

## Restorative Practices as a Key Component in a Three-Part Strategy to Reduce Bullying in Schools

“Every day thousands of teens wake up afraid to go to school. Bullying is a problem that affects millions of students of all races and classes. Bullying has everyone worried, not just the kids on its receiving end. Yet because parents, teachers, and other adults don't always see it, they may not understand how extreme bullying can get” (*TeensHealth, June 2007*).

An estimated 160,000 children miss school everyday due to fear of attack or intimidation by other students (NEA, 2005). School-based bullying has long been recognized worldwide as a serious problem. Bullying has been identified as a precursor to numerous maladaptive behaviors, especially youth violence (Hawker, & Boulton, 2000; Holmes & Brandenburg-Ayres, 1998). As young people deal with bullying over time, some of the anger they feel can manifest itself in violence, either inward through depression and suicide or outward through murder and mayhem. Boys subjected to regular bullying have been shown to be over five times more likely to be depressed than those not being bullied and frequently bullied girls were eight times more likely to commit suicide (Kaltiala-Heino, Rimpela, Marttunen, Rimpela, & Rantanen, 1999). A 1994 study by Olweus demonstrated higher levels of depression and poorer self-esteem at the age of 23 in persons who had been bullied as youth. This finding occurred even though as adults they were not harassed or socially isolated any more than other adults who had not experienced bullying as children (Olweus, 1994). This

work was reconfirmed by the Boston Children's Hospital in a study titled Healthy Passages (February 2014) as reported in Reuters News on February 17, 2014.

In addition, bullying has been proven to be one of the three fast tracks to adult crime (Loeber, 1990). A bullying environment has been linked to virtually every one of the horrific school shootings in the United States. The following itemization presents some additional facts about the relationship between bullying and subsequent crime:

Students identified as bullies by the age of eight are six times more likely to become involved in criminal behavior (Olweus, 1993; National School Safety Center, 1999).

- In 1999, 12 students and one teacher were killed at Columbine High School in Littleton, CO. The year before the Columbine tragedy, five persons were killed at Westside Middle School in Jonesboro, Arkansas. Post-event analysis produced evidence that the shooters, four boys ranging between 11-18 years old, were victims of bullying in their schools.
- On December 1, 1997, at Heath High School in West Paducah, KY, fourteen-year-old Michael Carneal opened fire on a group of praying students killing three girls and wounding five others. Michael Carneal was frequently bullied. He would bring items to school and sell them in an attempt to make friends. Carneal's name was published in a middle school paper gossip column that he had feelings for another male student. This

led to name-calling, with students using names that referenced his supposed homosexuality (Webber, 2003).

- According to a brief from the International Association of Chiefs of Police, almost three-quarters of student shooters in these and other attacks apparently felt bullied or threatened at school (Vossekuil, Fein, Reddy, Borum, & Modzeleski, 2002).

Moreover, the problem is metastasizing. A new form of bullying, cyber-bullying, exists through text messaging, social networking, picture manipulation, instant messaging, and myriad other forms of technology that are being introduced as rapidly as technology is developed (Juvonen & Gross, 2008). Often, neither parents nor school staffs have any inkling that this type of technology may be used by adolescents to bully until the 'new bullying technique' has been well entrenched in the student community.

Increasingly, bullying prevention initiatives have gained momentum in many United States schools. Interventions have largely focused on individual-level strategies, some of which have been found to reduce aggression and other forms of school violence (CDC, 2008). Structural interventions, such as adapting staffing patterns in schools and increasing monitoring functions, have also been implemented to a lesser degree.

The preceding discussion underscores the need for: (1) effective programs for intervening with bullies at the individual and relationship level; (2) structural strategies that interrupt bullying incidents; and (3) social norm change that

eradicates the appeal of bullying. (4) Reporting systems are needed that can track bullying perceptions and incidence, and thereby support a climate change at each of the aforementioned levels. (5) Restorative justice and restorative practice strategies and programs to deal with the harm done to all the participants, offenders, targets, and bystanders. The bystanders can include those that were present and those that learn of the bullying later. They can readily include students, parents, family, staff, faculty, and administrators. They are not a homogeneous group and will have strong and often opposing opinions as to the cause, nature and severity of the bullying. If a program is to become effective in changing bullying behavior all three groups must be seriously addressed and become part of the resolution.

Experience has shown that schools often are reluctant to develop comprehensive anti-bullying strategies until either there is a school tragedy or they are required to adopt plans required by state statutes.

