse begins, the victim could choose to tell someone about the abuse. However, Olweus (1993) has found in his research that the victim will most likely not tell anyone which may be the worst course of action because the criminal peer abuser will see the failure to act as the green light to continue and escalate the abuse. Finally, the victim could decide to fight back either verbally or physically depending on the severity of the initial attack.

Below is a Victims’ Dilemma Model (VDM) showing how quickly criminal peer abuse is able to escalate along with possible consequences to the victim. The VDM clearly demonstrates the lack of positive outcomes for victims unless the abuse can be stopped. The VDM is also representative of the complexity of criminal peer abuse causing a victim to quickly lose academic focus while dealing with being abused. There is no time frame given because escalation rates are different for every case of peer abuse.
Table 7
Victim’s Dilemma Model

<table>
<thead>
<tr>
<th>Say nothing</th>
<th>If the abuse occurs once, it may not be a crime and may stop.</th>
<th>Say something</th>
<th>The victim might get help</th>
<th>The victim might not get help which the far more likely outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>The abuse may not stop</td>
<td>The abuse becomes more frequent</td>
<td>The abuse might stop</td>
<td>The abuse might not stop</td>
<td>Bystanders join the abuser and become abusers themselves</td>
</tr>
<tr>
<td></td>
<td>The abuse may not stop</td>
<td>The abuse will be more focused and could escalate to violence</td>
<td>A bystander stands up for the victim</td>
<td>The victim may begin to cut classes and school in an effort to avoid multiple abusers.</td>
</tr>
<tr>
<td></td>
<td>The abuse may not stop</td>
<td>The abuse will be more focused and could escalate to violence</td>
<td>Research shows the behavior of bystanders is of paramount importance. A single bystander with the courage and ethics to stand up for the victim could stop the abuse in its tracks.</td>
<td>The victim may begin to cut classes and school in an effort to avoid multiple abusers.</td>
</tr>
</tbody>
</table>

As indicated above, the Victim’s Dilemma Model clearly shows how circumstances of criminal peer abuse recycle and repeat if not stopped and like the model
illustrates, quickly becomes overwhelming affecting the victim’s ability to function in a school environment.

Criminal Peer Abusers

The criminal peer abuser chooses a victim. Some victims wonder if they did something to provoke the abuser. They have no idea they were pre-selected specifically because the criminal peer abuser perceived them to be an easy target. The criminal peer abuser selects a target for whom they hold some manner of contempt.

PYC: As a bully, I'm walking down the hall and I'm automatically, without realizing it, judging and evaluating everybody I see. And this student whose body language says, “I won't really fight back or cause a stink” is the kid that I will attack.

Listening to an ex-abuser describe the method by which he targeted his victims is chilling. Another participant describes an incident in his high school where a young woman was targeted and attacked by a criminal peer abuser having a bad day and who invented a reason to attack another student.

HSP (2013): We had a situation three weeks ago. During class time, this girl tells this kid, “hey you might want to video tape what is about to happen. I’m pissed off today. I’m going to kick someone’s ass”. The victim leaves class, with this girl [the abuser] following her. A kid pulls out his phone and follows. The girl starts a fight with the victim. The victim says, “get off me! What the hell are you doing?” “You called me a bitch! That’s why
I’m kicking your ass!” The victim says, “get off me”. The girl [bully] backs up and finally walks away.

The participants all agree that the risk of being targeted and subsequently victimized by a peer abuser could be significantly minimized if the victim could change their behavior in some way that would make them less noticeable to a prowling criminal peer abuser.

PYC (2012): A student who is being bullied and who begins to get involved in extracurricular activity, they begin to get friends and they begin to walk differently in the halls. They have different facial expressions. Activities change completely the countenance of kids after getting involved in some kind of group; whether it's a youth group, a sports team, it doesn't even matter. The YMCA plays basketball on Saturday nights. On a team, a kid can find people their age who will value them. They're not the subconscious target anymore because that (aura of victim) no longer registers subconsciously in an abuser’s mind. You start to get kids involved in a positive environment where their peers are valuing them and you've got an adult leader that is pouring [self-esteem building] into them [potential victims] beyond the athletics to the emotional and personal - I really feel like things would begin to shift.

The participants all agreed that certain students are targeted by abusers more frequently than others. Victims may have been targeted by the perception of homosexuality, or because of what a student may wear to school. There may be a
physical, emotional or academic disability that draws the attention of abusers to some students. Whatever the reason, the participants all agreed that in addition to the possible self-esteem gained by being involved with activities, students also tend to make friends more readily. The participants felt that having friends might scare an abuser who realizes that a potential target’s friends could help the victim fight back or serve as witness to the abuse thus condemning the actions of the abuser.

**Cyber Abuse: Principals and Law Suits**

Principals have been given the legal authority to administer and supervise school property as well as a legal responsibility to protect students. Laws and educational policies have not kept up with technical advances which leave administrators in the position of trying to figure out how to handle cyber abuse. Additionally, principals are discovering that students who use the internet to abuse others, including adults pose a special problem.

HSP (2013): The law is not clear on the cyber bullying. I’ll be honest, we’re [the principal and the school’s resource officer] kind of winging it until we’re told no… then we’ll have to deal with cyber abuse differently. At this point, we’re interpreting Ed code. If cyber bullying is affecting a student’s right to an education, we have jurisdiction over it. The Supreme Court has not ruled on cyber abuse.

Cyber bullying is particularly difficult for educators to stop because students can attack their victims anytime, from a distance, while involving untold numbers of other students. There is also a common belief in society that anything written on line, even if
the language is cruel and abusive is protected by 1st Amendment Freedom of Speech rights.

*A Cyber Bullied Student*

In a case in Berkeley County West Virginia, an eighteen-year-old senior, Kara Kowalski, created a web site from her home that targeted a classmate with demeaning, vulgar, and abusive language. Kowalski invited over 100 of her MySpace friends to participate in the cyber abuse of another young lady. Kowalski named the site “S.A.S.H” which meant “Students against Sluts Herpes”. At least one student responded to her invitation from a school computer. A dozen or so other students also responded on line and joined Kowalski’s abuse of the victim. The victim’s parents became aware of the website that targeted their daughter and went to Musselman’s principal to file a complaint. Ultimately, Kowalski was suspended from school for five days.

Kowalski and her parents responded to the suspension by filing a law suit against the school administration for violating her civil rights as stated under the First and Fourteenth Amendments of the United States Constitution. Their argument was that since Kowalski generated the MySpace site from her home, school administration did not have the right to monitor her behavior or speech (Kowalski v. Berkley County Schools, 2005). The First Amendment to the US Constitution guarantees citizens the right to free speech; however, it does not guarantee people the right to harass or harm other citizens through their speech. The Fourteenth Amendment to the constitution protects citizens’ rights to due process of the law. By disciplining Kowalski at school, her argument was that her
parents’ due process rights were violated by not allowing them to discipline their own child (Kara Kowalski v. Berkeley County Schools, 2011).

Kowalski lost her case because her behavior could be proven to have caused a major disruption to normal school activities when she invited multiple school aged students to join her abusive site. Under the Tinker standard, administrators have the right to discipline behavior which can be reasonably predicted to have a significant disruptive effect on normal school activities. The Tinker Standard was originally defined in a 1969 case involving the freedom of speech of students in Tinker v. Des Moines (Tinker et al v. Des Moines Independent Community School District et al., 1969).

A Cyber Bullied Principal

In Snyder v. Blue Mountain School District, on March 18, 2007, two eighth-grade students at Blue Mountain Middle School used a home computer to create a phony profile of their principal, James McGonigle, on the social networking website MySpace. The girls were retaliating against the principal who suspended them for dress-code violations. The phony profile contained a picture of the principal which the girls had copied from the School District’s website, as well as crude, vulgar and personal attacks aimed at the principal and his family. The girls nicknamed McGonigle “M-Hoe” and included references to ‘riding the fraintrain’, referring to McGonigle's wife, Debra Frain, who worked as a guidance counselor at the Blue Mountain school (Snyder v. Blue Mountain School District, 2010).

Initially, the phony profile could be accessed by anyone who searched the MySpace website or knew the profile’s URL address, which ended with the phrase
“kidsrockmybed”. Ultimately, the girls made the profile private and limited access to roughly twenty students sharing MySpace friend status with one or the other of the girls. Students talked about the phony profile in school, and teachers reported disruptions in class. Two days after the profile was created, a student informed McGonigle of its existence and later gave him a printout of it. McGonigle determined the creation of the profile violated the school’s disciplinary code as a false accusation about a staff member of the school. Originally, the girls denied creating the website, but finally admitted that they had done it. McGonigle informed the girls’ parents that they would receive a ten-day out-of-school suspension. The District Superintendent agreed with the punishment and when Terry Snyder, one of the girls’ mothers, asked that the suspension be overruled, the superintendent refused. The Snyders sued the School District on behalf of their child stating that the girls had the right under the First Amendment, Freedom of Speech to create the Facebook page from their home. They also felt that their rights as parents had been usurped because their daughter’s activities were not done during the school day and had nothing to do with a school sanctioned event. Therefore, they also sued under the Fourteenth Amendment due process clause.

The Snyders originally lost their law suit but on appeal won. Under the same “Tinker” test as the Kowalski case, the appeals court found that a major disruption of the school could not be proven and the fact that the girls’ language was lewd did not mean that they didn’t have the right to say it (Snyder v. Blue Mountain School District, 2010). C.Att (2012); I think these are brilliant cases because you now see the difficulty with how the Ed. Code and the criminal code work together and how they
just completely miss one another and how they’re incompatible. Because in certain instances, when the activity is done solely at home, I don’t think the school district has a long enough arm to be able to go in and punish that person. I think administrators should only be allowed to discipline home based cyber abuse if the Ed. Code allows them to do it. For example, in the context of the principal [Snyder v Blue Mountain] who is defamed and was slandered probably and libeled, because it was a publication of something that was materially false and related to his profession, which is slander per se’, he had a civil remedy against those actors whether it was the kids, their parent, whatever. So for the school district to step into those shoes to punish those kids, it probably wasn’t appropriate. The principal could have dealt with the abuse on a criminal basis and a civil basis and that is all that would have been needed. If you have a policy in the Ed. Code or in the school district, for example if the student were to sign a contract or a pledge to say they won’t do these things outside the school, then you have the nexus between the student and the school district and then that long arm can get to them [the abusive student].

July 8, 2011, the state of California enacted AB 746 which defines cyber bullying as not limited to phones, text, or e-mail but to also include postings on social networking sites. However, the bill is silent concerning the location at which abusive cyber material might be created and, as previously pointed out, there is no actual enforcement in the bill.
The US Supreme Court has yet to hear a case on cyber bullying that might clear up confusion in the states.

