Forensic Aspects and Assessment of School Bullying

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KEYWORDS

- Bullying • School bullying • Aggression • Children and adolescents
- Forensic evaluation

KEY POINTS

- There are at least 4 distinct categories of bullying, including physical, verbal, social (relational), and cyberbullying.
- Forensic assessments of victims are usually done in civil torts in which the client is seeking intentional or negligent infliction of emotional distress, emotional effects of a physical injury, stress as a result of discrimination or harassment, and emotional harm from defamation or libel.
- When performing assessments for the juvenile court, recommendations for treatment are usually appreciated if applicable to the matter at hand.
- The evaluator must be aware of his or her biases during the course of the evaluation and should be careful to present alternative hypotheses and discuss limitations of the opinions expressed at the conclusion of the report.
- Case and statutory law is evolving rapidly in this area, and the evaluator should be aware of legislation applicable to his or her jurisdiction.
- Schools' responsibilities to protect students and provide a safe learning environment have expanded over the past 20 years as their obligation has transformed from *duty to care* to *duty to protect*.
- Case and statutory law is rapidly evolving and changing, particularly with regard to non–school-based (but possibly school-related) bullying (eg, cyberbullying). At the federal court level, both First Amendment (freedom of speech) and Fourteenth Amendment (equal protection) issues are involved.
- Some bullying behaviors may be delinquent or criminal offenses.
- Prosecution of school bullies via the juvenile or adult courts is a relatively new phenomenon and likely to increase as changes to the delinquency code and criminal statutes are implemented.

INTRODUCTION

School bullying is a common, problematic behavior among children. Bullying is, of course, not a new phenomenon, but national attention was drawn to the problem in the 1990s after several highly publicized incidents of school violence (eg, Columbine). Bullying is a pervasive, cross-cultural, cross-gender phenomenon that seems to peak in early to midadolescence[1,2] and affects approximately half of school-aged youth worldwide.[3,4] The definition of school bullying includes several key elements: physical, verbal, or psychological attack or intimidation that is intended to cause fear, distress, or harm to the victim; an imbalance of power (psychological or physical) with a more powerful child (or children) oppressing less powerful ones; and repeated incidents between the same children over a prolonged period of time.[5–7] This article assists evaluators when assessing youth who are involved in bullying behavior, either as victims or perpetrators. Key areas highlighted include an overview of bullying behaviors, legal issues related to a school's responsibility in preventing or curtailing bullying behaviors, important components of a bullying assessment, and proposed interventions to minimize bullying.

OVERVIEW OF BULLYING BEHAVIORS

There are different categories of bullying behaviors. Volk and colleagues[8] identified 5 distinct types of bullying:

1. Racial/ethnic
2. Sexual
3. Physical
4. Verbal
5. Indirect/social

They also noted that new forms of bullying were developing, such as cyberbullying. Other researchers have identified 4 main categories of bullying,[3,9,10] which are highlighted in **Box 1**:

1. Physical
2. Verbal
3. Relational
4. Cyberbullying

Regardless of the typology system used, the same roles exist. Traditionally, bullying does not occur between individuals of equal power, although with cyberbullying, the power differential may not be significant. A bully is an individual who has power over his or her victim. The victims are those individuals who are less powerful than the bully. The bully-victims are individuals who have assumed the roles of both bully and victim at different times. Bystanders are individuals who learn about the bullying behavior either by witnessing the incident (eg, seeing a schoolyard fight) or by being exposed indirectly to the behavior (eg, reading a blog about an attack).

Volk and colleagues[11] questioned the maladaptive nature of the behavior and framed the phenomenon in an evolutionary perspective. Additionally, Sugden and colleagues[12] described the role of genes in the moderation of the effects of bullying on victims. Research has also shown that bullying is not just a problem of the present but that bullying behaviors can affect an individual into his or her adulthood. After adjusting for age, race, and educational attainment, Falb and colleagues[13] reported that frequent victims of bullying had a higher risk of perpetrating intimate partner violence as adults. Perhaps more disturbingly, Meltzer and colleagues[14] reported

> **Box 1**
> **Bullying terminology**
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> *Bullying* is a repetitive behavior over a long period of time in which an individual with greater power attacks, humiliates, or intimidates a less powerful individual with the intent to cause harm or psychological distress.
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> *Physical bullying* is behavior in which a more powerful individual intentionally uses physical contact or significant threat of physical contact to bully a less powerful individual (ie, a student threatening to fight a less powerful student after school hours).
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> *Verbal bullying* is behavior in which a student intentionally uses direct, deliberate language to cause psychological distress in another student for the purposes of humiliation, intimidation, or other deprecating reason (ie, a student continually calls another student names in front of their peers).
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> *Social bullying* occurs when individuals use social status and/or interpersonal relationships to cause intentional psychological distress in another individual (ie, a group of students spread rumors and gossip, alienate from social activities, and create a general hostile environment for another student).
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> *Cyberbullying* is the use of information technology to repeatedly and intentionally try to humiliate, embarrass, degrade, or otherwise harm a specific individual or group of individuals (ie, a student posts derogatory comments and pictures of another student on social networking site to cause embarrassment and humiliation). There does not need to be a power differential present between the bully and the victim.

that even after controlling for other suicide risk factors, those adults who reported being bullied in childhood were more than twice as likely as controls to attempt suicide later in life.

As with many human behaviors, the cause of bullying seems to be multifactorial. Humans are a product of both their genes and their environment and each helps determine their physical and psychological phenotype, likely through a dynamic interplay (see later discussion). For example, from a genetic standpoint, Sugden and colleagues reported that a specific genotype of the serotonin transporter can place an individual at risk for future emotional problems if they are bullying victims.[12] From an environmental standpoint, it is common knowledge that children often model their behavior after their parents. In addition to these discrete variables, other researchers have suggested that behavior (eg, aggression) is mediated via a gene x environment interaction. This interaction is hypothesized to occur when an individual with a specific genetic makeup is subjected to a particular environmental stressor. By way of example, Blazei and colleagues[15] examined the father-child transmission of antisocial behavior in a primarily Caucasian sample from the Minnesota Twin Family Study. They determined that the father's antisocial behaviors significantly predicted the child's externalizing behaviors, although it was not clear whether this association was based on genetic or environmental factors.

SCHOOL'S RESPONSIBILITY AND BULLYING BEHAVIORS
Origins of a School's Duty to Care

Education plays a central role in our society. The common law doctrine of in loco parentis (Latin for "in the place of a parent") vests the teacher with the responsibility of protecting the interests of a child in the school environment. Understanding the relationship between the school and student in public schools today is increasingly important. Policymakers have created numerous laws and rules to ensure equality in educational opportunities and safeguard students from discriminatory practices and dangerous actions. As an evolving legal concept, in loco parentis has taken on a new and more definitive meaning.[16] Public schools are responsible for providing

students with instruction and supervision and for properly maintaining school grounds, facilities, and equipment. These multiple requirements essentially establish a *duty to care* for student safety. This evolution of the legal duty of school officials marks a major shift in both educational law and school system policy.