To date over 49 states have enacted anti-bullying legislation for K-12 schools. (see attached chart) Montana is the only state without a law, but Montana has enacted a state policy to address bullying. *“Indeed, three categories of state legislation can be identified in this context: general prohibitions against bullying and harassment, general prohibitions against discrimination on the basis of personal characteristics, and specific prohibitions targeting the mistreatment of particularly vulnerable and at risk populations.*

*\*\*\*Given the persistence of the bullying problem in spite of all these laws and*

*policies, however, several interrelated questions must be asked. Are we in need of better laws and polices? Should the primary focus be on the implementation stage, where a well-intentioned system of rules and consequences often appears to break down? Or are laws and policies even the answer in this specific area? Some argue that “anti-bullying” legislation is unnecessary and that generic discipline policies, fairly and diligently enforced, should be sufficient. Others contend, among other things, that young people need to learn how to “deal with it”. Still others suggest that conceptually the area is so complex that we may have reached the inherent limits of our legal system in this regard.”* Biegel, Stuart, *The Inherent Limits of Our Legal System*, in S. Biegel, *Beyond Our Control? Confronting the Limits of Our Legal System in the Age of Cyberspace*, MIT Press (2001).

Most if not all of the state anti-bullying laws basically cobbled together existing juvenile statutes into their bullying law. This has had the effect of making incidents that were already reportable under existing statutes reportable under their new statutes. Many critics and anti-bullying experts, including the Federal government see the state statutes as little more than window dressing to allow legislators to claim that they have addressed the problem. The incidents that are reportable are at a misdemeanor or felony levels and unfortunately, the statutes do little if anything to address the majority of ongoing issues of bullying below the criminal level. Clearly, states need to amend and adopt their statutes and policies to assist schools in addressing and

correcting bullying at much earlier stages. *“Bullying fosters a climate of fear and disrespect that can seriously impair the physical and psychological health of its victims and create conditions that negatively affect learning, thereby undermining the ability of students to achieve their full potential.”* Russlynn Ali, “Dear Colleague Letter” Office for Civil Rights: Office of the Assistant Secretary, October 26, 2010. The Assistant Secretary continued that *“some student misconduct that falls under a school’s anti-bullying policy also may trigger responsibilities under one or more of the federal antidiscrimination laws enforced by the Department’s Office for Civil Rights (ORC).....by limiting its response to a specific application of its anti-bullying disciplinary policy’ s schools may fail to properly consider whether the student misconduct also results in discriminatory harassment”*. The letter explains in detail the way in which schools can be in compliance with the law as well as the consequences and prospective effects of student bullying and harassment including:

1. Lowered academic achievement and aspirations
2. Increased anxiety
3. Loss of self-esteem and confidence
4. Depression and post –traumatic stress
5. General deterioration in physical health
6. Self-harm and suicidal thinking
7. Feelings of alienation in the school environment, such as fear of other children
8. Absenteeism from school

First Amendment Considerations: *“Any attempt to address bullying must necessarily consider the dictates of freedom of expression principles...it is*

*evident from K-12 case law that the First Amendment does not--absent additional fact--automatically preclude legislation seeking to prevent peer-to-peer violence by promoting respectful interaction between and among all members of K-12 school communities.” Biegel, Stuart, (2009) Education and the Law. Despite its limitations, education officials have considerable latitude under *Tinker v. Des Moines Independent School District*, 393 U.S. 503, 89 S. Ct. 733 (1969) if substantial disruption will occur or there is interference with the rights of others. The Fifth Circuit determined that in the aftermath of the tragic events at Columbine in 1999 and in light of the U.S. Supreme Court’s decision in *Morse v. Frederick*, 551 u.S.393, 127 S. CT. 2618 (2007) “the heightened vulnerability of students arising from the lack of parental protection and the close proximity of students with one another make schools places of ‘special danger’ to the physical safety of the student. And it is this particular threat that functions as the basis for restricting the First Amendment in schools: school officials must have greater authority to intervene before speech leads to violence.” *Ponce v. Socorro Independent School District* 508 F.3d at 770.*

As previously mentioned, since experience has shown that schools often are reluctant to develop comprehensive anti-bullying strategies until either there is a school tragedy or they are required to adopt plans required by state statutes. It is important that states statutes address and fund plans to address bullying in an effective and comprehensive manner. They should encourage, and mandate that schools adopt a three-part strategy.

1. Knowledge of the short and long term effects of bullying.
2. Safe School-Based Reporting Systems
3. Restorative Practices, including Restorative Justice and Behavioral Transition

*First*, schools should make sure that all participants, i.e. students, faculty, staff parents and others directly working with students understand the seriousness of bullying, cyberbullying and harassment. They need to know what happens, and what the consequences are, if the behavior is ignored and not corrected as shown in the list provided above by “Dear Colleague Letter’ Office for Civil Rights: Office of the Assistant Secretary, October 26, 2010. They also need to know how dangerous it is to do the wrong things, i.e. zero-tolerance, immediate punishment or other punitive actions.