**Conclusion**

Approximately forty years ago, Dan Olweus began to study bullying, challenging its legitimacy in modern society as simply part of “normal” childhood. Over the years, researchers have proven connections between bullying and low academic achievement, dropout rates, criminal behavior, alcoholism and drug abuse, spousal abuse and domestic violence, and suicide. The damaging effects of bullying are now well documented, as noted in chapter two, by researchers in countries around the world.

The term *bullying* is misleading because students who abuse other students by committing crimes such as assault, criminal harassment, theft, extortion and a host of other actions defined as crimes under the California State Criminal Code are not being held accountable for their behavior. The implication for a child who is a *bully* is that their behavior is juvenile, non-criminal, and should be dealt with as a Civil Code violation through the Ed. Code. There needs to be a change in the way that stakeholders view this problem starting with calling the illegal behaviors of students crimes rather than bullying which is misleading to all stakeholders,

All participants agreed that students are committing crimes against their peers noting that many criminal peer abusers never face consequences for their behavior. Participants all believed strongly that there are laws, rules and policies that were created by political systems to protect children in schools, but those laws may not be applied effectively to the students who are victimized or the students committing the crimes. The
result is that many students are compelled to attend schools that leave them vulnerable to victimization by their peers and are not protected despite the interactions of multiple overlapping societal and political systems. Therefore, students are not being provided with effective means of protecting themselves or preventing criminal peer abuse from occurring within overlapping systems in which teens are compelled to participate.

The numbers of students who are being abused daily by their peers is unacceptable. These violent encounters have reached levels of harm that constitutes a criminal act based on the definitions of crime that exist in California state civil and criminal codes and the federal charters that form the basis of government within this country. The United States has created a government and laws that were designed to protect the civil and natural rights of citizens, however, it has been silent in regards to any kind of formal decision concerning criminal peer abuse both as a problem as well as how to stop it and hold those responsible for criminal peer abusing accountable for their actions. The expectation of most people is that when their rights are violated, the person responsible will be stopped from continuing the abuse. Given the nature of the way in which federal, state and local laws and policies intersect and reciprocally react victims of criminal peer abuse are not being protected within the system.

The participants of this study believe that many people do not realize criminal peer abuse is a serious problem. This naiveté contributes to a growing numbers of school aged children suffering harm from peers who are abusing them on criminal levels because the varying system interactions does a poor job of stopping the abuse. Additionally, some peer abusers are using the system that was meant to protect targets
from becoming victims as a means to avoid taking responsibility for their actions and justifying their cruel and illegal behavior. Many people have expressed confusion over the role of parents’ proper supervision of their own children. Others have demanded to know why school administrators are allowing students to abuse their peers or why classroom teachers are not putting a stop to the problem. Some believe a problem doesn’t exist because; “we have laws to take care of that” not realizing the laws are failing to protect school aged victims. The problem of peer abuse is not a problem that will be solved by placing blame solely on parents or educators; it will not be solved by ignoring it, or by blaming state and federal governments. Criminal Peer abuse is a problem that must be solved systemically.
Chapter 5

SUMMARY AND CONCLUSIONS

This qualitative case study focuses on the phenomenon of criminal level peer abuse within a system’s theory framework. The importance of choosing case study as a research venue was to capitalize on the contextual realities of the participants as well as humanistically describing the real-life stories of children and adults who have been affected by violence.

Significance

Criminal peer abuse lies at the intersection of multiple political and sociocultural systems each impacting the problem concurrently and in system specific ways. Through a system’s theory framework, this problem is viewed through the interdependency and interaction of multiple systems, each system having specific impacts on the problem as a whole. Therefore, a system’s theory framework allows an objective analysis of an emotional human problem by studying the interactions and various perspectives of complicated human systems. The significance of the study is the discovery of each system’s ultimate contributions and the role each system plays in preventing criminal abuse, enforcing current law, and prescribing possible remedies for peer violence as well as the effectiveness, or lack thereof, within the rules, policies, laws and public perceptions and cultural norms concerning a problem that is damaging and killing children.
Interpretation of Findings: Research Question #1:

What is the Participants Experience with Peer Abuse and Peer Abuse Induced Suicide?

The data gathered for this first question served to introduce each participant to the study and to the conversation. The first participant was able to offer differing perspectives representative of at least three systems. MD spoke as a father dealing with the educational system and its impact both positive and negative in regards to his special needs son. As a policy analyst for a state senator, he had a “behind the scenes” point of view of the political system. As a medical doctor, he was able to speak to the problem as a societal health issue. His focus throughout the interview was on making cultural changes and getting people to understand that as a society, violence and cruelty simply can no longer be tolerated.

Professionally, LFB comes from the business world. She was living an upper middle class lifestyle when her family’s entire world was altered forever with the death of her youngest son. As a mother of a son killed by criminal peer abuse, LFB’s voice in this conversation communicated profound heartbreak, anger, and the burning drive of an activist mother’s goal for justice. Her voice is representative of thousands in the world, who have in common, the loss of a beloved child. Her son’s death is evidence that within society there exists a cultural expectation of adolescent violence that is excused as a rite of passage, or viewed as a normal part of growing up; an attitude that invalidates the lives of thousands of children and justifies their deaths as a sad, but unavoidable reality of this world.
As a middle school victim of criminal peer abuse, PYC talked about what it was like to be afraid of being hurt and having a peer stalk and threaten to cause pain and injury. He described the feeling he had of being powerless to stop a peer from beating him up or terrorizing him and of how he had to change his school to get away from the abuser. PYC was also able to talk about how as a high school student, he became a criminal peer abuser himself. He offered insight into what he was thinking when he walked the school hallways looking for victims, the power he felt despite his inner voice telling him that his behavior was cruel and had also become habitual. Finally PYC described the dawning awareness that he could have caused the death of his final victim who was battling juvenile depression. At this turning point in his life, PYC’s addiction to power, and his desire to hurt others, stopped.

As an adult, PYC is an advocate for teenagers and approaches the topic of criminal peer abuse from the perspective of a youth counselor who specializes in working with at-risk teenagers. He is unique because he works with students from over 40 different high schools in Sacramento County allowing work with diverse student populations and offering a broader view of the problem. He is also privileged to have an outsider’s view of the family situations of many of the students he serves.

C.Att came to the discussion as an experienced, busy, civil attorney. His knowledge of civil law and the workings of court systems was an invaluable addition to the research. His perspective is also that of a father to a young son and like any good parent, he believes that children have to “find their own way” in this world, however, civil law has a duty to protect their rights.
For over thirty-five years, RPC has served the community as a law enforcement officer. His specialty was domestic violence and violence in the public schools. Over the span of his career, he has worked with thousands of students and their parents. RPC remembers his early career when police were not expected to get involved with domestic violence or interfere with a man who was beating his wife or abusing his children. PRC’s perspective as a career law enforcement specialist has been critical in identifying some of the lingering biases in the system that continue to defend criminals and fail to hold them accountable in both homes and on school campuses. RPC understands the inner workings of both educational and law enforcement systems, the evolution of system policies over the past three decades, and the ability of systems to serve the needs of the community.

As a high school principal, HSP has ample experience managing his school site, working with students and their parents, and dealing with daily criminal peer abuse issues. His perspective as a principal brought new insights into the special problem of gang violence and its contribution to the overall problem of criminal peer abuse. HSP is an expert on the California Ed. Code, its strengths and weaknesses and his ability to effectively conduct daily business within the educational system. HSP is also a father and was able to talk about the differences in the way he must deal with student behavior on his campus and what he tells his own children they must do if they are ever attacked – a testament that systems are problematic

**Participant Responses to Research Questions**

In responding to the research questions, participants tended to stress some elements of the problem more than others. Participants said the most about deficiencies in
the political systems as related to legislation and the passing of laws that would serve to hold criminal peer abusers accountable and insure the safety of victims. Other major and common themes included the role and response to incidents of bullying by law enforcement, a prevalent and accepted culture of violence in our society, the lack of parenting, and the arbitrary decision making of school administration.

Training and prevention, accountability and reporting, and communication were themes that were generally sprinkled throughout all the findings.

Table 8

Participant Responses: Major Themes and Sub Themes

<table>
<thead>
<tr>
<th>Emerging Themes: Across and Within Systems</th>
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<tr>
<td><strong>Political System</strong></td>
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<tr>
<td>- Current Legislation</td>
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<tr>
<td>- Awareness and Understanding</td>
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<td>- Access</td>
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<td>- Enforcement</td>
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Training and Prevention
Accountability and Reporting
(Responsibility of all stakeholders)

Resources
Communication
Research Question #2:

What are the Conditions that Foster Peer Abuse at Home, at School, and in Public?

All of the participants felt that criminal abuse was a serious problem and that multiple systems working together were not doing enough or were not effective in preventing abuse or even in slowing it down which is a view shared by many of the parents in a study conducted by Brown, Aalsma, & Ott (2012).

Family System

In general, participants felt that parents were ultimately responsible for the actions of their children. Four participants felt that violence is learned in the home. One participant made a singular point remarking that violence is learned by many children who watch their father beat their mother. Four participants felt that children who learn to be violent at home, model their learned behavior at school. The participants firmly believed that before peer violence can be prevented in schools, the domestic violence to which children are exposed must end. This would be a commonly held belief of many researchers working to alleviate childhood exposure to domestic violence and neglect (Anda, Butchart, Felitti, & Brown, 2010).

Three participants felt that society in general tends to hold teachers accountable for learned violence; however, students are coming to teachers with problems caused by poor parenting. Five participants expressed parental inadequacy with parents modeling violence by either beating their children or their domestic partner demonstrating use of violence. Also, ignoring their children and not dealing with their children’s behavioral issues was cited as well. One of the participants made a point concerning the number of
parents coming out of California’s prison system and then thrown into full time parenting without the emotional stability, academic skills or social skills to deal with their children’s problems effectively.

Domestic violence is just one variable that may be contributing to school violence. Given that criminal peer abuse occurs over all ethnic and socioeconomic groups, all contributing variables must be recognized.

School System

All participants felt that violence in all schools is a problem that students are compelled to tolerate by virtue of the fact they have no control over who they sit near and the type of criminal activity to which any student may be involved. Participants felt that not enough information was given to parents concerning crime rates at schools. A suggestion was made that perhaps the Clery Act should be modified for high school use.

Jeanne Clery was raped and murdered by another student at Lehigh University in 1986. Her parents contend that had their daughter known about multiple criminal acts on campus the months prior to her rape and death, Jeanne would have been more careful. The Clery Act (1990) was created by Jeanne Clery’s parents and enacted as federal law in 1990 requiring colleges to report crime statistics on their campuses and inform students of any criminal acts taking place (Higher Education Law, 2010).