Legal Standards Governing a School's Duty to Protect

The various public school systems in the United States have often struggled to keep pace with evolving social mores. In the post-Columbine era (ie, after April 1999), with heightened public awareness about new potential dangers in the schools, educators are struggling to keep pace with increasing public expectations and evolving legal standards regarding their role in keeping students safe. Since Columbine, school officials increasingly have been expected not only to create and maintain safe schools but also to protect children from harm. *Safety in schools* has expanded far beyond the traditional scope of the *duty to care* owed to students and effectively has become an affirmative *duty to protect*.[17] The alleged breach of the school's *duty to protect* is often the impetus for litigation against school officials.

Before the early 1990s, the typical student injury case that found its way into a court of law took the form of a negligence tort. A tort is defined as the legal mechanism in civil court to make an injured party whole again, usually through financial compensation. To receive damages in a negligence case, the plaintiff must establish the existence of a duty owed to the student by the school, a breach of that duty by the public school officials, and an injury to the student proximately caused, or directly resulting from, that breach. The duty of care can arise either from state law or from the Due Process Clause of the Fourteenth Amendment to the US Constitution, which protects citizens from state action that results in the loss of or injury to life, liberty, or property. Cases filed in federal court frequently allege a constitutional violation of due process by the state (ie, school officials) under Section 1983 of the Civil Rights Act.

Before 1989, the United States Supreme Court had consistently held that, under most circumstances, government officials or employees have no constitutional obligation to protect citizens from harm caused by a third party. In *DeShaney v Winnebago County*, the Court ruled, "Nothing in the language of the Due Process Clause itself requires the state to protect life, liberty, and property of its citizens against the invasion of private actors."[18] However, the Court also held that when "[t]he state takes a person into custody and holds him there against his will, the Constitution imposes on it a corresponding duty to assume responsibility for his safety and general well-being..." After the *DeShaney* ruling, some courts began to impose liability on schools, finding that state-imposed compulsory attendance places students in the functional custody of the state.[19] By expanding the scope of school officials' *duty to protect,* this decision established a basis for holding school officials liable for harm caused when that duty is breached.

Today, most courts have ruled that the functional custody theory of liability alone is insufficient to establish a *duty to protect* for school officials. Legal responses to emerging demands for additional student protections have created a generally accepted rule that there must be a *special relationship* or other factors present in the school setting to create a duty.[20]

Courts have considered what type of special relationship or unique factors could create a constitutional duty to protect. Since the mid 1990s, courts have increasingly required the following elements to be present before imposing liability[17]:

1. *Imminent danger* to students
2. *Deliberate indifference* by school officials to that danger

In other words, plaintiffs must demonstrate that school officials deliberately ignored actual notice or knowledge of the circumstances that were likely to lead (and did indeed lead) to the injury.[16] Although this change might seem to limit schools' liability, operationally, it has created a requirement for school officials to respond swiftly to students who report being threatened or harassed, thereby mitigating the potential risk to the student.

In 1996, Jamie Nabozny won a landmark lawsuit against officials at his former high school in Ashland, Wisconsin, because of their failure to intervene in antigay verbal and physical abuse by fellow students.[21] Jamie's classmates regularly referred to him as "faggot" and subjected him to various forms of physical abuse, including striking and spitting on him, urinating on him, and performing a mock rape in a classroom while other students watched. Over a several-year period, both Nabozny and his parents reported these incidents (including the names of the perpetrators) to the school's guidance counselor, principal, and district officials, asking for protection from the harassment and assaults. No action was taken. Twice during high school Jaime attempted suicide. He was eventually diagnosed with posttraumatic stress disorder (PTSD).

Nabozny filed suit claiming school officials violated his constitutional right to due process as well as a violation of his right to equal protection. Nabozny's claim of a due process violation relied on the fact that school officials "failed to act" in response to repeated pleas for help.[21] The Court found that Nabozny presented sufficient evidence to show that the defendants failed to act and that their failure to act was intentional. However, relying on *J.O. v Alton Community*, the Court found that the defendants had no affirmative duty to act (and therefore had not violated Nabozny's right to due process) because Nabozny was unable show that the defendants' failure to act created a risk of harm or exacerbated an existing one. The Court noted, "However untenable it may be to suggest that under the Fourteenth Amendment a state can force a student to attend a school when school officials know that the student will be placed at risk of bodily harm, our court has concluded that local school administrations have no affirmative substantive due process duty to protect students."[22] In *J.O. v Alton Community,* the Court held that state actors have a duty to care for citizens if the state actors' conduct "creates, or substantially contributes to the creation of, a danger or renders citizens more vulnerable to a danger than they otherwise would have been."[22] Although the defendants' failure to act left Nabozny in a position of danger, nothing suggested that their failure to act placed him in the danger or increased the preexisting threat of harm. In addition, because Nabozny did not allege that a special relationship existed, the court did not consider this factor in their decision. Importantly, however, the Court did conclude that school officials violated his rights under the Fourteenth Amendment's Equal Protection Clause by discriminating against him because of his sexual orientation, setting a precedent for claiming civil rights violations based on sexual orientation.

In 1999, the US Supreme Court, in *Davis v Monroe,* established the current judicial standard for deciding whether or not school officials should be held liable for harm caused by student-on-student harassment. In this case, the petitioner sought damages under a violation of Title IX of the Education Amendments of 1972, which prohibit a student from being "excluded from participation in, be[ing] denied the benefits of, or be[ing] subjected to discrimination under any education program or activity receiving Federal financial assistance."[23] The petitioner alleged that a fellow student repeatedly harassed her over a 5-month period and that, despite her reporting the misconduct to school officials on numerous occasions, these officials failed to investigate or to attempt to put an end to the harassment. The petitioner alleged the

harassment was severe enough to limit her access to educational opportunities (specifically, her previously high grades allegedly dropped as she became unable to concentrate on her studies), a finding of which is essential to a claim of a Title IX violation. Moreover, the petitioner alleged that, at the time of the events, the Monroe County Board of Education had not instructed its personnel on how to respond to peer sexual harassment and had not established a policy on the issue.

In an opinion written by Justice Sandra Day O'Connor, the Court held that school officials may be liable for student (peer) harassment when they are "deliberately indifferent to known acts of student-on-student sexual harassment," the alleged harassment is "so severe, pervasive, and objectively offensive that it effectively bars the victim's access to an educational opportunity," and when "the student harasser is under the school's disciplinary authority."[18] In applying the deliberate indifference standard, the Court acknowledged the practical realities of the school officials' ability to respond to student behaviors. Holding school officials potentially liable for failure to act when made aware of the harassment has expanded the *duty to care* into a more proactive *duty to protect* students in school settings.[24] This decision emphasizes the importance of documenting the following when working with schools and parents to evaluate claims of damages because of peer-on-peer harassment: the dates and times of each offense; exactly what was said or done during each offense; which school personnel was notified of each offense; and all formal and informal interventions implemented for each offense and their respective outcomes.