*“Zero tolerance policies have fundamentally changed the role of expulsion in the American Public school system. Justification for denying educational access after expulsion would be more persuasive under a disciplinary system in which schools expelled only a few older students, for violent offenses, as a last resort. \*\*\*Because of the widespread adoption of zero tolerance policies, that system does not exist.\*\*\*By their very definition, zero tolerance policies involve expelling students for first offenses rather than reserving the most serious disciplinary option for cases of last resort. Thus, under zero tolerance policies schools expel students who have had no other disciplinary problems.”* Biegel, Stuart, *Education and the Law*, 2009. Stuart Biegel included the above



statement in a critique of the unintended consequences of the No Child Left Behind Act (NCOB), which was a major shift in the role of federal officials in K-12 education under Title 1.

The problems associated with zero tolerance policies was made abundantly clear to me in August 2012, at the U.S. Department of Education's, Safe and Drug Free Conference. There, at the request of federal officials, I met with the parents of two students that had been suspended from their respective schools under zero tolerance policies. Both students, in spite of having no previous disciplinary problems were suspended without any opportunity to explain their actions or tell their stories. Tragically, both students committed suicide believing that they had ruined their lives and the lives of their families. The youngest was only 11 years old and had been assured by his parents that he was not in trouble and that they understood that he had acted out in self-defense after the school had failed to deter the bullying he was receiving, even though it had been repeatedly reported. In both cases the students involved were caught in a 'mindless' trap of good school intentions gone terribly wrong. "Zero tolerance, although politically popular, is fundamentally flawed, dangerous, unfair, and may raise serious due process questions." (Biegel, Stuart)

**Second**, schools need a safe and secure reporting system for students, parents and staff to safely report incidents. In a 2007 survey by the Regional Education Laboratory: Northeast and Islands at Education Development Center, Inc. found that 64 percent of students surveyed replied, "Bullying incidents were

most likely not reported” (Education Development Center, 2010). Reporting also varied with the types of bullying and was more likely to be reported if it involved “injury, physical threats, destruction of property, physical contact, greater frequency, multiple types, more than one location, or at least one occurrence on a school bus” (Education Development Center, 2010). The *National Education Association’s Nationwide Study of Bullying*, which found a difference between the way that students and staff viewed bullying which created a disincentive for students to report bullying when they thought it would not be properly handled. (Bradshaw et al, 2011)

Developmental theorists argue that adolescents’ basic psychological needs include the need to seek autonomy and the need to engage in cognitively challenging and interesting tasks (Eccles et al., 1993). Students also need to feel safe in their learning communities. A safe and secure reporting system coupled with practices designed to provide restorative interventions for all three groups offenders, targets and bystanders, will allow students to begin to manage the bullying environment in their schools, by empowering them through a safe and easily accessible reporting system. (Curtin, University of Louisville, Pediatric Mental Health Symposium, September 2013)

**Third**, school personnel need to be trained in restorative justice practices in order to correctively address all three groups. First they must restore all parties to a stable a position that deals with the harm done and the obligations to rectify that harm. Secondly they need to assist all three groups in moving

toward a positive direction and to set goals, objectives, and necessary progressive steps to begin to achieve the goals and objectives. The restorative justice process provides all three groups the opportunity to establish the foundation for their own personal growth and collectively begin to develop an environment of trust, respect, and dignity.

To begin training in restorative justice school personnel need to be given mediation training. Without the mediation skills of active listening, empathy, interests, and addressing conflict, one cannot be successful at restorative justice. The practitioner must utilize all of the mediation arts to bring about successful restorative justice. The process normally begins with an explanation of the process to the three main groups involved: the offender, the target, and the bystander support groups. The initial meetings should be conducted independently to determine if the parties understand the process and if the target is willing to go forward with the process. The target has the right to refuse to participate and that right should be completely and totally allowed without pressure or collusion. Since the process focuses on the harm that has been caused and the damage done to a real person, the rights of the harmed supersede the rights of the offender and the bystanders. If the target does not want to participate or is unable to participate, the practitioner should still meet with the offender to begin the process of the offender confronting the harm they have caused. Often a bystander/supporter of the target might agree to 'stand in' and offer insight into the effects the offence has had on the target.

Often their story telling can have almost the same effect as having the real target present.