The use of the term “bully” is problematic. Four participants felt that bullying refers to elementary level behavior. The moment that a student behaves with willful intention to harm, knowing the behavior is wrong and will injure another person, the behavior becomes criminal in nature. By high school, most criminal peer abusers no
longer victimize their peers by accident or through ignorance. Criminal peer abusers willfully choose their victims and follow a self-created strategy to deliberately and maliciously cause another student as much distress and pain as possible. According to Criminal and Ed, Codes (2013), the willful intention to cause harm to another individual elevates an action from immature juvenile mischief to a criminal act. All of the participants agreed that criminal peer abusers are getting away with criminal behavior within school systems. Participants wholeheartedly agreed that there are no schools where criminal peer abuse is not taking place and that any school claiming that a criminal peer abuse problem does not exist is in denial.

An element of criminal peer abuse, so serious that it is its own category of crime, is gang activity. Two participants discussed how gang activity must be reported to law enforcement; however, gangs do not always limit their violence to other gangs. Frequently gang members will abuse non-gang members. That child might report being “bullied” by a student and if the request for help is ignored, the victim is often forced to join an opposing gang for protection. Students are directed not to join gangs, but they are not protected from gang violence by valid educational and law enforcement authority, so they wind up being forced to join gangs for protection. Five participants agreed that they would tell their own children to defend themselves if being attacked and deal with the consequences of zero tolerance policies later. This reveals the participant’s lack of faith in the current system and their belief that a lack of enforcement of the applicable laws exists.
Cultural System / Culturally Tolerated Violence

All participants felt strongly that society in general tolerates and exploits the use of violence, glamorizing it and depicting terrible violence in contexts that attempt to portray violence as humorous or permissible. Subsequently, violence has been normalized in homes across America. Many parents do not think twice about providing access to violent movies, games or music to their children. Children also have access to media violence through their peer associations.

All participants felt that children tend to idolize celebrities such as pop stars and athletes; the behavior of those people makes a strong statement to impressionable children. When children see their heroes fighting dogs, raping women, or fighting in the arena, the message is that those behaviors are not only acceptable, people will love you more for doing them.

For companies trying to make a profit, marketing their products to children can be extremely profitable. After the April 2, 1999 Columbine shootings, President Clinton, 1999, asked for a study to be done by the Federal Trade Commission (FTC) to determine if the motion picture, electronic games, and music industries created and marketed inappropriate products specifically to children. The results of the study were that violent films were being deliberately marketed to children. For instance, the FTC found that of the forty-four rated R movies available at that time, 80% used marketing designed specifically for children (Federal Trade Commission, 2007).

Many people in society believe there is a strong correlation between media violence and aggression in children and this was the general consensus of the
participants. California parents seeking to protect their children from media based violence instigated a legal action against the Entertainment Merchant’s Association. However, in 2011, in a Supreme Court of the United States (SCOTUS) decision, Brown, Governor of California v. Entertainment Merchant’s Association, SCOTUS found that video games (like all media) are protected under the First Amendment. As such, California had to pass SCOTUS’ strict scrutiny of proof of harm to children that would compel restrictions of First Amendment rights of video games. California was able to prove a connection between exposure to violence and harmful effects on children however; they failed to prove a strong connection between playing a violent video game and acting aggressively as a result of the game. SCOTUS’ other criticism was that California declined to include violent movies and music in their action. Therefore, California lost their action.

Children play games, watch movies, or listen to music which may or not be appropriate for their ages. Increasingly, children have access to cell phones that can record with the touch of a button and send copies of recordings to anyone. Participants felt that advances in technology have made many children feel they can be overnight celebrities themselves. Students with the propensity toward aggression will record themselves picking fights with others. Some bystanders choose to use their cell phones to record violent assaults, and some teens have sent sexual images of themselves to friends not fully understanding the possible repercussions of sending child pornography out into the cyber realm.
There was one positive aspect to the misuse of technology: one participant uses the information that students post on the internet depicting fights, gang activity, drug use, assaults or any other crime as evidence of student criminal activities which can be used to prove wrong doing, and which helps to hold students accountable for criminal behavior by technology savvy schools and local law enforcement.

**Research question #3:**

*Are the Civil Rights of Victims Being Protected by School and District Administrators, Law Enforcement, State and Federal Policy?*

In the political system, all participants felt that ample legislation has already been written. All agreed that laws had been created to stem juvenile violence. In fact, two participants felt that so many laws were written that no one was paying attention to them anymore. Despite the abundance of pertinent legislation, five participants felt that current laws may not appropriately address criminal peer abuse effectively and expressed concerns that the language used to write laws was unnecessarily and confusingly redundant.

For example, §1 of the California State Constitution states, “All people are by nature free and independent and have inalienable rights” (State of California). AB 537, (2000) prohibits the discrimination of *all people* stating that *all people* have access to equal opportunities and rights; however crimes against people with certain characteristics would be considered hate crimes. AB 777 (2007) clarifies the definition of *all people* included in a definition of hate crime as people who have been victimized based on disability, gender, nationality, race and ethnicity, religion, sexual orientation, or any other
characteristic contained in the definition of hate crimes contained in the criminal code. AB 394, (2008) insures compliance with AB 537 and AB 777. Finally, AB 9 requires existing laws be enforced. Participants were confounded by the reasoning behind drafting a bill stating that a previous bill should be enforced if the nature of any bill is to become law as soon as it has passed the legislature and been signed into law by the governor.

All participants felt that the continuous process of stating and restating was a waste of state resources and added to the confusion of stakeholders. For example, the term “all people” means ALL PEOPLE until the words to include are added to the definition. The moment a list of human characteristics is identified to define what is meant by all people, a list of human characteristics not listed are automatically excluded rendering the term all people inaccurate. All people actually refers to ONLY those people on the list, excluding students who are victimized by criminal peer abusers for reasons other than disability, gender, nationality, race and ethnicity, religion, sexual orientation. A hate crime is a criminal code violation according to AB 777. A student who has none of the hate crime characteristics also has none of the hate crime remedies including access to the legal system under that bill or access to possibly free resources such as those found through the American Civil Liberties Union (ACLU).

Participants felt that there was a detrimental problem with the flow of information between systems. The language of different pieces of legislation was not clear as to whether or not criminal peer abuse must be reported. However the LOA conducted their own research concerning the accuracy of criminal reports sent by schools to district offices to be sent forward to the CDE and found the reports to be seriously incomplete,
misreported, underreported or not reported at all making disaggregation of data moot and the reports practically useless. The prevalence of the criminal peer abuse problem is being guessed at by school systems and law enforcement. No one knows with any degree of accuracy how widespread or how deep criminal peer abuse has become in societies.

Two participants were frustrated by the limited accountability and standardized reporting contributing to the misconception of many people that a problem exists. While not stated by all participants overtly, there were undertones of concern from all that without an accurate depiction of the extent of the problem, efficient means of dealing with criminal peer abused will not be found.

**Legal System and Civil Courts**

Minor children are not allowed into civil courts to seek redress for a violation of their civil rights unless they are accompanied by a legal guardian or a duly assigned legal representative. Many minor children do not have parents who can afford to hire lawyers and seek a legal solution to their child’s victimization. One participant who is a civil attorney said the only people who are in court are the wealthy who can afford to pay the legal expenses. This participant also noted that more attorneys are deciding to take on criminal peer abuse cases without receiving any retainers up front from their clients.

**Criminal Code**

As previously discussed, the criminal system does not have enough accurate data from schools to determine the true extent of the criminal peer abuse problem. Not knowing a problem makes it difficult to create solutions for solving the problem. At this point the legal system has little more than a gut feeling or a guess as to the true extent of
peer inflicted violence. Additionally, three participants felt strongly that police ignored criminal peer abuse and one participant was able to discuss why police do not always get involved with criminal peer abuse, stating that there is still a cultural propensity within law enforcement to leave domestic abuse cases alone. With their perception of a strong connection between domestic violence and criminal peer abuse, police may not always feel they need to get involved with criminal peer abuse which is often considered part of the domestic violence domain. One participant felt confident that laws have been written to protect students from criminal peer abuse but most people were unaware of how to access the laws for themselves or their child.

**Educational System: California Department of Education / Ed. Code**

A review of the Ed. Code, specifically sections that define student rights, is difficult to read and the section that discusses redress is impossible to read. Participants felt that parents who try to access the Ed. Code in defense of their child’s civil rights frequently experience difficulty trying to read and understand the language, also, in identifying the hierarchy of individual people whose job it is to help. One participant was able to clarify the major difference between Ed. and Criminal Code. The language in both systems is identical, however, one is civil and the other is criminal. Parents may use both criminal and educational codes to protect their children. A criminal peer abuser may be tried for a felony assault in a criminal court and still be sued for damages due to the assault in a civil court.
School and District Administrators

There were questions about whether teachers and administrators were mandated to report crimes to law enforcement. The process for reporting criminal activity begins with the actions of a single student who is referred to an administrator for inappropriate behavior. Administrators have autonomy to enforce discipline using whatever method appears to be the most effective and to define the student’s infraction in multiple ways in the student’s record which is forwarded to district and state level data gatherers. There are numerous variables impacting an administrator’s choice either to report or not report crimes based on personality, professionalism, knowledge, resources, personal interests and a host of other factors.

Administrators use district zero tolerance policies to enforce no fighting rules. Every participant felt zero tolerance policies are unfair punishing victims and failing to find out the circumstances of an incident. Four participants felt that bystanders are rarely included in administrative discipline. Bystanders frequently get involved with the criminal peer abuse, frequently siding with the criminal peer abuse. Or worse, using technology to record the violence and later posting the incident on the internet which is a form of cyber abuse. One participant defined conspiracy in regards to criminal peer abuse and pointed out that conspirators are as guilty as the person instigating the assault.

Classroom Teachers

All the participants felt that teachers get blamed for having poor classroom management skills and letting students get away with aggressive behavior. The overwhelming consensus was that teachers must deal with behavior issues that are
created in home environments and brought to school disrupting classes and making a teacher’s job harder. One of the participants felt that teachers are expected to “take up the parental slack”. Some teachers are very good classroom parents and others really don’t care and may be in the teaching profession for the paycheck and not for the students.

**Students**

Students are at the center of a variety of systems. Students are touched in some way, either directly or indirectly by the policies and practices of each system. When the systems are healthy, organized and properly synchronized, students are affected positively. When one or more system is disorganized and unable to participate with the other systems effectively, students are negatively impacted.

Table 9

Students within the Network
All of the participants felt that students are exposed to other students who are violent and are not adequately protected from violence when it occurs. Victims of criminal peer abuse may go to teachers, administrators and counselors asking for help only to be ignored or turned away. Once abuse begins, a victim is quickly overwhelmed with choices, few of which end well for the victim (see model #7). Criminal peer abuse needs to be stopped early once it starts. The longer criminal peer abuse goes on, the more bystanders are involved, the more negativity affects everyone involved, and the more difficult it is to stop. LFB stated that peer abuse takes on a life of its own and the victim will get to a point of breaking if a way is not found to stop the abuse.