In addressing the dissent written by Justice Kennedy, Justice O'Connor outlines clear limitations on school liability for Title IX violations. She stressed that a single instance of harassment, unless "sufficiently severe," is unlikely to have an appreciable effect on a student's access to education.[18] She also emphasized the importance of considering the ages of both the victim and the harasser in limiting liability "for simple acts of teasing and name-calling among school children."[18] Because young children are still learning how to interact appropriately with their peers, the Court thought it reasonable and expected that they would engage in "insults, banter, teasing, shoving, pushing, and gender-specific conduct that is upsetting to the students subjected to it"[18] and that such behavior was not necessarily actionable.

State Bullying Laws and Policies

In recent years, several states have taken dramatic and affirmative steps to reduce bullying in schools. In many states, antibullying legislation was preceded by the adoption of model policies that focused on managing bullying behaviors. These model policies provide guidance to school districts and individual schools as well as apprising them of changes in state educational codes and other legislation involving bullying, cyberbullying, and related behaviors.

In 1999, Georgia became the first state to pass antibullying legislation. Since then, 48 other states have also adopted antibullying policies or legislation. As of April 2012, Montana is the only state without antibullying legislation; however, that state recently adopted its own model policies. Of note, although Hawaii passed antibullying legislation in November 2011, the legislation is not slated to take effect until July 1, 2030.[25]

As an example of how state policy often precedes formal legislation, California first addressed bullying in its state educational code.[26] Education Code §35,294.2 (2001) requires the California Department of Education to develop model policies both on the prevention of bullying and on conflict resolution. Education Code §48,900 (2008) permits a student to be suspended from school or recommended for expulsion for engaging in acts of bullying, including bullying committed by electronic means. Education Code §32,261 encourages "school districts, county offices of education, law

enforcement agencies, and agencies serving youth to develop and implement inter-agency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence."[26] This crime and violence includes all forms of bullying and cyberbullying.

In October 2011, Governor Jerry Brown signed into law Assembly Bill 9 Ch. 723 (known as Seth's Law), which strengthened the existing California antibullying law. As a result, schools were required to establish policies to prevent bullying, to be responsive to complaints about bullying, to train personnel how to recognize and inter-vene in bullying, and to make resources available to bullying victims.[27]

In December 2010, the United States Department of Education (USDE) reviewed existing state laws. In their report to Congress, they recommended that antibullying legislation include 11 common components[28]:

- Purpose and definition (components 1–4): purpose, scope, definition of pro-hibited behavior, and enumeration of protected groups
- District policy development and review (components 5–6): implementation of policies and review for compliance
- School district policy components (component 7): assignment of responsibility to carry out the law
- Additional components (components 8–11): communication of policies, moni-toring and accountability, actions and interventions to prevent bullying behav-iors, legal remedies for victims

Each state addresses bullying behavior differently, which has resulted in inconsis-tent state laws and policies. Only Maryland and New Jersey have adopted legislation that covers all key components outlined by the USDE.[25] Four of the 49 states with existing antibullying legislation have laws that prohibit bullying without defining specific prohibited behaviors. Only 35 of the 49 states enumerate protected groups; most of these do not include language that establishes bullying based on actual or perceived sexual orientation as harassment of a protected group.

Federal Involvement in Antibullying Efforts

Currently, no federal statute directly addresses bullying, although federal laws do address particular kinds of harassment based on race, national origin, and sex. In the last several years, congressional efforts to address school bullying concerns have increased. In 2011, the Safe Schools Improvement Act of 2011 (SSIA) was intro-duced in both the House of Representatives and the Senate.[29] The SSIA amends the Elementary and Secondary Education Act of 1965. The bills have had hearings in the House of Representatives and the Senate and await a floor vote, which has yet to be scheduled.

If passed, the SSIA will require schools that receive federal funding to establish codes of conduct that explicitly prohibit bullying and harassment. In addition, schools will be required to adopt effective prevention strategies and professional development programs designed to help school personnel meaningfully address issues associated with bullying and harassment. Finally, the bill will require states to collect data on inci-dents of bullying and report the information to the USDE.

Importantly, this legislation addresses the lack of uniformity among the 50 different state legal approaches to bullying. The bill directs states to adopt state policies covering all of the 11 recommendations identified by the USDE (specified earlier). The SSIA clearly defines what constitutes bullying and includes *electronic communi-cation* in that definition. In addition, the bill fully enumerates the groups protected. Current federal laws do not include sexual orientation as a protected group under

the civil rights laws; SSIA expands protections for students specifically by including gay and lesbian students as a protected group. This expansion of protections remains controversial and is a major reason for opposition to the bill. Some federal legislators oppose SSIA because they view it as an example of federal encroachment on local control of public schools. The SSIA was introduced in other forms in previous sessions of Congress; it never received a floor vote. Although President Obama has endorsed the legislation and Michelle Obama has made school bullying one of her signature issues, passage of the bill remains uncertain.

Federal involvement has also been triggered by civil lawsuits against a school district. For example, in 2011, a lawsuit was filed against the Anoka-Hennepin School District, claiming the district failed adequately to respond to reports of persistent physical and verbal harassment of 6 students, which they claimed was based on their actual or perceived sexual orientation. The suit was recently settled after a 5 to 1 school board vote, which agreed to award the 6 students a lump sum of $270,000. In addition, the settlement established a 5-year partnership between the school district and the US Department of Justice and the USDE to help create programs and procedures to improve the learning environment for all students.[30] This partnership is unprecedented and sets a new standard for antibullying efforts nationwide.

Cyberbullying and Free Speech

A school's duty to protect students from harm has been previously applied only to students in their physical custody (eg, on school grounds or during school field trips). Cyberbullying presents a unique problem because the actions often occur off of school grounds, although they may be viewed as school related. One readily can see from newspaper headlines the rapidly increasing popularity of social networking sites and their use as a platform for bullying. This situation poses a challenge to the traditional views of a school's duty to protect and adds an expanding geographic scope to the problem of bullying.

Many states continue to assess their antibullying laws. As a component of this assessment, some states have begun to craft (or even implement) anticyberbullying legislation, which would (or does) codify a requirement for school districts to update their policies to include cyberbullying or other types of electronic harassment in their definitions of prohibited behavior. Today, only 14 states include cyberbullying in their statutory definition of bullying, although 38 states include electronic harassment. Thirteen states allow schools to have jurisdiction over off-campus behavior that creates a "hostile school environment."[25] If passed, the SSIA would also set a minimum standard for all states because it includes cyberbullying in its definition.

This expansion of jurisdiction has created a new dilemma that is currently being decided in the courts and debated by legal scholars. As school officials are attempting to comply with mandates requiring them to monitor and respond to off-campus behaviors, the courts are consistently ruling that doing so violates students' civil rights.