At this point in the process the purpose is for the offender to begin to understand that the target has a real name, a family, a life interrupted, and a need to understand 'why'. "Why did you do what you did and why to me?" Only a small number of people, less than 1%, are true psychopaths that cannot feel empathy. For everyone else we have a learned and practiced level of caring that can grow under the right conditions. It is in this process, of beginning to know and care for the target, that the magic of restorative justice begins to take hold.

For the target the process toward forgiveness and understanding begins at this stage as well, especially if the target understands that forgiveness does not mean forgetting, but means understanding. It is an understanding of the 'why', even if it does not make logical sense, it is the end of asking why and the beginning of understanding. This crucial step allows the target to adopt forgiveness, not for the offender, but for himself or herself, for as long as they hang on to the question 'why' they allow the offence to control their life. The process of forgiveness is to free one's own life, not the life of the offender.

Once the offender and the target have begun to move forward it is important to address and seek the cooperation of the bystanders/support groups. The group is made up of several components and it is important to be able to recognize to which group each individual belongs. Again, mediation skills and mediation practice are invaluable in determining where each belongs. For

example, some bystanders may have been witnesses to the offense, others may have learned about it latter from any one of the parties involved. There may be supporters of the offender, supporters of the target, supporters of justice. There may be bystanders that just like the drama and would like it to continue. All of these group members are involved in the process and can be invaluable or can destroy the process and any good work done, so each must be either brought into the process for good or at least neutralized and separated from the process. “If you really want to help ‘name of target’ then you will” is a good statement or it can be a good question as in “what would you like to do to help ‘name of target or name of the offender’ heal and move forward with their life? Listen carefully to their answer and if possible have them commit it to writing to be used later in the process when creating a statement of agreement with all of the parties involved.

As the process reaches this point it may be possible for the offender, the target and constructive bystanders/supporters to meet and begin a facilitated discussion. Again, the restorative justice facilitator must have the correct mediation skills to ensure that the meeting does not cause further harm. Make sure it is the correct environment for understanding and healing to begin. Many questions must be asked and answers given to begin the restorative process. The process should continue until the three groups, target, offender, and bystanders begin to come to a shared bond and possible agreement. At this point, much like in a mediation settlement, the question becomes where do you

want to go from here? What would cure the harm done? What does justice look like in this case and how can we achieve it?

As the process unfolds the restorative justice practitioner begins developing a written contract that will be in sufficient detail so that each person signing will know the role that they have agreed to perform moving forward. The contract becomes a morally binding agreement and in some cases, when the courts or criminal justice system is involved the contract may become a legal document.

If school personnel are trained in restorative justice they will have a significantly better chance of reducing negative behavior and will dramatically improve the school's behavioral climate. They can also make a major contribution to future of all students involved in serious harassment and bullying if they become familiar with Behavioral Transition techniques, for example: Many times after a successful restorative justice intervention or after a successful mediation the principal facilitator feels that even though the issue has been resolved, and everyone is relieved the process is over, there is still something missing for one or more of the participants. Even though the dispute or conflict is over it feels as if the participants are still stuck in place and struggling with what to do next. Sometimes it seems like everyone is saying to themselves, "I'm glad that's over, but what is next". They have the answer to that question in the back of their mind but they cannot retrieve it and often if they could retrieve it they might not give themselves permission to use it. This is where

the technique of Behavioral Transition/Transformative Practice can be extremely useful.

To begin let us again remember that there are three parties to all disputes, to all bullying, harassment and other disputes, and conflicts. The three parties can be roughly labeled as 1) the offender, 2) the target, and 3) the bystanders or supporters, and as discussed earlier, all three groups need to be addressed if the process is to be successful.

Offenders: First, let us look at offenders. Offenders often get labeled with their offence and their outward identity and self-identity becomes lost in the label. Sociologist and Criminologists refer to this as ‘Labeling Theory’. Often, offenders continue to act out in accordance with the label that has been assigned to them. Howard Becker, in *Outsiders: Studies in the Sociology of Deviance* (1963) developed the theory during a turbulent time in the 1960s. His theory is sometimes referred to as ‘social reaction theory’ and pulls stems from the earlier work of the work of Cooley and Mead and the labeling work of Tannenbaum and Lemert.