**Recommendations**

The following recommendations represent the combined opinions of the participants and the researcher, each of whom works in a system connected to the problem of criminal peer abuse and is an expert within that system. None of the participants were closely connected socially or professionally to each other prior to their participation in this research. One participant is a policy analyst whose office is found in the state capital building in downtown Sacramento. The second participant’s son was a victim of bullycide, a term coined in the book, Bullycide: Death at Playtime by Neil Marr and Tim Field. The term bullycide may refer to the suicide death of a victim, the homicide of the victim by a bully, or the homicide of the bully by the victim as an act of revenge (Marr & Field, 2001). The third participant is a self-professed ex-criminal peer abuse, current Pastor and youth counselor. The fourth participant is a retired law enforcement officer with an extensive background in domestic and school related
violence. The fifth participant is a successful local civil attorney and the sixth participant is a high school principal. The researcher is currently a high school teacher.

**Communication**

- **Write legislation that is clear.** Participants did not understand why the CDE would publish an Ed. Code that is incomprehensible to most people. Significant portions of the Ed. Code should be rewritten and published in a layman’s manual.
- **Parent handbooks are supposed to be readily available to parents on a school district’s web page with an obvious link next to the superintendent’s picture.** After visiting the district web sites of several local schools, there was a lack of an easily found parent handbook.
- **Improve communication between law enforcement and education.** In order to begin to hold criminal peer abusers appropriately accountable, there needs to be better lines of communication. Who has authority must be clarified so that students always have accessibility to either an educational administrator or a law enforcement officer. No child should have to endure criminal abuse without having access to justice.
- **Clarify the existing laws so they are understood by all and eliminate redundancy in the laws.** Create information that a layman can understand concerning criminal peer abuse and the process by which a parent can get help for their child and print it in multiple languages.
• Modify the Clery Act for high school. Make reporting a school’s criminal record mandatory on the school’s report card to the community.

**Training and Prevention**

• All systems become proactive rather than reactive. Action Research would be a way to use the current research to create preventative strategies, and measure their success.

• Require appropriate training for up and coming administrators and new teachers in credentialing programs.

• Expand training to include all staff including teachers, counselors, and classified staff.

• Focus prevention efforts in the elementary schools while children are still impressionable and open to training and guidance. Institute early empathy and ethics training. By the time students become teenagers there should be no doubt about what inappropriate behavior is or what the consequences of criminal behavior will be.

• Continue prevention efforts into high schools with a focus on personal rights, the rights of others, responsibility for one’s own actions, ethics, empathy, and laws and policies affecting minors. Help students create a culture of respect and celebration of human dignity in every school and at every level of education.
**Intervention**

- Require both victims and criminal peer abusers to receive counseling and support.

- Stop the practice of assigning students to mediate criminal peer abuse. The practice is ineffective and causes more harm than good. Mediating criminal peer abuse is inappropriate since the goal of mediation to bring to equal parties together to solve problems of which both parties contributed. With criminal peer abuse, parties are not equal, victims did nothing to initiate the abuse, and forcing victims to mediate with their abusers torments the victims even more and empowers the abuser to continue the abuse.

- Make restraining orders accessible to students. (…through school administration…?) An administrator could just tell a student not to go near another student but there are no consequences for failure to comply. If an administrator could say that ignoring the “stay away” order constitutes criminal disobedience and there would be criminal consequences, maybe then criminal peer abusers would pay attention.

- Do more to help parents of children being victimized by criminal peer abusers. Parents need help understanding policies from multiple systems.

**Accountability and Reporting**

- Willful disregard… Criminal peer abusers willfully disregard the rights of others; administrators may willfully disregard their responsibility to protect students, such as the willful disregard of Michael’s counselors and Vice
Principal to protect him from abuse. Parents may willfully disregard their responsibilities as parents as evidenced by the descriptions of domestic abuse and the severe consequences to children exposed to violence in their homes. Stakeholders need to be held accountable for their will disregard.

- Make criminal peer abuse reporting mandatory (similar to mandatory child abuse reporting requirements). There should be consequences for failure to comply.


- Enforce Criminal Code.

- Standardize the referral process so that administrators have fewer opportunities for their personal biases to interfere with impartial consequences for inappropriate student behavior.

- Hold older students accountable for the crimes they commit. All of the participants felt that by the age of thirteen, students should be old enough to understand the consequences of their criminal behavior.

- The participant would like to use existing laws to hold parents accountable for their poor parenting.

- Hold law enforcement accountable for failing to investigate criminal peer abuse. This will take a state mandate.

- Stop making victims accountable for the actions of criminal peer abusers through zero tolerance policies.
Resources

- Students need a way to access their civil rights without being dependent on a legal guardian who may or may not be competent in protecting the rights of their children.
- The US Supreme Court must consider the relevancy of First Amendment rights to the issue of cyber abuse and the use of Freedom of Speech to justify on-line abuse of peers.
- Schools and school districts, should take advantage of free awareness and prevention resources such as the free trainings offered by the ACLU.
- Provide adequate funding to law enforcement and educational institutions so that they may respond to reported cases of abuse.

Conclusion

In the United States there are societal rules by which people are governed. K-12 students are taught that their founding fathers built this country on the notion that citizens agree to give up some of their freedoms in order to protect the civil rights of everyone. In California, Civil Code §1708 states that every person has the right to live without being harassed, threatened, or having their rights to a peaceful existence infringed upon. These rights are recognized as vital to all citizens including children. In California’s schools, harassment, stalking, assault and other abuses are defined as crimes. California’s Ed. Code §32260, Interagency School Safety Demonstration Act of 1985, is specific in stating that one or more acts of any kind of abuse, violates the right of students to attend school in a safe and secure environment.
In the K-12 school system, violations of a student’s civil rights by another student are currently referred to as *bullying*. Victim’s rights go unprotected and children are expected to endure violations of their rights that no adult would tolerate and no human being should ever be expected to endure. When a K-12 victim is *bullied*, stakeholders do not generally connect the act of *bullying* with a criminal definition when in fact; the actions of *bullies* are criminal. Therefore, the actions of students who abuse their peers should be defined as what it is – *criminal peer abuse* followed by the action’s descriptor. For example, *criminal peer abuse; assault* or *criminal peer abuse; harassment*. This clarity of terminology leaves no doubt as to the seriousness or illegality of a “bully’s” behavior and clarifies the gravity of student behavior that is criminal peer abuse and that does maliciously and willfully violate the civil rights of other students. Children are suffering under relentless physical and social abuse. State laws abound, and children are criminally abused by other children. Ed. Code is contained in a book that is three inches thick, and children are still criminally abused by other children. Student behavior is monitored by parents, teachers, administrators, law enforcement officers and counselors and still, children criminally abuse other children. This research challenges a widespread belief that laws protect students and there is not a criminal abuse problem. Criminal peer abuse is a serious problem and a child’s access to their civil rights is dependent on the effectiveness of the applicable laws and policies and the actions of the adults.

When adults fail to appropriately act, children do not enjoy the full benefit of their civil rights. Understanding how the interactions of various systems impact children’s ability to live safely in society is vital to stopping criminal peer abuse from continuing to
occur. In the absence of clear policy in the California’s State Criminal and Ed. Codes, enforcement of the existing laws, failure on the part of school administrators to accurately report student crime, lack of training by stakeholders, parental neglect, and a society that is entertained by violence, criminal peer abuse has become rampant. As a result, children continue to be maltreated by their peers and some children are dying as a result of extreme criminal peer abuse.
APPENDICES
APPENDIX A

CALIFORNIA CIVIL CODE §1708
California Civil Code §1708

Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his or her rights.

a) A person commits a sexual battery who does any of the following:

(1) Acts with the intent to cause a harmful or offensive contact with an intimate part of another and a sexually offensive contact with that person directly or indirectly results.

(2) Acts with the intent to cause a harmful or offensive contact with another by use of his or her intimate part, and a sexually offensive contact with that person directly or indirectly results.

(3) Acts to cause an imminent apprehension of the conduct described in paragraph (1) or (2), and a sexually offensive contact with that person directly or indirectly results.

(b) A person who commits a sexual battery upon another is liable to that person for damages, including, but not limited to, general damages, special damages, and punitive damages.

(c) The court in an action pursuant to this section may award equitable relief, including, but not limited to, an injunction, costs, and any other relief the court deems proper.

(d) For the purposes of this section "intimate part" means the sexual organ, anus, groin, or buttocks of any person, or the breast of a female.

(e) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

(f) For purposes of this section "offensive contact" means contact that offends a reasonable sense of personal dignity.

a) A person is liable for the tort of domestic violence if the plaintiff proves both of the following elements:

(1) The infliction of injury upon the plaintiff resulting from abuse, as defined in subdivision (a) of Section 13700 of the Criminal Code.

(2) The abuse was committed by the defendant, a person having a relationship with the plaintiff as defined in subdivision (b) of Section 13700 of the Criminal Code.
(b) A person who commits an act of domestic violence upon another is liable to that person for damages, including, but not limited to, general damages, special damages, and punitive damages pursuant to Section 3294.

(c) The court, in an action pursuant to this section, may grant to a prevailing plaintiff equitable relief, an injunction, costs, and any other relief that the court deems proper, including reasonable attorney's fees.

(d) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

(e) The time for commencement of an action under this section is governed by Section 340.15 of the Code of Civil Procedure.

(a) A person is liable for the tort of stalking when the plaintiff proves all of the following elements of the tort:

(1) The defendant engaged in a pattern of conduct the intent of which was to follow, alarm, or harass the plaintiff. In order to establish this element, the plaintiff shall be required to support his or her allegations with independent corroborating evidence.

(2) As a result of that pattern of conduct, the plaintiff reasonably feared for his or her safety, or the safety of an immediate family member. For purposes of this paragraph, "immediate family" means a spouse, parent, child, any person related by consanguinity or affinity within the second degree, or any person who regularly resides, or, within the six months preceding any portion of the pattern of conduct, regularly resided, in the plaintiff's household.

(3) One of the following:

(A) The defendant, as a part of the pattern of conduct specified in paragraph (1), made a credible threat with the intent to place the plaintiff in reasonable fear for his or her safety, or the safety of an immediate family member and, on at least one occasion, the plaintiff clearly and definitively demanded that the defendant cease and abate his or her pattern of conduct and the defendant persisted in his or her pattern of conduct.

(B) The defendant violated a restraining order, including, but not limited to, any order issued pursuant to Section 527.6 of the Code of Civil Procedure, prohibiting any act described in subdivision (a).

(b) For the purposes of this section:
(1) "Pattern of conduct" means conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "pattern of conduct."

(2) "Credible threat" means a verbal or written threat, including that communicated by means of an electronic communication device, or a threat implied by a pattern of conduct or a combination of verbal, written, or electronically communicated statements and conduct, made with the intent and apparent ability to carry out the threat so as to cause the person who is the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family.