Cyberbullying legislation, in particular, has been criticized for seeking to regulate behavior that is considered free speech. Courts are often called on to determine the types of behaviors states may constitutionally regulate and whether school districts, in attempting to protect students from bullying activities, can interfere with the behavior or speech of students that occurs on or off campus. One of the most influential US Supreme Court cases involving school regulation of student speech remains *Tinker v Des Moines School District* (1969). In *Tinker,* the Court ruled that the suspensions of 3 public school students for wearing black armbands to protest the Vietnam War violated the Free Speech Clause of the First Amendment. This case established that school personnel have the burden of demonstrating that the speech or behavior resulted in

a "substantial interference with school discipline or the rights of other students"[31] before limiting lawful student speech. The courts have consistently applied the Tinker standard when deciding cases involving alleged violations of student free speech.

In *Layshock v Hermitage School District* (2007), a student brought suit against the school district claiming a violation of his free speech rights. Layshock was punished by the school district for posting on the Internet from his home computer a nonthreatening, nonobscene parody profile that made fun of the school principal. A US District Court ruled in favor of Layshock, finding that the speech did not result in an "actual disruption of the day-to-day operation" of the school.[32] In a similar case, *J.S. v Blue Mountain School District* (2007), student J.S. filed suit against the school claiming a free speech violation after the school suspended her for creating a parody profile of her principal on MySpace.com on her home computer. The US District Court found in favor of the school, finding that the "off-campus speech had an effect on-campus" and that the student was, therefore, subject to disciplinary action.[33] These cases eventually came before the US Third Circuit Court of Appeals in 2010, and decisions in both cases were handed down on the same day in 2011. The appellate court affirmed the decision in *Layshock* and overruled the District Court decision in *J.S.*, finding that the speech did not affect the school environment in a substantial way.[34,35] When the US Supreme Court was petitioned, both cases were denied certiorari.

In December 2005, high school senior Kara Kowalski was suspended from school for 5 days for creating and posting to a MySpace.com Web site called "S.A.S.H.," which Kowalski claims stood for "Students Against Sluts Herpes" and which was largely dedicated to ridiculing a fellow student. Kowalski filed suit against the school district claiming, in part, a violation of her First Amendment rights. The district court ruled in favor of the defendants, concluding that school officials were authorized to punish Kowalski because her Web site was "created for the purpose of inviting others to indulge in disruptive and hateful conduct," which caused an "in-school disruption."[36] The US Fourth Circuit Court of Appeals affirmed this decision.[37] The US Supreme Court also denied certiorari in this case.

The US Supreme Court has yet to rule on the issue of whether a school violates a student's free speech rights by punishing them for creating, on their own time and using their own computers, electronic material that mocks or insults school officials or classmates. Until they do, lower courts and school officials will continue to struggle with this issue. The trend among lower courts, consistent with *Tinker*, has been to allow schools to punish off-campus cyberbullying only when such actions cause a material and substantial interference with on-campus school administration. But that standard relies on sets of particular facts, which often cannot take into account inventive mischief of technology savvy students.

EVALUATING BULLYING VICTIMS AND BULLIES
Clarifying the Referral

Forensic evaluations typically begin with a referral from an attorney, a guardian ad litem (a guardian appointed by the court to represent the interests of infants, the unborn, or incompetent persons in legal actions), the court, a family, or another nonmedical entity. In some circumstances, a school district may refer a student for an evaluation. Before accepting the referral, the evaluator must determine if he is qualified to address the issue presented. The evaluator must have the referring agency delineate the specific questions or issues at hand. The evaluator may want to ask the referring source to provide a cover letter that outlines their needs. Inexperienced attorneys or naive school districts may need the evaluator to educate them about the

services they are able to provide, which can assist them in developing well-informed questions for the evaluation.

The logistics of the evaluation also need to be considered. These logistics include the availability of the individuals involved and relevant documentation; the time frame for the evaluation, report, and potential testimony; potential conflicts of interest; and compensation. The evaluator and referral source should determine the type of work product needed (eg, verbal consultation, brief letter, full report, deposition, testimony). Although some of these needs are fluid and may change in the future, they help estimate the time needed and expense likely to be incurred. The individuals or entities to which the findings should be distributed should also be discussed with the referring source. If the evaluation is for juvenile court, whose focus generally is rehabilitative, the evaluator should provide diagnosis and treatment recommendations (if applicable).

Initial Meeting with the Client and Family

The next step in the evaluation process is to meet with the family of the referred youth to organize the evaluation. The family should be informed about the lack of confidentiality that normally exists in a doctor-patient relationship. Then the client assents to the evaluation and the family gives written consent to the evaluation before proceeding. Releases of information are obtained for collateral sources of information. If needed, psychological testing and additional meetings should be scheduled. Before ending the meeting, the evaluator should ask if there are additional questions or concerns.

Reviewing Relevant Records

Reviewing records is a necessary component to a comprehensive evaluation. The evaluator should ask for medical, mental health, school, and legal records. Mental health records include counseling and medication management documentation. The school records should include the child's grades, attendance, class schedule, behavior history, accommodations, such as an Individualized Educational Plan (IEP), and available information from the school guidance counselor and nurse. Importantly, the school should also provide incident reports of bullying behavior as well as all formal and informal attempts by the school to remedy the situation.

The evaluator should maintain a secure, organized file and add records as they arrive. Spending some extra time keeping the files organized will lead to more efficient use of time and a less costly evaluation overall. Additionally, keeping the files organized is immensely helpful when called to provide expert testimony either at a deposition or in court, especially given the length of time between record review and potential testimony. Before conducting interviews, it is helpful to have reviewed the case material. The background information will help to focus on missed details, determine the consistency of the report, and assess for malingering. The objective of a bullying victim evaluation is more akin to a personal injury case (civil) rather than a child abuse investigation (criminal).

Interviewing the Parents

Interviewing the parents before meeting with the child has advantages. The adults can discuss their anxieties and concerns, information about which can be used during the interview with the child. Having this knowledge before the child interview allows the evaluator to ask more appropriate probing questions. The evaluator can also ask the parents how the legal system became involved, the purpose of the litigation, and the parents' expectations regarding the evaluation.

Additionally, the child may be more willing to participate in the interview with the understanding that the interviewer already has some information regarding what has

happened to the youth. For example, a child may be more likely to discuss an embarrassing case of harassment if he knows that the interviewer is already aware of the details. The evaluator must remain objective despite being exposed to often emotional, biased, or misleading information from the adults.

The nature of the forensic evaluation sets the meeting with the parents apart from a clinical interview. The evaluator must maintain a degree of skepticism about the information provided. The data collected should have internal consistency with the other information provided and external consistency with collateral sources. For example, a parent might report that their child was so tormented by her classmates that she could barely attend school, yet school records indicate very few missed days during the school year. A useful way of checking for consistency is to interview the parents individually on the same day, thereby limiting their ability to coordinate reports. The main goals of the parent interviews are to elicit information about the child's functioning, behavior, relationships, strengths, and weaknesses.