While ‘Labeling Theory’ is an important influence, there are other factors contributing equally to offenders continuing to behave as ‘labeled’. One factor is if the offender has never been part of a restorative justice conference, the offender may never have been able to see the target as a real person and therefore has no empathy for the target. The restorative justice process should have helped to correct that, at least in the most recent situation, but more is

going on. Most offenders, whether they are violent, are bullies, promote social exclusion, commit harassment, are lying, or practicing other negative behaviors, have the roots of their behavior in a problem that manifests itself in the offence committed. The offence is almost always a symptom of a deeper problem. Therefore, when we simply punish the offender, or conduct a restorative justice conference around the offence, we often correct that particular symptom but do little or nothing to address the underlying problem. That problem is almost always some form of the perceived loss of power and the symptoms become the medication to use unhealthy power to correct for the loss. My colleague Ari Cowan, of the International Working Group on Compassionate Organizations, has done some groundbreaking research into the perceived loss of power and the consequences if untreated.

It follows logically, that if we only treat the symptom, then the underlying problem will continue to manifest itself in other related symptoms. It is often easier to see this phenomenon in adolescences that have been acting as bullies. Often if you correct the bullying (unless you reward it by giving the bully what he or she was looking for) the problem will manifest itself in other areas such as lying, petty theft, alcohol, or use of drugs. The new behavior is only the underlying problem manifesting itself in a different symptom and treating that symptom will usually result in a new symptom until the real problem is addressed.



So, if one combines 'Labeling Theory' with the 'Behavioral Transition Symptom Theory' it is easy to spot a condition that affects most offenders. It is what I call 'Being Stuck in The What'. Most offenders are 'stuck in the what' and they are trapped in the 'what'. It is how people refer to them, i.e. "He is a bully or she is a liar, that's 'what' they are". The label traps them and they are equally trapped in the 'what' because their underlying problem continues to guide them into bad decisions as they try to medicate the underlying problem. If that underlying problem remains untreated, then usually additional labels will be added to the original label as more symptoms manifest until the offender is another number in the criminal justice system with the number silkscreened on his or her back.

Understanding this phenomenon is what allows for the Behavioral Transition. It starts with addressing the 'what' and changing the 'what' to a 'why'. Why does the offender make these bad choices? The best way to find out is in working with the offender to help him or her talk about what they think is the 'why'. Even if they are totally honest with you, they might be wrong. So you have two choices, either have the offender spend the next year or two in analysis to get to the underlying problem. Or you can use a combination of two complementary theories and begin to move forward immediately. The first theory is from J Price Foster, PhD, and a criminologist who has theorized that we all go through life, each day, wanting to like ourselves a bit more. We are attracted to people and situations that make us like ourselves. His theory

explains everything from gang attraction to Rotary Club membership. It explains why we select spouses, and often why what many think is the spark going out in a marriage, is really a point when the two people involved have stop helping the other to like themselves. Often if they can re-learn how to help the other like themselves more, the 'spark' will return. The second theory is from William Glasser, an American psychiatrist that died in 2013. Glasser developed Reality Theory, sometimes called Choice Theory (the problem with that label is that Choice Theory is also a criminal justice theory that promotes that if punishment is sever enough people will choose not commit a crime in order to avoid the punishment). I therefore will refer to Glasser's work as Reality Theory, its' original name. Glasser's theory is that rather than spending two or more years lying on a couch in a therapist office, a person can identify what the right choices might be going forward and then lay out a plan to begin taking small steps in the right direction. Each small step allows the person, to as Foster would say, "to like themselves a little bit more" and the reward for doing the right thing is that feeling of liking oneself. It is an immediate way to begin to move to 'Reality' hence the name.

Behavioral Transition uses both theories and allows the trained facilitator to work with an offender to help them establish a direction and develop a Transformative Prescription, and begin to take small steps, beginning immediately, and going forward. We talk about the trap of the 'What' and how through this method to begin to move from the what to the 'Why' and then

begin to understand how to stop treating the unhealthy problem with negative symptoms and begin treating it with the power of liking their new self more. When we can get an offender, either child or adult, to begin this journey following their own Transformative Prescription we can empower them to change their attitude and their life.

Targets: As previously discussed, helping the offender move from the 'What' to the 'Why' we need to work with the target to move from the 'Why' to the 'What'. Targets get stuck in the 'Why' the same way that offenders get stuck in the 'What'. Only 'Targets' can make themselves into 'Victims', targets and the criminal justice system. Since if you were not a victim before, you will be as soon as you enter the criminal justice system. For example 'victim' is a legal term and if you have been the recipient of an illegal act by an offender you will be 'labeled' victim. Now under Labeling Theory, as mentioned above, you are very likely to adopt that label. In fact, if you go to court you will find that everything is focused on the offender, from the charge, i.e. The State of --- Versus the Offender's Name, to the focus of all the testimony, which is being directed toward the offender with one exception. That one exception comes when you are called, if you are, to the stand to testify. At this point you will probably not be allowed to tell your story, but will become a victim again since it is in both the prosecutors and the defense attorneys will re-victimize you. It is in their best interest and that of their client's, the state or the accused to re-victimize you. They will do that in different ways, but the effect is the same.