(3) "Electronic communication device" includes, but is not limited to, telephones, cellular telephones, computers, video recorders, fax machines, or pagers. "Electronic communication" has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.

(4) "Harass" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, torments, or terrorizes the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the person.

(c) A person who commits the tort of stalking upon another is liable to that person for damages, including, but not limited to, general damages, special damages, and punitive damages pursuant to Section 3294.

(d) In an action pursuant to this section, the court may grant equitable relief, including, but not limited to, an injunction.

(e) The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

(f) This section shall not be construed to impair any constitutionally protected activity, including, but not limited to, speech, protest, and assembly.

a) A person is liable for physical invasion of privacy when the defendant knowingly enters onto the land of another person without permission or otherwise committed a trespass in order to physically invade the privacy of the plaintiff with the intent to capture any type of visual image, sound recording, or other physical impression of the plaintiff engaging in a personal or familial activity and the physical invasion occurs in a manner that is offensive to a reasonable person.

(b) A person is liable for constructive invasion of privacy when the defendant attempts to capture, in a manner that is offensive to a reasonable person, any type of visual image,
sound recording, or other physical impression of the plaintiff engaging in a personal or familial activity under circumstances in which the plaintiff had a reasonable expectation of privacy, through the use of a visual or auditory enhancing device, regardless of whether there is a physical trespass, if this image, sound recording, or other physical impression could not have been achieved without a trespass unless the visual or auditory enhancing device was used.

(c) An assault committed with the intent to capture any type of visual image, sound recording, or other physical impression of the plaintiff is subject to subdivisions (d), (e), and (h).

(d) A person who commits any act described in subdivision (a), (b), or (c) is liable for up to three times the amount of any general and special damages that are proximately caused by the violation of this section. This person may also be liable for punitive damages, subject to proof according to Section 3294. If the plaintiff proves that the invasion of privacy was committed for a commercial purpose, the defendant shall also be subject to disgorgement to the plaintiff of any proceed or other consideration obtained as a result of the violation of this section.

(e) A person who directs, solicits, actually induces, or actually causes another person, regardless of whether there is an employer-employee relationship, to violate any provision of subdivision (a), (b), or (c) is liable for any general, special, and consequential damages resulting from each said violation. In addition, the person that directs, solicits, instigates, induces, or otherwise causes another person, regardless of whether there is an employer-employee relationship, to violate this section shall be liable for punitive damages to the extent that an employer would be subject to punitive damages pursuant to subdivision (b) of Section 3294.

(f) Sale, transmission, publication, broadcast, or use of any image or recording of the type, or under the circumstances, described in this section shall not itself constitute a violation of this section, nor shall this section be construed to limit all other rights or remedies of plaintiff in law or equity, including, but not limited to, the publication of private facts.

(g) This section shall not be construed to impair or limit any otherwise lawful activities of law enforcement personnel or employees of governmental agencies or other entities, either public or private who, in the course and scope of their employment, and supported by an articulable suspicion, attempt to capture any type of visual image, sound recording, or other physical impression of a person during an investigation, surveillance, or monitoring of any conduct to obtain evidence of suspected illegal activity, the suspected violation of any administrative rule or regulation, a suspected fraudulent insurance claim, or any other suspected fraudulent conduct or activity involving a violation of law or pattern of business practices adversely affecting the public health or safety.
(h) In any action pursuant to this section, the court may grant equitable relief, including, but not limited to, an injunction and restraining order against further violations of subdivision (a) or (b).

(i) The rights and remedies provided in this section are cumulative and in addition to any other rights and remedies provided by law.

(j) It is not a defense to a violation of this section that no image, recording, or physical impression was captured or sold.

(k) For the purposes of this section, "for a commercial purpose" means any act done with the expectation of a sale, financial gain, or other consideration. A visual image, sound recording, or other physical impression shall not be found to have been, or intended to have been captured for a commercial purpose unless it is intended to be, or was in fact, sold, published, or transmitted.

(l) For the purposes of this section, "personal and familial activity" includes, but is not limited to, intimate details of the plaintiff's personal life, interactions with the plaintiff's family or significant others, or other aspects of plaintiff's private affairs or concerns. Personal and familial activity does not include illegal or otherwise criminal activity as delineated in subdivision (f). However, "personal and familial activity" shall include the activities of victims of crime in circumstances where either subdivision (a) or (b), or both, would apply.

(m) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(n) One who willfully deceives another with intent to induce him to alter his position to his injury or risk, is liable for any damage which he thereby suffers.
APPENDIX B

CALIFORNIA CIVIL CODE §43
California Civil Code §43

Besides the personal rights mentioned or recognized in the Government Code, every person has, subject to the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm, from personal insult, from defamation, and from injury to his personal relations.
California Civil Code §52.1

(a) If a person or persons, whether or not acting under color of law, interferes by threats, intimidation, or coercion, or attempts to interfere by threats, intimidation, or coercion, with the exercise or enjoyment by any individual or individuals of rights secured by the Constitution or laws of the United States, or of the rights secured by the Constitution or laws of this state, the Attorney General, or any district attorney or city attorney may bring a civil action for injunctive and other appropriate equitable relief in the name of the people of the State of California, in order to protect the peaceable exercise or enjoyment of the right or rights secured. An action brought by the Attorney General, any district attorney, or any city attorney may also seek a civil criminality of twenty-five thousand dollars ($25,000). If this civil criminality is requested, it shall be assessed individually against each person who is determined to have violated this section and the criminality shall be awarded to each individual whose rights under this section are determined to have been violated.

(b) Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.
APPENDIX D

EDUCATION CODE §32260-32262
Education Code §32260-32262

This chapter shall be known and may be referred to as the Interagency School Safety Demonstration Act of 1985.

a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, "bullying" means one or more acts by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4.

(g) As used in this chapter, an "electronic act" means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means
of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.

There is hereby established the School/Law Enforcement Partnership, comprised of the Superintendent of Public Instruction and the Attorney General. The duties of the partnership shall consist of all of the following:

(1) The development of programs and policies necessary to implement the provisions of Article 5 (commencing with Section 32280).

(2) The administration of safe school programs and all training, procedures, and activities conducted pursuant to this chapter.

(3) Cooperation with other states and state and federal agencies on matters relating to school safety.

(b) As used in this chapter, the term "partnership" means the School/Law Enforcement Partnership established by this section.
APPENDIX E

EDUCATION CODE §48900-48927
Education Code §48900-48927

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Criminal Code or committed a sexual battery as defined in Section 243.4 of the Criminal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.
(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Criminal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) A superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.
APPENDIX F

EDUCATION CODE §233-233.8
Hate Prevention Act: Education Code §233-233.8

a) At the request of the Superintendent of Public Instruction, the State Board of Education shall do all of the following as long as the board's actions do not result in a state mandate or an increase in costs to a state or local program:

(1) Adopt policies directed toward creating a school environment in kindergarten and grades 1 to 12, inclusive, which is free from discriminatory attitudes and practices and acts of hate violence.

(2) Revise, as needed, and in accordance with the State Board of Education's adopted Schedule for Curriculum Framework Development and Adoption of Instructional Materials developed pursuant to Section 60200, the state curriculum frameworks and guidelines and the moral and civic education curricula to include human relations education, with the aim of fostering an appreciation of the diversity of California's population and discouraging the development of discriminatory attitudes and practices.

(3) Establish guidelines for use in teacher and administrator in-service training programs to promote an appreciation of diversity and to discourage the development of discriminatory attitudes and practices that prevent pupils from achieving their full potential.

(4) Establish guidelines for use in teacher and administrator in-service training programs designed to enable teachers and administrators to prevent and respond to acts of hate violence occurring on their school campuses.

(5) Establish guidelines designed to raise the awareness and sensitivity of teachers, administrators, and school employees to potentially prejudicial and discriminatory behavior and to encourage the participation of these groups in these programs.

(6) Develop guidelines relating to the development of nondiscriminatory instructional and counseling methods.

(7) Revise any appropriate guidelines previously adopted by the board to include procedures for preventing and responding to acts of hate violence.

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

(1) Prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society. The guidelines shall include methods of evaluating the programs and
curricula and suggested procedures to ensure coordination of the programs and curricula with appropriate local public and private agencies.

(2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs and curricula consistent with the guidelines developed in paragraph (1).

(3) To the extent possible, provide advice and direct services, consistent with the guidelines developed in paragraph (1), to school districts and county offices of education that implement the programs and curricula developed in paragraph (2).

(c) The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.

(d) Nothing in this section shall be construed to require the governing board of a school district to offer any ethnic studies or human relations courses in the district.

(e) As used in this section, "hate violence" means any act punishable under Section 422.6, 422.7, or 422.75 of the Criminal Code.

(a) Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, and the meaning of equality and human dignity, including the promotion of harmonious relations, kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

(b) Each teacher is also encouraged to create and foster an environment that encourages pupils to realize their full potential and that is free from discriminatory attitudes, practices, events, or activities, in order to prevent acts of hate violence, as defined in subdivision (e) of Section 233.
APPENDIX G

CALIFORNIA CRIMINAL CODE §240
California Criminal Code §240

An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another.

(a) An assault is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

(b) When an assault is committed against the person of a parking control officer engaged in the performance of his or her duties, and the person committing the offense knows or reasonably should know that the victim is a parking control officer, the assault is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

(c) When an assault is committed against the person of a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, code enforcement officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, code enforcement officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the assault is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.
APPENDIX H

ASSEMBLY BILL §746
ASSEMBLY BILL §746

An act to amend Section 32261 of the Ed. Code, relating to pupils.
[Approved by Governor July 7, 2011. Filed with Secretary of State July 8, 2011.]

legislative counsel’s digest

AB 746, Campos. Pupils: cyber bullying.

Existing law, the Interagency School Safety Demonstration Act of 1985, defines bullying as one or more acts of sexual harassment, hate violence, or intentional harassment, threats, or intimidation, directed against school district personnel or pupils, committed by a pupil or group of pupils. Under existing law, bullying, including bullying committed by means of an electronic act, as defined, is a ground on which suspension or expulsion may be based. This bill would specify that an electronic act for purposes of the act includes a post on a social network Internet Web site.

The people of the State of California do enact as follows:

SECTION 1. Section 32261 of the Ed. Code is amended to read: 32261.

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, 96 parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed
personally or by means of an electronic act, which includes the posting of messages on a social network Internet Web site, teen relationship violence, and discrimination and harassment, including, but not necessarily limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, “bullying” means one or more acts by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4.