During the course of the parent interview, the evaluator should ask about the bullying in a free-narrative style. A general, nonleading question (eg, why is your child being evaluated?) is posed first, followed by other open-ended questions. When specific information is needed, focused questions (eg, has your child ever been suicidal?) are helpful. In addition to the alleged bullying behavior, the evaluator will need to inquire about past episodes of bullying (either as the victim or bully), aggressive behavior, trauma exposure, developmental problems, psychosocial stressors, family structure, treatment/counseling, and the family's reaction to the situation at hand. The evaluator should also ask the family how this situation escalated to the point that a forensic evaluation was required. Their answer to this question will provide the evaluator with some sense of the family's intentions.

Speaking with Collateral Sources

When talking with collateral sources, it is important to identify your role, the purpose of your contact with the collateral source, and to provide them with a signed release of information (if required). The evaluator should ask the source about the nature and duration of their relationship with the person being evaluated. Similar to the interview with the parents and the evaluation of the child, the evaluator should begin with free narrative questions and then move to more focused questions to help supply the necessary missing details. Internal and external consistency remains important. In selecting collateral sources, it generally is most useful to interview those individuals that can give an objective observation of the child and his or her behaviors. For example, the child's schoolteacher (or other school staff) is generally interviewed. Additional helpful collateral sources may include religious leaders, coaches, activity directors, or others that know the child well. The most helpful sources tend to be those individuals that have known the child and family before and after the alleged bullying behaviors, for obvious reasons.

Conducting Psychological Testing

In some cases, the evaluator will want to use psychological testing as part of the comprehensive assessment. This testing usually is best done and interpreted by a mental health professional who has experience working with children and is familiar with the assessment instruments. The evaluation might include general screening tools (completed both by the child and the parent), specific aptitude measures, intelligence assessments, and assessments for particular psychiatric disorders, such as attention-deficit/hyperactivity disorder (ADHD), autistic disorder, PTSD, and anxiety disorders. In some cases, the child already may have had testing completed through the school system. If so, this testing should be requested and reviewed.

With regard to the assessment of bullying, some psychological tools purport to provide a more objective measurement of the behavior. The California Bullying Victimization Scale was developed by Felix and colleagues[38] to address the limitations of self-report measures. Other tools have also been developed to assess bullying behaviors among youth; these are highlighted in **Table 1**.

Both bullying victims and bullies may benefit from completing either psychological screening tools (designed to identify a broad range of potential psychiatric conditions [see **Table 1**]) or more specialized testing (eg, Structured Assessment of Violence Risk in Youth [SAVRY], Hare Psychopathy Checklist–Youth Version [PCL-YV]). The labeling of a youth as a psychopath is controversial and the evaluator should be familiar with the pros and cons of using psychopathy measures in this population. Jones and Cauffman[39] found that youth who were labeled psychopaths and were reported to have psychopathic traits were viewed as less treatable and more dangerous and were more likely to be recommended for restrictive placement than youth not described as such in judicial decisions. Boccaccini and colleagues[40] reported that jurors thought that youths labeled as psychopaths posed greater risk for future crime and deserved greater punishment compared with youth described as meeting diagnostic criteria for psychopathy or conduct disorder. The results of psychological testing should be considered in the child's psychosocial and developmental context. Additional testing may be needed to help determine the violence risk or necessary interventions (eg, intelligence testing to help determine if a child has an intellectual disability and might benefit from more specialized services).

Table 1
Examples of areas to explore when evaluating an alleged victim of bullying

General information	• Establish if a power differential exists between the child and the alleged bully • Check for external and internal consistency, malingering • When and where does the bullying occur • What has the child's relationship been with the alleged bully • How has the behavior affected the child • Why does the child think he or she is being bullied • Does the child have a solution in mind
Physical bullying	• Obtain a history about the alleged incidents, injuries, and persons involved • Review documentation about physical injuries
Verbal bullying	• What is the content of the bullying behavior • Is there a theme (ie, physical appearance, family, academic performance, cultural) • Quote the child's words exactly
Social bullying	• The most difficult type to evaluate and substantiate • Examine the child's own social skills • Have the child give examples of changes in their social life or relationships • Are other types of bullying also occurring, especially verbal or cyberbullying
Cyberbullying	• What types of communications are involved (ie, texting, social networks, blogs) • Review the alleged bullying if available (ie, printouts, text message logs)

General Principles of the Child/Adolescent Interview

Mental health professionals may be asked to evaluate a reported bully victim, an alleged bully, or both. The evaluator should clarify with the youth the limits of confidentiality specific to the evaluation/case. At the outset of the evaluation and in an age-appropriate manner, the evaluator should review with the child the following areas:

1. The child's understanding of the evaluation's purpose
2. What the child has been told about the evaluation process
3. Whether the child has been instructed about what to say or not to say (and if so, by whom)
4. The child's thoughts and feelings about the evaluation
5. What the child hopes (or fears) the evaluation will accomplish

   The evaluator should attempt to build rapport at the start of the interview, especially in children who seem anxious or unwilling to participate. The evaluator should ask the child about his or her family, school, friends, daily routine, sleep, and so forth in a developmentally appropriate manner. Open-ended questions (eg, tell me about your family) are used because they produce more accurate information[41] than closed-ended questions. However, closed-ended questions are often needed to elicit specific information (eg, suicidality). The evaluator should also screen the child or adolescent for symptoms of mental illness, such as depression, anxiety, and ADHD.

Evaluation of a Reported Bullying Victim

In the evaluation of an alleged bullying victim, the referral question usually concerns potential psychiatric disorders or symptoms (ie, damages) to the bullied child and the causal nexus (or lack thereof) of the bullying and the psychiatric disorders or symptoms.

Taking a lifetime trauma history

During the evaluation, the evaluator needs to take a trauma inventory in which the child is asked about the bad things that may have happened to them during their life. Placing the potentially traumatic events in chronologic order is important because this order may impact the evaluator's opinion regarding the effects of the alleged bullying on the child. Nonbullying-related traumatic events (and their sequelae) that occurred around the time of the reported bullying are particularly critical to investigate thoroughly. The evaluator needs to collect details of each trauma's impact on the child. Common components of the trauma history include the frequency, duration, and perceived intensity of the trauma itself and the residual symptoms. Typical trauma-related symptoms include sleep disturbance, anxiety, depression, and difficulty with concentration. Some children are understandably hesitant to discuss prior traumatic events. Therefore, the evaluator may need to rely heavily on collateral sources in order to accurately perceive the impact the trauma had on the child.[42–44]

Reviewing bullying history

The evaluator should screen for each type of bullying and, if bullying reportedly has occurred or is occurring, then elicit a more detailed description of the particular type of bullying behavior, as outlined in **Table 2**. Although the referral source usually will relay the type of bullying to which the child reportedly has been subjected, the child may also have experienced other forms of bullying. The most obvious types of bullying are physical and verbal. Social bullying is not always readily apparent; electronic bullying can be even more discrete.

| Table 2 |
| Psychological tools that may be useful for forensic evaluations |

Client Type	Psychological Tool
Victim	• California Bullying Victimization Scale • Reynolds Bulling Victimization Scales for Schools • Olweus Bully/Victim Questionnaire • The Bully Surveys • School Connectedness Scale • Students' Life Satisfaction Scale • Peer Relations Assessment Questionnaires-Revised
Bully	• SAVRY • PCL-YV • Early Assessment Risk Lists for Boys • Early Assessment Risk Lists for Girls • Youth Level of Service/Case Management Inventory

After building rapport with the child, the evaluator should inquire about the alleged bullying. The evaluator should attempt to use open-ended questions when asking about all types of bullying, particularly during the initial part of the interview. The evaluator should avoid introducing emotionally charged terms, such as bullying. Instead, asking the child to identify any alleged aggressors (if possible), the context of the bullying, and specific bullying behavior may be helpful.