The prosecutor will try to evoke sympathy from the jury by making you relive the things that have happened to you, no matter how painful they are you to talk about in public. If you cry and get emotionally distressed, all the better. Then when the prosecutor is finished victimizing you, the defense attorney will want the jury to see that you are, not the good person betrayed by the prosecutor, but the nearest thing to pond scum, and although they will not say it, the implication will be that even though their client is innocent and had nothing to do with what happened to you, you might have been asking for it. It is for this reason that many women are really hesitant to press charges in assault cases and that women in the military know to keep quiet. At this point it is good to remember that Restorative Justice treats “Targets” completely differently and you might ponder what justice would look like in the military under a restorative justice system.

Now, there is another way that ‘Targets’ becomes ‘Victims’ with or without the criminal justice system. That way, is for a ‘Target’ to bully herself or himself into becoming a ‘Victim’ by getting stuck in the ‘Why’ and going round and round asking “why me, why am I always the one, what could I have done differently, did I bring this on myself” and on and on and on. There are no answers to these questions, only a whirling around and around without any direction except slipping down deeper into depression. When I train teachers to work with people to move from the ‘Why’ to the ‘What’ I often suggest to them that they might suggest to targets, that if they want to see how this works, to

go down the hall to the bathroom and flush the toilet, and watch the water going round, and round, and then right down the drain. They should ask the target to think, as the water is swirling, it is saying “why, why, why, why, why”. Then remind the target that what they are seeing is exactly what they are doing and given enough time and agony they will go right ‘down the drain’ asking ‘Why’ just like the water.

They should also explain that they are not saying, “Get over it” or “just forgive”. What has happen to the target is an affront to all humanity and that they did not bring it upon themselves. They were in the wrong place at the wrong time and henceforth a ‘Target’ that was part of another persons life problem drama. Being a ‘Target’ is no different than walking through a shopping mall and having a chandelier fall from the ceiling and knock you down. If that happened would you spend a lifetime asking if that chandelier was just waiting for you to walk underneath so it could attack. Was it because you were wearing the wrong clothes, were you asking for it, of course not, it is an accident that happened when you were in the wrong place at the wrong time.

*Bystanders and Supporters:* Bystanders and supporters are critical to the process working. Just as in Mediation, and in the Restorative Justice process, their active involvement and subsequent role in the Transformative Behavior process is essential. Unless bystanders and supporters are helping the offender or the victim move forward they will help keep them trapped in place. It is therefore equally important to work with the various members to help them to

understand the process and their role within it. They must learn the difference between giving support versus enabling. They need to understand the Reality Therapy process and how they can give bits of small encouragement for the offender or the victim to take the next small step. Sometimes words like “maybe you can just finish this small piece and then decide what you want to do next”. Each time a person takes that next small step they will feel a sense of accomplishment and ‘like themselves’ for it. Each time a person feels that sense of accomplishment no matter how small, it provides the energy for the next step. When I was a teenager I worked for my father, who was a builder and cabinetmaker. As I was learning the trade, my Dad taught me a really important lesson that has served me since. He taught me that all I really needed to know at any moment was where to put the next nail. I did not need to be worrying, or fretting about future steps, since I could read the blueprints and look at the sketches to understand the big picture, but I was not going to get to the big picture until I put the next nail in its proper place. Once I finished that I could decide where the next nail should go. All things in their proper sequence, in their proper time, and soon, the big picture will become reality. It is a lesson and an example that I pass on to all three groups, the offenders, the target and the bystanders/supporters.

### *Conclusion*

The amended state statutes need to address the concepts outlined above and provide schools with options to meet those concept objectives. In

reviewing all fifty state statutes and policies, as well as the District of Columbia's, I found there were few if any provisions for restorative justice or restorative practice. It may be being practiced at the local level but the existing statutes do not have a provision for, or require any restorative practices. I also found that the only reporting was from the local school district to the state, and it confirmed my assumption that there were no reporting criteria mandated at the local level. It might be part of a local school's policy, but there is no guidance at the state level. Most of the state statutes require school districts to have an anti-bullying policy, but only a few provided any guidance, and fewer actually fund any training. The challenge for many districts has been that the funding to develop a program was not approved at the time of the passage of the legislation, nor were there any operational guidelines for schools to utilize. Many districts are still waiting for funding even though they have been required to have a written plan, trained staff and have prepared to implement their anti-bullying protocols at the classroom levels. (Education Development Center, 2010) For many they are still struggling with what should be included in their district level policies with too many districts still believing in dangerous zero-tolerance policies. Both Ohio and Iowa require an annual tally of all bullying incidents and it has been observed that requiring a complete tallying often causes misclassification and downgrading of incidents to reduce the number that would normally be reported.