(g) As used in this chapter, an “electronic act” means the transmission of a communication, including, but not necessarily limited to, a message, text, sound, or image, or a post on a social network Internet Web site, by means of an electronic device, including, but not necessarily limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.
APPENDIX I

ASSEMBLY BILL §537
ASSEMBLY BILL §537

BILL NUMBER: AB §537  CHAPTERED
BILL TEXT

CHAPTER  587
FILED WITH SECRETARY OF STATE   OCTOBER 10, 1999
APPROVED BY GOVERNOR   OCTOBER 2, 1999
PASSED THE ASSEMBLY   SEPTEMBER 10, 1999
PASSED THE SENATE   SEPTEMBER 9, 1999
AMENDED IN SENATE   SEPTEMBER 8, 1999
AMENDED IN SENATE   AUGUST 31, 1999
AMENDED IN SENATE   AUGUST 17, 1999
AMENDED IN ASSEMBLY   JUNE 2, 1999
AMENDED IN ASSEMBLY   APRIL 15, 1999

INTRODUCED BY  Assembly Members Kuehl, Aroner, Hertzberg, Migden, and Villaraigosa
(Coauthors: Senators Bowen, Figueroa, Hayden, Johnston, Murray, Solis, Speier, and Vasconcellos)

FEBRUARY 18, 1999

An act to amend Sections 200, 220, 66251, and 66270 of, to add Section 241 to, and to amend and renumber Sections 221 and 66271 of, the Education Code, relating to discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 537, Kuehl. Discrimination.
(1) Existing law provides that it is the policy of the State of California to afford all persons in public schools and postsecondary institutions, regardless of their sex, ethnic group identification, race, national origin, religion, or mental or physical disability, equal rights and opportunities in the educational institutions of the state.

Existing law makes it a crime for a person, whether or not acting under color of law, to willfully injure, intimidate, interfere with, oppress, or threaten any other person, by force or threat of force, in the free exercise or enjoyment of any right or privilege secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States because of the other person’s race,
color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because he or she perceives that the other person has one or more of those characteristics.

This bill would also provide that it is the policy of the state to afford all persons in public school and postsecondary institutions equal rights and opportunities in the educational institutions of the state, regardless of any basis referred to in the aforementioned paragraph.

(2) Existing law prohibits a person from being subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability in any program or activity conducted by any educational institution or postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

This bill would also prohibit a person from being subjected to discrimination on the basis of any basis referred to in paragraph (1) in any program or activity conducted by any educational institution or postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

(3) This bill would state that it does not require the inclusion of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or a postsecondary educational institution and would prohibit this bill from being deemed to be violated by the omission of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or a postsecondary educational institution.

To the extent that this bill would impose new duties on school districts and community college districts, it would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:
SECTION 1. This bill shall be known, and may be cited, as the California Student Safety and Violence Prevention Act of 2000.

SEC. 2. (a) The Legislature finds and declares all of the following:

(1) Under the California Constitution, all students of public schools have the inalienable right to attend campuses that are safe, secure, and peaceful. Violence is the number one cause of death for young people in California and has become a public health problem of epidemic proportion. One of the Legislature's highest priorities must be to prevent our children from the plague of violence.

(2) The fastest growing, violent crime in California is hate crime, and it is incumbent upon us to ensure that all students attending public school in California are protected from potentially violent discrimination. Educators see how violence affects youth every day; they know firsthand that youth cannot learn if they are concerned about their safety. This legislation is designed to protect the institution of learning as well as our students.

(3) Not only do we need to address the issue of school violence but also we must strive to reverse the increase in teen suicide. The number of teens who attempt suicide, as well as the number who actually kill themselves, has risen substantially in recent years. Teen suicides in the United States have doubled in number since 1960 and every year over a quarter of a million adolescents in the United States attempt suicide. Sadly, approximately 4,000 of these attempts every year are completed. Suicide is the third leading cause of death for youths 15 through 24 years of age. To combat this problem we must seriously examine these grim statistics and take immediate action to ensure all students are offered equal protection from discrimination under California law.

SEC. 3. Section 200 of the Education Code is amended to read: 200. It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Criminal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 4. Section 220 of the Education Code is amended to read: 220. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Criminal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.
SEC. 5. Section 221 of the Education Code is renumbered to read: 220.5. This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 6. Section 241 is added to the Education Code, to read: 241. Nothing in the California Student Safety and Violence Prevention Act of 2000 requires the inclusion of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution; the California Student Safety and Violence Prevention Act of 2000 shall not be deemed to be violated by the omission of any curriculum, textbook, presentation, or other material in any program or activity conducted by an educational institution or postsecondary educational institution.

SEC. 7. Section 66251 of the Education Code is amended to read: 66251. It is the policy of the State of California to afford all persons, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Criminal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 8. Section 66270 of the Education Code is amended to read: 66270. No person shall be subjected to discrimination on the basis of sex, ethnic group identification, race, national origin, religion, color, or mental or physical disability, or any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Criminal Code in any program or activity conducted by any postsecondary educational institution that receives, or benefits from, state financial assistance or enrolls students who receive state student financial aid.

SEC. 9. Section 66271 of the Education Code is renumbered to read: 66270.5. This chapter shall not apply to an educational institution that is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.
APPENDIX J

SENATE BILL §777
SENATE BILL §777
BILL NUMBER: SB §777  INTRODUCED
BILL TEXT

INTRODUCED BY Senator Kuehl
FEBRUARY 23, 2007

An act to amend Sections 200, 220, 235, 260, 51500, 51501, 60044,
66250, 66251, and 66270 of, to amend and renumber Sections 210.1 and
220.5, to add Sections 210.1, 210.7, 212.1, 212.3, 212.6, 219,
66260.5, 66260.7, 66261.5, 66261.7, 66262.7, and 66269 to, and to
repeal and add Sections 212 and 66262 of, the Education Code,
relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 777, as introduced, Kuehl. Discrimination.
Existing law states that it is the policy of the state to afford
equal rights and opportunities to all persons in the public or
private elementary and secondary schools and postsecondary
educational institutions of the state regardless of their sex, ethnic
group identification, race, national origin, religion, or mental or
physical disability and prohibits a person from being subjected to
discrimination on those bases.
Existing law prohibits a teacher from giving instruction, and a
school district from sponsoring any activity, that reflects adversely
upon persons because of their race, sex, color, creed, handicap,
national origin, or ancestry.
Existing law prohibits the State Board of Education and the
governing board of a school district from adopting for use in the
public schools any instructional materials that reflect adversely
upon persons because of their race, sex, color, creed, handicap,
national origin, or ancestry.
This bill would revise the list of prohibited bases of
discrimination and the kinds of prohibited instruction, activities,
and instructional materials and instead, would refer to disability,
gender, nationality, race or ethnicity, religion, sexual orientation,
or any other characteristic contained in the definition of hate
crimes that is contained in the Criminal Code. The bill would define
disability, gender, nationality, race or ethnicity, religion, and
sexual orientation for this purpose.
THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 200 of the Education Code is amended to read:

200. It is the policy of the State of California to afford all persons in public schools, regardless of their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of any actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Criminal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts which are contrary to that policy and to provide remedies therefor.

SEC. 2. Section 210.1 is added to the Education Code, to read:

210.1. "Disability" includes mental and physical disability.

SEC. 3. Section 210.1 of the Education Code is amended and renumbered to read:

210.3. "Educational institution" means a public or private preschool, elementary, or secondary school or institution; the governing board of a school district; or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.

SEC. 4. Section 210.7 is added to the Education Code, to read:

210.7. "Gender" means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

SEC. 5. Section 212 of the Education Code is repealed.

212. "Sex" means the biological condition or quality of being a male or female human being.

SEC. 6. Section 212 is added to the Education Code, to read:

212. "Nationality" includes citizenship, country of origin, and national origin.

SEC. 7. Section 212.1 is added to the Education Code, to read:

212.1. "Race or ethnicity" includes ancestry, color, and ethnic background.

SEC. 8. Section 212.3 is added to the Education Code, to read:

212.3. "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

SEC. 9. Section 212.6 is added to the Education Code, to read:

212.6. "Sexual orientation" means heterosexuality, homosexuality,
or bisexuality.

SEC. 10. Section 219 is added to the Education Code, to read:

219. Disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic contained in the definition of hate crimes set forth in Section 422.55 of the Criminal Code includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

SEC. 11. Section 220 of the Education Code is amended to read:

220. No person shall be subjected to discrimination on the basis of race, national origin, religion, color, mental or physical disability, or any actual or perceived disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Criminal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

SEC. 12. Section 220.5 of the Education Code is amended and renumbered to read:

220.5. This article shall not apply to an educational institution which is controlled by a religious organization if the application would not be consistent with the religious tenets of that organization.

SEC. 13. Section 235 of the Education Code is amended to read:

235. There shall be no racial, sex, or ethnic discrimination on the basis of the characteristics listed in Section 220 in any aspect of the operation of alternative schools, charter schools, or the Demonstration Scholarship Program.

SEC. 14. Section 260 of the Education Code is amended to read:

260. The governing board of a school district shall have the primary responsibility for ensuring that school district programs and activities are free from discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability, the characteristics listed in Section 220 and for monitoring compliance with any and all rules and regulations promulgated pursuant to Section 11138 of the Government Code.

SEC. 15. Section 51500 of the Education Code is amended to read:

51500. No teacher shall give instruction nor shall a school district sponsor any activity which
reflects adversely upon persons because of _their race, sex, color, creed, handicap, national origin, or ancestry_

SEC. 16. Section 51501 of the Education Code is amended to read:

51501. No textbook, or other instructional materials shall be adopted by the State Board or by any governing board for use in the public schools which contains any matter reflecting adversely upon persons because of _their race, sex, color, creed, handicap, national origin, or ancestry_

SEC. 17. Section 60044 of the Education Code is amended to read:

60044. No instructional materials shall be adopted by any governing board for use in the schools which, in its determination, contains:

(a) Any matter reflecting adversely upon persons because of _their race, color, creed, national origin, ancestry, sex, handicap, or occupation_

(b) Any sectarian or denominational doctrine or propaganda contrary to law.

SEC. 18. Section 66250 of the Education Code is amended to read:

66250. This chapter shall be known, and may be cited, as the Sex Equity in Higher Education Act.

SEC. 19. Section 66251 of the Education Code is amended to read:

66251. It is the policy of the State of California to afford all persons, regardless of _their sex, ethnic group identification, race, national origin, religion, mental or physical disability, or regardless of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other_ any basis that is contained in the prohibition of hate crimes set forth in subdivision (a) of Section 422.6 of the Criminal Code, equal rights and opportunities in the postsecondary institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

SEC. 20. Section 66260.5 is added to the Education Code, to read:

66260.5. "Disability" includes mental and physical disability.

SEC. 21. Section 66260.7 is added to the Education Code, to read:

66260.7. "Gender" means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

SEC. 22. Section 66261.5 is added to the Education Code, to read:

66261.5. "Nationality" includes citizenship, country of origin,
and national origin.
SEC. 23. Section 66261.7 is added to the Education Code, to read:
66261.7. "Race or ethnicity" includes ancestry, color, and ethnic
background.
SEC. 24. Section 66262 of the Education Code is repealed.