During the course of the evaluation, questions should focus on the who, what, why, where, when, and how of the reported bullying (ie, conventional journalistic style). The child should be asked about their perception of the bullying behavior. Questions might include

- How do the other students treat you at school?
- Why do you think they do that to you?
- What does your family think about this?
- Has the school (ie, school personnel) done anything to help you?

The evaluator should also inquire about the specific time and school area in which the bullying occurs (eg, between classes, after school, on certain school days, in a poorly supervised area of the school); this information can be extremely helpful in identifying potential interventions at the school.

Examples of open-ended questions regarding verbal bullying include

- Do you ever feel sad/hurt/angry about what people say to you?
- Do other people say mean things to you?
- Can you tell me more about that?

Identifying a bullying theme may assist the evaluator in better understanding the nature of the behavior, its cause, and potential successful interventions. As an ancillary benefit, allowing the child to provide a free narrative likely will improve the evaluator's rapport with the child and assist with information gathering. Some children prefer to write down the verbal remarks rather than say them out loud.

As with verbal bullying, social bullying is more likely to involve girls. This type of bullying tends to be more covert, and the target may not be able to identify all of those involved. Because social bullying does not cause physical injury, it can be more difficult to substantiate and assess. Verbal aggression is typically involved, as is alienation of the bullying victim. Substantiating claims of social bullying may prove difficult without a comprehensive investigation by the school.

A more recent form of bullying is electronic bullying, also known as cyberbullying. Cyberbullying has evolved along with emerging forms of social media. Cyberbullying does not require proximity between the bully and the victim; therefore, the power differential between the victimizer and victim may not be significant. In some cases, forensic computer experts review electronic interchanges, including texts, emails, and social media postings. If a forensic computer expert has conducted an evaluation, the psychiatric evaluator should carefully review the content and context of his or her findings.

Evaluating level of functioning

A decrease in the bullied child's level of functioning is an important indicator that the bullying behavior may have had a significant negative impact on the child. The evaluator needs to determine if a child's level of functioning has worsened, quantify the change, and determine if the decreased level of functioning is related to the bullying behavior. Quantifying the change obviously requires a comparison of the child's level of functioning before and after the alleged bullying. The evaluator needs to compare domains of functioning, such as family and peer relationships, academic performance, behavioral problems (eg, presence/absence, degree), mood symptoms, and involvement in social activities. The evaluator also needs to assess premorbid and postevent domains, such as sleep, appetite, energy level, anxiety, and somatic symptoms. The evaluator should also consider how other changes in the child's psychosocial environment may have impacted the child's level of functioning.

Assessing psychological impact

The evaluator needs to determine if the reported bullying has had a negative impact on the mental health of the child and, if so, to what degree. Lemstra and colleagues[45] used data from a Canadian school survey that asked about physical bullying over the previous 4 weeks to examine more than 4000 youths in grades 5 through 8. He determined that children who were repeatedly physically bullied were more likely to have poor health outcomes, including depression. Lemstra also reported that children who were ever physically bullied were 80% more likely to have a depressed mood.[45] Nansel and colleagues[46] evaluated the relationship between bullying and psychosocial adjustment in a cross-national section of 113 200 students representing 25 countries. They reported that across all countries, involvement in bullying, either as victim, bully, or bully-victim, was associated with poorer psychosocial adjustment. Klomek and colleagues[47] reported that the association between bullying behavior at 8 years of age and subsequent suicidal behavior later in life differs between males and females. After controlling for conduct and depression symptoms, girls maintained the association with later suicide attempts and completions but this was not true of boys.[47] Assessing the psychological strengths and weaknesses of the child will aid the evaluator in providing appropriate recommendations to the child's caregivers and school.

Various investigators have reported a multitude of psychiatric symptoms in bullying victims that are attributable to the bullying. These symptoms include suicidal thinking; depression; sleep disturbances; anxiety; enuresis; and somatic symptoms, including headaches and abdominal pain.[48–51] Such problems tend to manifest themselves according to the role that the child has in the bullying behavior. These roles include the bully, the victim, the bully-victim, and the bystander (which can include noninvolved observers and/or the general culture/milieu in which the behavior occurs).

Some investigators have noted that victims of bullying may become suicidal. Studies of middle and high school students show an increased risk of suicidal behavior among bullies and their victims.[52] Cyberbullying victims are almost twice as likely to

attempt suicide as youths who have not been cyberbullying victims.[53] Although suicide is one of the most serious sequelae of bullying, it is also rare. There are many other ways in which bullying can harm a student. Bullying can impair seriously the physical and psychological health of its victims and create conditions that negatively affect learning, undermining the bullied students' ability to achieve their full academic potential.[54]

Evaluation of a Reported Bully

Evaluations of suspected bullies are usually conducted to assess the child's risk of violence or to determine what interventions might be helpful for the child (eg, improve the mental health of the child, decrease the child's risk of continuing bullying behavior). Frequently, the person being evaluated will not report engaging in bullying behavior. Occasionally, the child will admit that he or she has bullied others at school. In these cases, the evaluator then should ask the child what he or she means by the word *bully*, what behaviors he or she thinks constitute bullying, and why he or she thinks this behavior is occurring. The evaluator should attempt to gather more information about the child's motivation for engaging in this behavior. This type of questioning may help elicit symptoms of a psychiatric illness (depression, anxiety, trauma, and so forth) in the child that may not be disclosed during more direct questioning. This information will aid the evaluator in offering helpful recommendations for treatment and/or other interventions, as will identifying the particular type of bullying behavior in which the youth is engaging.

Risk evaluations for children involve collecting biopsychosocial information (both via collateral records and the face-to-face evaluation) and, if necessary, conducting psychological testing (see later discussion). The child should be asked specifically about risk factors, such as prior violent behavior, violent thoughts or fantasies, pervasive anger, symptoms of conduct disorder, substance abuse, trauma, abuse or maltreatment, or psychotic symptoms.[55,56] Parents should be asked about their concerns about their child's behavior, socioeconomic status, exposure to trauma, environmental stressors, abuse or maltreatment, developmental concerns (eg, prenatal alcohol or drug exposure), and relationships with peers. Legal problems and behavior problems at school should also be investigated. The parents should be asked what, if any, previous interventions have been used and their perceived effectiveness.