There is also no mention in any of the statutes of the three components of any bullying incident, the offender, the target, and the bystanders. The statutes are all directed at offenders and at best they express sympathy for targets/victims but do not offer any concrete measures for assisting them other than punishing bullies, which is dangerous to the targets, the bystanders and the offenders themselves.

Not many states were as comprehensive in producing a guiding document as Massachusetts. Their document address what elements they believe should be included in a bullying prevention program. They still did not include a requirement for a truly “safe in the eyes of the reporter“ system to report bullying incidents nor do they have any provision for restorative justice or restorative practices. Some states require that there be anonymous reports available, most notably Georgia and Massachusetts, but they fail to provide any guidance on how to make the reports safe. Some states make reporting mandatory for teachers and other adults. Interesting enough this is already required through existing abuse statutes, where reporting is mandatory, and where emotional abuse is classified consistently with physical abuse as a requirement for reporting. Few if any cases of emotional abuse have ever been reported and few if any school personnel even know that emotional abuse is considered reportable under their state statutes.

There are other examples of Federal and international statutes that have made significant progress in exposing and reducing other negative behaviors,



primarily in adult populations. The Federal Government under Title VII of the Civil Rights Act of 1964 has enacted and enforced sexual harassment legislation. The European Union countries are already enforcing ‘Work Place’ anti-bullying and harassment laws; in fact they are well in advance of United States laws and will undoubtedly serve as a model as the U.S. moves in that direction. Since other forms of harassment are increasingly coming under scrutiny for possible legislative action, twenty-five states are currently considering “workplace anti-bullying laws”.<sup>1</sup>

My research confirmed the need to offer states model language to help them amend statutes to a specificity that will address bullying on a classroom level. The statute language needs to provide schools with the incentive or requirement for effective anti-bullying practices. The statute should provide information and guidance for schools to acquire the necessary information and resources to understand bullying, as well as the tools to institute restorative justice practices, and safe reporting systems. The statutes should encourage school districts to acquire an understanding of the long term negative affect of unresolved, or poorly resolved bullying situations.

It is important that states help, encourage and mandate that schools adopt a three-part strategy and plan to address bullying. *First*, they should

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<sup>1</sup> *This effort is being lead by Professor David Yamada of Suffolk Law School. He and others recognizes that bullying is a learned behavior that begins in elementary school and develops and sophisticates through adolescence.*

make sure that all participants, i.e. students, faculty, staff parents and others directly working with students understand the seriousness of bullying, cyberbullying and harassment. They need to know what potentially happens and what the consequences are, if the behavior is ignored and not corrected. They also need to know how dangerous it is to do the wrong things, i.e. zero-tolerance, immediate punishment or other punitive actions. *Second*, they need a safe and secure school-based reporting system for students, parents and staff to safely report incidents. *Third*, school personnel need to be trained in restorative practices in order to correctively address all three groups and first restore all parties to a stable a position that deals with the harm done and the obligations to rectify that harm but secondly to help all three groups move to a positive direction and to set goals, objectives, and necessary progressive steps to begin to achieve the goals and objectives. The restorative practice process provides all three groups the opportunity to establish the foundation for their own personal growth and collectively begin to develop an environment of trust, respect, and dignity.

If additional research is successful in showing the viability of using software as a safe school-based reporting system then state legislatures should be encouraged to amend their current anti-bullying legislation and policies to require that all schools within their jurisdiction have the critical three elements for a successful anti-bullying strategy adopted and included in each district and school; knowledge, safe school-based reporting, and restorative practices. The

proposed requirement for a safe school-based reporting does necessarily necessitate that each school to use prescribed software, but that each school would need to have a safe school-based reporting system in place. The system they choose must be safe in the eyes of the reporters, i.e. students, parents, others and not just be safe in the eyes of administrators. Finally, the reporting must be automatically forwarded to trained personal at the school level, so that can intervene and correct behavior for all three groups involved in all bullying and harassment incidents. The necessary administrative reporting to the school district and to the state should come after intervention at the lowest level of a strategy and system for detecting and correcting negative behavior at the individual school level.

Note: The following chart is a compellation of the elements in the state statutes, compiled from my reading, research, and with acknowledgement to Sameer Hinduja, Ph.D. and Justin W. Patchin, Ph.D. (December 2013) for their parallel work on comparing state bullying statutes. They did not address restorative justice, school knowledge, nor do they address safe reporting, but did address the other elements contained in the chart.