66262. "Sex" has the same meaning as defined in Section 212.
SEC. 25. Section 66262 is added to the Education Code, to read:
66262. "Religion" includes all aspects of religious belief,
observance, and practice and includes agnosticism and atheism.
SEC. 26. Section 66262.7 is added to the Education Code, to read:
66262.7. "Sexual orientation" means heterosexuality,
homosexuality, or bisexuality.
SEC. 27. Section 66269 is added to the Education Code, to read:
66269. Disability, gender, nationality, race or ethnicity,
religion, sexual orientation, or any other characteristic contained
in the definition of hate crimes set forth in Section 422.55 of the
Criminal Code includes a perception that the person has any of those
characteristics or that the person is associated with a person who
has, or is perceived to have, any of those characteristics.
SEC. 28. Section 66270 of the Education Code is amended to read:
66270. No person shall be subjected to discrimination on the
basis of sex, ethnic group identification, race, national
origin, religion, color, or mental or physical disability, or any
basis disability, gender, nationality, race or
ethnicity, religion, sexual orientation, or any other characteristic
that is contained in the prohibition of hate crimes set forth
in subdivision (a) of Section 422.6 of the Criminal Code in any program
or activity conducted by any postsecondary educational institution
that receives, or benefits from, state financial assistance or
enrolls students who receive state student financial aid.
APPENDIX K

ASSEMBLY BILL §394
SAFE PLACE TO LEARN ACT

This article shall be known and may be cited as the Safe Place to Learn Act.

(b) It is the policy of the State of California to ensure that all local educational agencies continue to work to reduce discrimination, harassment, and violence. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200) as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

(a) Adopted a policy that prohibits discrimination and harassment based on the characteristics set forth in Section 422.55 of the Criminal Code and Section 220.

(b) Adopted a process for receiving and investigating complaints of discrimination and harassment based on the characteristics set forth in Section 422.55 of the Criminal Code and Section 220.

(c) Publicized antidiscrimination and antiharassment policies, including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.

(d) Posted antidiscrimination and antiharassment policies in all schools and offices, including staff lounges and pupil government meeting rooms.

(e) Maintained documentation of complaints and their resolution for a minimum of one review cycle.

(f) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination or harassment remains confidential, as appropriate.

(g) Identified a responsible local educational agency officer for ensuring district or office compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200).
The department shall display information on curricula and other resources that specifically address bias-related discrimination and harassment based on the characteristics set forth in Section 422.55 of the Criminal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination and harassment is posted.
APPENDIX L

ASSEMBLY BILL §9
ASSEMBLY BILL §9
NUMBER: AB §9 CHAPTERED
BILL TEXT

CHAPTER 723
FILED WITH SECRETARY OF STATE OCTOBER 9, 2011
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PASSED THE ASSEMBLY SEPTEMBER 7, 2011
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AMENDED IN ASSEMBLY MAY 27, 2011
AMENDED IN ASSEMBLY APRIL 26, 2011
AMENDED IN ASSEMBLY APRIL 6, 2011
AMENDED IN ASSEMBLY MARCH 21, 2011

INTRODUCED BY Assembly Member Ammiano
(Principal coauthor: Assembly Member Yamada)
(Coauthors: Assembly Members Allen, Buchanan, Gatto, Gordon, Hall, Ma, John A. Pérez, V. Manuel Pérez, and Skinner)
(Coauthors: Senators Kehoe, Leno, and Yee)

DECEMBER 6, 2010

An act to amend Sections 234, 234.1, 234.2, and 234.3 of, and to add Section 234.5 to, the Education Code, relating to pupil rights.

LEGISLATIVE COUNSEL’S DIGEST

AB 9, Ammiano. Pupil rights: bullying.
Existing law provides that it is the policy of the state to afford all persons in public schools, regardless of their disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes, equal rights and opportunities in the educational institutions of the state, and that it is the purpose of existing law to prohibit acts that are contrary to that policy and to provide remedies therefor. Existing law requires the State Department of Education to develop a model handout, posted on appropriate department Internet Web sites, describing the rights and obligations set forth in these provisions and the policies addressing
bias-related discrimination and harassment in schools. Existing law also requires the department to monitor adherence to these provisions and, as part of its regular monitoring and review of local educational agencies, to assess whether local educational agencies have adopted a policy that prohibits discrimination and harassment and a process for receiving and investigating complaints of discrimination and harassment, as specified.

This bill would require the policy adopted by the local educational agencies to prohibit discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified. The bill also would require the process for receiving and investigating complaints to include complaints of discrimination, harassment, intimidation, and bullying based on actual or perceived characteristics, as specified, and to include a requirement that school personnel who witness such acts take immediate steps to intervene when safe to do so, a timeline to investigate and resolve complaints, and an appeal process, as specified. The bill would make other conforming changes.

Because this bill would require local educational agencies to perform additional duties, this bill would impose a state-mandated local program.

The bill would require the Superintendent of Public Instruction to post, and annually update, on his or her Internet Web site, and to provide to each school district, a list of statewide resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying, and their families.

The bill would make its provisions operative on July 1, 2012.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 234 of the Education Code is amended to read:
234. (a) This article shall be known, and may be cited, as the Safe Place to Learn Act.
(b) It is the policy of the State of California to ensure that all
local educational agencies continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

SEC. 2. Section 234.1 of the Education Code is amended to read:

234.1. The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200) as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

(a) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics set forth in Section 422.55 of the Criminal Code and Section 220, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The policy shall include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district.

(b) Adopted a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Criminal Code and Section 220, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The complaint process shall include, but not be limited to, all of the following:

(1) A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, he or she shall take immediate steps to intervene when safe to do so.

(2) A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the school district.

(3) An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint filed pursuant to this section.

(4) All forms developed pursuant to this process shall be
translated pursuant to Section 48985.

(c) Publicized anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying policies adopted pursuant to subdivision (a), including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.

(d) Posted the policy established pursuant to subdivision (a) in all schools and offices, including staff lounges and pupil government meeting rooms.

(e) Maintained documentation of complaints and their resolution for a minimum of one review cycle.

(f) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, or bullying remains confidential, as appropriate.

(g) Identified a responsible local educational agency officer for ensuring school district or county office of education compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200).

SEC. 3. Section 234.2 of the Education Code is amended to read:

234.2. The department shall display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Criminal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination, harassment, intimidation, and bullying is posted.

SEC. 4. Section 234.3 of the Education Code is amended to read:

234.3. The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. This model handout shall be posted on appropriate department Internet Web sites.

SEC. 5. Section 234.5 is added to the Education Code, to read:

234.5. The Superintendent shall post, and annually update, on his or her Internet Web site and provide to each school district a list of statewide resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying, and their families.
SEC. 6. This act shall not be construed to limit pupil rights to free speech as protected by the United States Constitution, the California Constitution, Sections 48907 and 48950 of the Education Code, and other applicable law.

SEC. 7. This act shall not be construed to require an exhaustion of any administrative complaint process before civil law remedies may be pursued.

SEC. 8. This act shall become operative on July 1, 2012.

SEC. 9. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
APPENDIX M

STATE OF CALIFORNIA UNIFORM COMPLAINT PROCEDURE
State of California Uniform Complaint Procedure

California Department of Education

Legal, Audits and Compliance Branch

December 2010

**Categorical Programs Complaints Brochure**

Describes the process in filing a complaint and contacts.

Authorized by California Code of Regulations, Title 5, sections 4600 – 4687

**What is a complaint?**

- A complaint is a written statement alleging discrimination, or a violation of a federal or state law within the following programs:
  - Adult Education
  - Career/Technical Education
  - Child Development
  - Consolidated Categorical Aid
    - No Child Left Behind (NCLB)
    - State Compensatory Education
    - State Program for Students of Limited English Proficiency
    - School Improvement
    - Tenth-Grade Counseling
    - Tobacco-Use Prevention Education
    - Peer Assistance and Review
    - School Safety and Violence Prevention Act
  - Migrant and Indian Education
  - Nutrition Services
  - Special Education
  - Discrimination
  - Harassment
  - Civil Rights Guarantees
- Williams Settlement complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils, and teacher vacancy or misassignment may be filed anonymously. Schools shall have a complaint form available for these types of complaints. Schools will not reject a complaint if the form is not used as long as the complaint is submitted in writing.

**What are the responsibilities of the complainant?**

The complainant:

- Receives and reviews the complaint procedures from the Local Educational Agency (LEA).
• Files a written complaint by following the steps described by the LEA complaint procedures.
• Provides the LEA investigator with documents and other evidence related to the allegations in the complaint.
• Files a written appeal within 15 days to the California Department of Education (CDE) for resolution if he or she finds the Decision of the LEA is incorrect.
• Specifies in the appeal, the reason for the appeal to CDE and why the LEA facts are incorrect and/or the law is misapplied. The appeal packet shall contain a copy of the original complaint to the LEA and a copy of the LEA Decision.
• Requests a reconsideration within 35 days to the State Superintendent of Public Instruction (SPI) if he or she finds the determination of the CDE’s finding of facts are incorrect or the law is misapplied.

What are the responsibilities of the LEA?

The LEA:

• Ensures compliance with applicable federal and state laws and regulations.
• Adopts complaint policies and procedures not inconsistent with the California Code of Regulations, Title 5, Sections 4600–4687.
• Designates a staff member to be responsible for receiving, investigating and resolving complaints.
• Annually notifies parents, employees, committees, students and other interested parties of the LEA complaint procedures, including the opportunity to appeal the LEA’s Decision. The notice must also advise recipients of any civil law legal remedies that may be available. The notice must be (a) in English; (b) in the primary language of the students when 15 percent or more of the students speak that language.
• Protects complainants from retaliation.
• Implements the following procedures:
  1. Any individual, public agency, or organization alleging a violation of federal or state statutes may file a written complaint regarding specific programs with the LEA.
  2. Discrimination complaints must be filed with the LEA by a person harmed or by a person on behalf of others who have been subjected to discrimination. These complaints must be filed no later than six months from the date of the occurrence, or from the time the complainant first learned of the facts of the discrimination. The LEA must protect the confidentiality of the parties and the facts related to the case.
• Resolves the complaint and completes a written report within 60 days of receipt of a complaint. The LEA must give the filing party and opportunity to present evidence relevant to the complaint. The LEA must also advise the complainant regarding appeal rights to CDE within 15 days of receipt of the LEA Decision.

What are the responsibilities of the CDE?

The California Code of Regulations, Title 5, Section 4610 authorizes CDE, through the UCP to process only complaints regarding student discrimination and/or categorical programs that are
mandated by certain federal and state statutes and regulations as appeals of the LEA Decision or, in certain specified situations, directly.