Making a Diagnosis

In general, forensic evaluations should use accepted diagnostic schemas, such as the *Diagnostic and Statistical Manual of Mental Disorders*. The forensic evaluator must be able to support the diagnosis with the data collected. Because the forensic evaluation assesses the youth's current symptoms and functioning, historical diagnoses alone are not recommended. Unless there is strong evidence of a personality disorder, the evaluator should use extreme caution in making this type of diagnosis in a child or adolescent.

Providing an Opinion

The opinion section of the report first and foremost should address the referral question. The evaluator should state the conclusions to a reasonable degree of medical certainty, which is colloquially defined as *more likely than not*. Each conclusion generally is followed by an explanation and supportive data are provided. The examiner should strive to provide the clearest conclusions possible. For instance, if a victim develops major depressive disorder because of bullying behavior, the evaluator

could opine that (1) the child has a diagnosis of major depressive disorder, (2) the child was a target of bullying behaviors, and (3) the bullying behaviors caused the major depressive disorder. Breaking opinions down into smaller pieces clarifies the points being made and assists the reader in understanding the evaluator's thought process.

In a civil suit, the assessment of emotional damages is often an important component of the evaluation. The evaluator must focus on current symptoms and attempt to determine what caused those symptoms. In personal injury litigation, claims generally include intentional or negligent infliction of emotional distress, emotional effects of a physical injury, stress as a result of discrimination or harassment, and emotional harm from defamation or libel. The data collected during the evaluation should aid the evaluator in reaching an objective opinion related to whether and, if so, how reported and observed symptoms relate to the purported conduct. As noted previously, the evaluator should consider the life history of the child and attempt to determine whether the bullying behavior or other experiences caused or contributed to the damages.

In delivering the final opinion, the evaluator should consider alternative explanations to the child's current level of functioning. The evaluator should acknowledge gaps in the data, understand the limitations of the evaluation, consider malingering, and remain objective throughout the process. Treating providers generally rely on the child's self-report and often do not have access to all collateral information. Therefore, they should appreciate their limitations in offering an opinion regarding any causal relationships of alleged bullying to self-reported symptoms and potential ethical conflicts in doing so (eg, dual agency).

Providing accurate opinions about prognosis can be especially difficult. The evaluator should be familiar with the extant literature related to the long-term outcomes of individuals subjected to particular types of bullying behavior.[57–59] Some psychological effects include difficulty with social adjustment, depression, anxiety, eating disorders, suicidal ideation, and suicide attempts. Bullying can also place individuals at risk for somatic problems, including sleep disturbances, abdominal pain, fatigue, headaches, and fatigue.[60] The evaluator also needs to consider a child's psychosocial environment and the potential efficacy of interventions. When asked about prognosis, this is an excellent opportunity to discuss the various interventions that might be helpful to the child.

RECOMMENDING INTERVENTIONS TO DECREASE BULLYING

The evaluator, when asked, should provide and review interventions that may assist the referral party in addressing the bullying behavior. Bullying behaviors have been difficult for schools to control despite the currently available interventions.[61] Rigby suggested 6 different types of intervention, including a traditional disciplinary approach, strengthening the victim, mediation, restorative practice, a support group, and a method of shared concern.[62] Others have suggested that school-based intervention programs can be a meaningful and successful form of intervention but that they need to include parent meetings, firm disciplinary methods, and improved playground supervision to maximize their chances of success.[63]

Generally speaking, there are 3 main areas of intervention with regard to bullying behaviors. The victims and bullies can be involved directly in individual treatment programs to assist with their psychological adjustment, decision making, anger management, and other psychological aspects related to the bullying behavior. At a slightly broader level, an intervention that incorporates the family systems of a bully and/or a victim can be used. Lastly, a school-wide, systems-based approach can be used in

which the culture of the student body surrounding bullying behavior is addressed. This approach has shown the most effectiveness in decreasing bullying behaviors.

There are no universally accepted interventions for victims, bullies, or bystanders. The United States Department of Health and Human Services maintains the Web site www.stopbullying.gov in an effort to educate the public about this problematic behavior. The American Academy of Pediatrics comments on the pediatrician's role with regard to youth violence prevention.[64] The American Academy of Child and Adolescent Psychiatry has issued a policy statement related to the prevention of bullying-related morbidity and mortality.[65] President Obama has also spoken out against bullying in a documentary entitled "Stop Bullying-Speak Up," which airs on the Cartoon Network.[66] Additionally, the courts continue to seek out professional guidance for recommendations on interventions that may decrease these behaviors.

Potential Interventions for the Student

The most obvious mental health intervention for an individual involved in bullying behavior (either as victim or bully) is to address any comorbid psychiatric symptoms. Research supports the idea that bullying causes both short- and long-term effects on both bullies and victims. These effects include academic problems, relationship problems, and psychological problems.[14,67,68] Although Ttofi and Farrington[57] did not appreciate a significant effect from individual treatment in their meta-analysis, they were quick to acknowledge that this avenue of intervention should not be ignored. Children who are victimized can suffer from significant mental health repercussions, including school avoidance, severe depression, and even completed suicide. With regard to bullies, Volk and colleagues[11] reported that students who were identified as pure bullies (ie, never victims of bullying) tend to have equal or better mental health than uninvolved adolescents and victims. Merrell and colleagues[61] noted that most bullies do not have mental health problems and that they are able to interact with peers in a positive manner. Volk noted that theory-of-mind research does not support the idea that bullies lack social understanding and that this is not a driving force of their antisocial behavior; they seem to understand that others have beliefs, desires, and intentions that are unique from their own.

Individual interventions for children need to be tailored to both the context of the bullying or victimization and the child's developmental level. Evaluators should have a conversation with the child's family about the bullying. The parents need to take responsibility for supporting their child through this potentially difficult time period. It is not unreasonable for the evaluator to recommend that the child and his or her family be involved in family therapy. The goal might be to improve the family's communication and to assess the family system for patterns of behavior that may be detrimental to the child. Additionally, it is recommended that the child (especially if they are an adolescent) have a separate therapist. Adolescents are generally very concerned about privacy, and having both an individual and family therapist is likely to be more beneficial to them than having a shared family therapist alone.

Bostic and Brunt[69] offers interventions for victims, bullies, and bystanders according to their school level/grade. There interventions are highlighted in **Box 2**.

Interventions for victims that do not seem to be effective include having the child ignore the bullying behavior, having the child fight back physically with the aggressor, and having the child's parents contact the other student's parents directly.

Recommended interventions for bullies include the following:

- Set strict limits and appropriate discipline by both the school and the parents.
- Increase parental supervision.