State Anti-bullying Laws  
12-2013

State	Law	Cyber-bullying	Electronic Harassment	Criminal Sanction	School Sanction	School Policy Knowledge	Off-Campus Behavior	Restorative Justice or Practices	Safe School Reporting System
Alabama	Yes	No	Yes	No	No	Yes	No	No	No
Alaska	Yes	No	No	No	Yes	Yes	No	No	No
Arizona	Yes	No	Yes	No	Yes	Yes	No	No	No
Arkansas	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
California	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No
Colorado	Yes	No	Yes	No	Yes	Yes	No	No	No
Connecticut	Yes	Yes	Yes	Proposed	Yes	Yes	Yes	No	No
Delaware	Yes	No	Yes	No	Yes	Yes	No	No	No
Florida	Yes	Yes	Yes	No	Yes	Yes	Yes	No	No
Georgia	Yes	Proposed	Yes	No	Yes	Yes	Proposed	No	Maybe (Anonymous)
Hawaii	Yes	Yes	Yes	Proposed	Yes	Yes	No	No	No
Idaho	Yes	No	Yes	Yes	Yes	Yes	No	No	No
Illinois	Yes	Proposed	Yes	No	Yes	Yes	No	No	No
Indiana	Yes	No	Yes	No	Yes	Yes	No	No	No
Iowa	Yes	No	Yes	No	Yes	Yes	No	No	No
Kansas	Yes	Yes	Yes	No	Yes	Yes	No	No	No
Kentucky	Yes	Proposed	Yes	Yes	Yes	Yes	No	No	No
Louisiana	Yes	No	Yes	Yes	Yes	Yes	Yes	No	No
Maine	Yes	Proposed	Proposed	No	Yes	Yes	No	No	No
Maryland	Yes	No	Yes	Proposed	Yes	Yes	No	No	No
Massachusetts	Yes	Yes	Yes	No	Yes	Yes	Yes	No	Maybe (Anonymous)
Michigan	Yes	No	Yes	Proposed	No	Yes	No	No	No
Minnesota	Yes	No	Yes	No	Yes	Yes	No	No	No
Mississippi	Yes	No	Yes	Yes	Yes	Yes	No	No	No
Missouri	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
Montana	Policy	No	No	Yes	No	No	No	No	No
Nebraska	Yes	Proposed	Yes	No	Yes	Yes	Proposed	No	No
Nevada	Yes	Yes	Yes	No	No	Yes	No	No	No
New Hampshire	Yes	Yes	Yes	No	No	Yes	Yes	No	No
New Jersey	Yes	No	Yes	No	Yes	Yes	Yes	No	No
New Mexico	Yes	No	Yes	No	Yes	Yes	No	No	No
New York	Yes	Yes	Yes	Proposed	Yes	Yes	Yes	No	No
North Carolina	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No
North Dakota	Yes	No	Yes	Yes	Yes	Yes	No	No	No
Ohio	Yes	NO	Yes	No	Yes	Yes	No	No	No
Oklahoma	Yes	No	Yes	No	Yes	Yes	No	No	No
Oregon	Yes	Yes	Yes	No	Yes	Yes	No	No	No
Pennsylvania	Yes	No	Yes	No	Yes	Yes	No	No	No
Rhode Island	Yes	No	Yes	No	No	Yes	No	No	No
South Carolina	Yes	No	Yes	No	Yes	Yes	No	No	No
South Dakota	Yes	No	Yes	No	Yes	Yes	Yes	No	No
Tennessee	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No
Texas	Yes	No	Yes	No	Yes	Yes	No	No	No
Utah	Yes	Yes	Yes	No	Yes	Yes	No	No	No
Vermont	Yes	No	Yes	No	Yes	Yes	Yes	No	No
Virginia	Yes	Yes	Yes	No	Yes	Yes	No	No	No
Washington	Yes	Yes	Yes	No	Yes	Yes	No	No	No
West Virginia	Yes	No	Yes	No	Yes	Yes	No	No	No
Wisconsin	Yes	No	No	Yes	Yes	Yes	No	No	No
Wyoming	Yes	No	Yes	No	Yes	Yes	No	No	No
<b>State Totals</b>	<b>49</b>	<b>18</b>	<b>47</b>	<b>12</b>	<b>44</b>	<b>49</b>	<b>12</b>	<b>0</b>	<b>0</b>
Washington D.C.	Yes	No	Yes	No	Yes	Yes	Yes	No	No

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