The CDE:

- Reviews, monitors and provides technical assistance to all LEAs regarding the adoption of complaint UCP policies.
- Refers each complaint to the LEA for resolution when appropriate.
- Considers a variety of alternatives to resolve allegations in the appeal when:
  1. The LEA fails to act within 60 days.
  2. A complainant appeals an LEA Decision if he or she believes as a matter of fact or law the Decision is incorrect.
  3. The Department determines that direct intervention is necessary.
- Requires corrective action by the LEA if non-compliance issues are identified during the investigation.
- Provides monitoring and technical assistance to LEAs to ensure resolution on non-compliant findings.
- Gives either party the right to request reconsideration of the CDE report to the SPI within 35 days of the receipt of the report.
- Gives either party the right to appeal the CDE report to the United States Secretary of Education for those programs governed by Part 76 of Title 34 of the Code of Federal Regulations.

CALIFORNIA DEPARTMENT OF EDUCATION
Contacts for Programs and Services Covered Under the Uniform Complaint Procedures

**Adult Education**
Adult Education Office
916-323-5074

**Career/Technical Education**
Regional Occupational Centers and Programs and Workforce Development Centers
916-322-5050

**Child Care and Development**, *including:* Alternative Payment, CalWORKS Stage 2 & 3, Exceptional Needs, Family Child Care Homes, General, Migrant, Protective Services, Resource and Referral, School-Age (Latchkey), Severely Handicapped, and State Preschool.

**Child Development Office**
916-322-6233

**Consolidated Categorical Aid**, *including:* Economic Impact Aid/State Compensatory Education (EIA/SCE) Economic Impact Aid/State Program for students of Limited English Proficiency (EIA/LEP) No Child Left Behind, Titles I-VI (NCLB) School Improvement Tenth-Grade Counseling Tobacco-Use
Prevention Education (TUPE) Peer Assistance and Review (PAR) School Safety and Violence Prevention Act
Categorical Programs Complaint Management office
916-319-0929

**Migrant Education**
Migrant, Indian, and International Education Office
916-319-0851

**Nutrition Services**
Nutrition Services Division
916-445-0850

**Special Education**
Procedural Safeguards and Referral Services Unit
800-926-0648

**Facilities** (for Williams Settlement cases)
School Facility Planning Division
916-322-2470

**Office of Equal Opportunity**, *including*: Discrimination, Harassment, and Civil Rights Guarantees
Office of Equal Opportunity
916-445-9174

For additional general information on Uniform Complaint Procedures, contact the Categorical Programs Complaints Management office, California Department of Education, Legal and Audits Branch, 1430 N Street, Ste, 5408, Sacramento, CA 95814; telephone 916-319-0929, or visit our Web site at: http://www.cde.ca.gov/re/cp/uc.
APPENDIX N

STATE OF CALIFORNIA ZERO TOLERANCE POLICY
State of California Zero Tolerance Policy

Information regarding zero tolerance policies for firearms in schools.

The Law

Although the term zero tolerance does not appear in law, the Federal Gun-Free Schools Act of 1994 requires school districts across the United States to pass what came to be labeled zero tolerance policies for firearms in order to remain eligible for funds. The Act requires one calendar year of expulsion for any student bringing a firearm to school and referral of the student to law enforcement.

The California Legislature amended Education Code (EC) Section 48915 (c) to fulfill the federal mandate. California law also adds a requirement for the mandatory suspension and the recommendation for expulsion of students who:

- Possess, sell, or otherwise furnish a firearm
- Brandish a knife at another person
- Sell a controlled substance
- Commit or attempt to commit a sexual assault or sexual battery
- Possess an explosive

EC Section 48906 includes the requirement to refer a student with a firearm to law enforcement, and California EC Section 48915 requires the school district governing board to refer students who commit the above acts to an alternative program of study that meets the standards listed within the section.

Rationale for Establishing Zero Tolerance Policies

Given public concern about escalating incidences of school violence, and in the wake of school shootings, school district governing boards adopted zero tolerance policies to send a “get tough” message to the community that violent behavior, incidents, and crime would not be tolerated. Policies were adopted that advised there would be no tolerating more common causes of expulsion, which are listed in EC Section 48915 (a). For these offenses, the law states that the principal or superintendent may find that “expulsion is inappropriate due to the particular circumstance.” These significant but discretionary infractions include:

- Causing serious physical injury to another person, except in self-defense
- Possession of any knife or other dangerous object of no reasonable use to the pupil
- Unlawful possession of any controlled substance, except for the possession of not more than one ounce of marijuana
- Robbery or extortion
- Assault or battery on any school employee

These infractions require that the decision to expel a student be based on one of the following findings:

1. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. Due to the nature of the act, the presence of the pupil causes continuing danger to the physical safety of the pupil or others
All other less serious offenses listed in EC Section 48900 also require determination of one of these findings for an expulsion.

The need to determine these findings is what distinguishes zero tolerance expulsions from almost zero tolerance offenses. It should be noted that zero tolerance policies can be established for any and all violations of a school district's discipline code, but when these policies are challenged, state law supersedes school district policy.

In summary, California law has developed three levels of offenses:

1. The most serious zero tolerance infractions for which the principal or superintendent must recommend expulsion and which require no additional findings,
2. The infractions listed for which the principal or superintendent must recommend expulsion unless it is inappropriate because of particular circumstances and which meets to the feasibility finding or danger to self or others finding
3. Offenses that do not require expulsion but for which one of the two findings must be determined before an expulsion can take place

The Administrator Recommendation of Expulsion Matrix outlines when expulsion of a student is deemed mandatory, expected, or discretionary.

What Does Zero Tolerance Tell Us?

Since its inception, zero tolerance has received mixed reactions. Most of the controversy has been created by the methods being used to implement this policy rather than the goals that school districts hoped to achieve by adopting zero tolerance policies.

What appeared to be a catch-all solution has educators going in a lot of different directions. Relatively trivial incidents in a school setting (minor fights, possession of organic cough drops) that receive media attention have given the overall impression that local practice extends zero tolerance beyond its original intent, and school officials are being warned that zero tolerance policies will not stop tragic school shootings like those that occurred in Columbine, Colorado and elsewhere. Additionally, a policy that does not allow school administrators’ discretion or consideration may be ruled by the courts as arbitrary and capricious and found to be in violation of a student's due process rights.

A zero tolerance study conducted by the Civil Rights Project at Harvard University states that, in addition to the risk of students being unfairly punished, a disproportionate number of minority students are being affected by zero tolerance policies. For example, the report states that data collected from South Carolina shows black students accounted for 61 percent of disciplinary code violations, even though they make up only 42 percent of public school enrollment.

Some Suggestions to Consider

In California, governing boards have found that it is important for each school district to align zero tolerance sanctions with state and federal law. Further, the most difficult part of an expulsion hearing is not determining whether the act was committed but whether findings can be made concerning other means of correction or the potential danger to the student or others.

The Civil Rights Project report offers the following recommendations for administering zero tolerance discipline policies:
Monitor disciplinary referrals and keep careful records to ensure that teachers do not overreact or unfairly single out students. Teachers who engage in such practices should be required to take professional development courses in classroom management, child development, and multicultural human relations.

- Require training in classroom management and behavioral issues, including familiarity with legal requirements and their fairness.

- Establish a minimum number of staff development days devoted to classroom management, guidance techniques, and conflict resolution; the classroom management plan should relate to the seriousness of school discipline issues and should be reviewed periodically.

- Develop in-school suspension programs to keep students on track with schoolwork and provide counseling, including sessions about behavior modification and conflict resolution. Recent reductions in counseling and social work budgets in many districts should be reversed.

Additional Resources

For more information about analyses and findings on the effects of zero tolerance policies, visit the following Web sites:

- The Advancement Project and The Civil Rights Project
  Opportunities Suspended: The Devastating Consequences of Zero Tolerance and School Discipline Policies, a report by the Advancement Project and the Civil Rights Project, Harvard University, 2000.

- Zero Tolerance, Zero Evidence Policy Research Report #SRS2
  Indiana Education Policy Center, August 2000.

- The Dark Side of Zero Tolerance: Can Punishment Lead to Safe Schools?
  (Search: Publication Archives)

Alternatives to Suspension

More information about alternatives to suspension is available in the publication and the EC sections noted below:


EC Section 48900.1. Attendance of suspended pupil's parent/guardian for a portion of the school day

1. Authorizes teachers to provide that the parent/guardian attend a portion of the school day in his or her child's classroom [i.e. applies to Section 48900 (k) only].

EC Section 48900.6. Community service on school grounds during non-school hours

The principal/designee may require a pupil to perform community service on school grounds during non-school hours. Community service may include work performed on school grounds in the areas of outdoor beautification, campus betterment, and teacher or peer assistance programs. This section does not apply if the article requires suspension or expulsion.
EC Section 48911.1. Supervised suspension classroom

a. Alternative for sections 48900 and 48900.2 violations if the pupil poses no imminent danger or threat to the campus, pupils, staff, or if an action to expel the pupil has not been initiated.

b. Pupils assigned to the supervised suspension classroom shall be separated from other pupils at the school site in a separate classroom, building, or may be assigned to a separate site, specifically for pupils under suspension.

c. Apportionments may continue to be claimed if:
   1. the classroom is staffed as otherwise provided by law;
   2. each pupil has access to appropriate counseling services;
   3. the intent of the class is to promote completion of schoolwork and tests missed during the suspension
   4. each pupil is responsible for contacting teacher(s) to obtain assignments. The teacher(s) shall provide all assignments and tests that the pupil will miss while suspended.

d. The pupil's parent/guardian shall be notified, in person or by telephone, that the pupil was assigned to the supervised suspension classroom. If the pupil is assigned to the class for longer than one class period, the parent shall be notified in writing.

e. This alternative does not place any limitation on the district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

f. Apportionments claimed by the district for pupils assigned to the supervised suspension classroom shall be used specifically to mitigate the costs of implementing this section.

EC Section 48911.2. Alternatives to off-campus suspension

This section emphasizes a progressive discipline approach that may include:

Conferences between school staff, parents, and pupils;
Referral to school counselor, psychologist, child welfare attendance personnel, or other school support service staff;
Detention
Study teams, resource panel teams, or other assessment-related teams.

EC Section 48903. Opportunity school or class

"A pupil may enroll or be transferred to an opportunity school or class for purposes of adjustment. When such a transfer occurs, the total number of days the pupil may be suspended shall not exceed 30 days in any school year."

EC sections 48660-48666. Community Day School Programs

EC Section 48915.01. Expulsion Rehabilitation Plan Referral

The governing board may establish a community day school for expelled pupils and does not have to meet the requirement of a separate site for:

Pupils in Kindergarten through grade six if the governing board certifies that no other satisfactory alternative facility is available [EC Section 48661 (a)]
Pupils in grades seven through twelve if the county superintendent of schools certifies that no alternative program of study is available [EC Section 48915 (f)]
The same certification option is available for pupils in grades seven through twelve for school districts with 2,500 pupils or less. [EC Section 48661 (a)]

3. Ibid.
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