> **Box 2**
> **Recommended interventions for victims of bullying**
>
> - Regenerate the child's sense of safety.
> - Assess for child maltreatment and provide assistance as necessary.
> - Improve deficient social skills and encourage socialization because individuals with fewer friends tend to be targeted more frequently by bullies.
> - Educate the child on how to confront the aggressor effectively.
> - Identify and treat comorbid psychiatric illnesses or symptoms, including anxiety, depression, and anger.
> - Educate the child about safety measures.
> - Involve the parents in supporting the child.
> - Talk about sex at home to decrease the stigmatization surrounding sexual topics in social settings.
> - Provide a go-to person at the school whom the child can access for assistance at any time.

- Screen for, and treat, psychiatric disorders, such as anxiety and depression.
- Use consequences to teach empathy (eg, have the bully role play a scenario in which he or she is the victim).

As with victims, there are strategies to avoid with bullies. The zero-tolerance policy does not work to reduce bullying behaviors. Suspending or expelling students acts as a barrier to communication about the behaviors and sets up a hostile environment for students and staff. Mediation and conflict resolution with peers has not proved effective. Using student groups to attempt to police bullying behavior seems to worsen these behaviors. Additionally, group treatments, such as anger management groups, do not seem to be effective in reducing bullying behavior because the members tend to reinforce the negative behavior in each other.

Potential interventions for the system

To date, there is little evidence of systems-based approaches being especially effective in reducing bullying behavior. Still, school systems are tasked with identifying and implementing systems-based approaches for addressing and reducing bullying behavior (for safety, educational, and political concerns). The most well-known intervention, the Olweus Bullying Prevention Program (OBPP), was developed by Dan Olweus, PhD, a Swedish psychologist. This intervention has been implemented in numerous settings, both in the United States and internationally, and has been the model for many of the new and innovative antibullying programs that have been developed. The OBPP focuses on the individuals involved, classroom teaching, and school-wide cultural changes to reduce and eventually eliminate the bullying behaviors. Ttofi and colleagues[63] noted that in addition to the intensity of the program, the components most strongly correlated with a decrease in bullying were

- Parent meetings with the teachers
- Improved playground supervision
- Presence of disciplinary methods
- Classroom management for behavioral control
- Teacher training about bullying and how to manage bullying behavior
- Explicit classroom rules regarding acceptable and unacceptable behavior
- A whole-school antibullying policy

- Frequent school conferences
- Information for parents about the identification of and interventions for bullying
- Cooperative group work to build social skills

When asked to provide recommendations for intervention or treatment in a particular case, the evaluator will need to learn about the interventions and policies that presently exist in the child's school. This knowledge will allow the evaluator to tailor specific recommendations based on the available resources. It would be simple, yet wholly impractical, for an evaluator to recommend implementing a program, such as the OBPP, if the school infrastructure and/or resources could not support such an intervention. Research has shown, however, that the whole-school–based approach has better outcomes than other interventions. Fonagy and colleagues[70] followed 9 elementary schools for 3 years. Three were introduced to the manualized Creating A Peaceful School Learning Environment (CAPSLE) intervention, 3 were provided with manualized school psychiatric consultation (SPC), and 3 were given treatment as usual (TAU). The study found that the CAPSLE approach, which was based on the Olweus model, decreased student victimization and aggression significantly when compared with the TAU schools but only modestly when compared with the SPC schools.[70] This research supports the contention that an antibullying approach needs to be system wide to be effective.[71] Yet not all research supports the efficacy of system-wide programs, such as OBPP.[61,72]

Similarly, Johnson examined the existing literature related to school-violence interventions and noted 5 significant factors that were associated with a decrease in violence[73]:

1. Students' positive relationships with teachers
2. Students' belief that the school has fair rules
3. Students' ownership in their school
4. Students' having positive classroom and overall school environments that focus on student comprehension
5. Students' having access to school interventions that focus on the safety of the physical environment

Merrell[61] noted that to implement change, the following must occur: there must be increased social costs to the bully; more prosocial alternatives to bullying need to be developed and promoted; and antibullying interventions must be tailored to each student and flexible enough to adapt to the student's growth and his or her changing environment.

Of note, if a child meets criteria for an IEP, accommodations may be offered to the student to decrease their exposure to situations in which they are at high-risk of bullying. These accommodations may include allowing the student to leave class 5 minutes early to avoid bullies in the hallway; granting the student use of a bathroom in a more supervised location, such as the administration office; and seating the student in certain areas of the bus or classroom to decrease the risk of being bullied. Additionally, social skills training might be offered to improve the child's social relatedness, which seems to decrease an individual's likelihood of being bullied.

School systems should appreciate that bullying is pervasive and not necessarily isolated to a particular school within their system. As students move from one grade to the next and one school to another (and absent effective intervention), bullying is likely to continue. Focusing on vertical and horizontal integration of the antibullying policy and plan is critical. Good communication among school personnel about problematic students and targeted children can be very helpful in combating bullying.

SUMMARY

The focus on bullying behavior has become increasingly prominent in the popular media and has helped heighten public awareness of the phenomenon. Bullying has also become an important policy agenda item, as evidenced by President Obama's promoting anti-bullying legislation. Parents and school systems are attempting to find extrajudicial solutions, although courts increasingly becoming more involved in the process as schools' responsibilities to protect students have increased (see later discussion).

Mental health providers, particularly those who work with children, are in a good position to assist schools and parents with assessments and intervention planning designed both to decrease bullying behavior and to mitigate the mental health impact of bullying. Unfortunately, because there are few longitudinal studies regarding the impact of bullying behaviors, it is difficult to determine a long-term prognosis with any degree of certainty for victims or bullies themselves. Additional research is needed related to the potential long-term comorbidities associated with specific types of bullying. These findings can help us better tailor effective interventions. Based on the extant literature, systems-based approaches aimed at changing the culture of the school are the best general interventions to decrease bullying behavior.

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17. See, e.g., Walton v. Alexander (5th Cir. 1997), holding that liability will attach "[w]here a school official knows, or willfully avoids knowing about the possibility of serious harm to a student, fails to take appropriate action, and the student is harmed." Also, Doe v. Oyster River (D.N.H. 1997), holding that school officials may be held liable for student-on-student sexual harassment "if (1) school officials knew or should have known of the matter but failed to correct the problem, (2) a special relationship existed to protect students from harm, and (3) the harassment was severe and pervasive."

18. Davis v. Monroe City Board of Education, 526 U.S. 629 (1999).

19. See, e.g., Lichtler v. County of Orange, 813 F. Supp. 1054 (S.D. N.Y. 1993), where the court held that "[a] state imposing compulsory attendance on school children must take reasonable steps to protect those required to attend from foreseeable risks of personal injury or death."

20. See, e.g., Shrum v. Muck, 249 F. 3d 773 (8th Cir. 2001), holding: "there is no constitutional duty of care for school districts, as state mandated school attendance does not entail so restrictive a custodial relationship as to impose a duty upon the state."

21. Nabozny v Podlesny, 92 F. 3d 446. (7th Circuit, 1996).

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