

Internet Bullying

This information was taken from RCMP and Government of Canada web pages and directories.

Cyberbullying can have serious consequences

Cyberbullying hurts other people, and can change lives. Some of the actions taken when cyberbullying occurs can also be against the law. Cyberbullies can face jail time, have their devices taken away, and may even have to pay their victims.

Possible criminal charges

Depending on the conduct of the cyberbully, those involved could be charged with the following offences under Canada's *Criminal Code*:

- Sharing intimate images without consent
- Criminal harassment
- Uttering threats
- Intimidation
- Mischief in relation to data
- Unauthorized use of computer
- Identity theft
- Extortion
- False messages, indecent or harassing telephone calls
- Counselling suicide
- Incitement of hatred
- Defamatory libel

- Public incitement of hatred
- Offence against the person and reputation

How the Law Currently Addresses Cyberbullying

Federal Law

Cyberbullying can be addressed under civil law or criminal law, based on the situation.

Civil law

This is the branch of law that deals with property rights, personal dignity and freedom from injury. Under civil law, there are three approaches to cyberbullying:

1. A cyberbully may be engaged in defamation

Defamation is when the person who is bullying causes harm to someone's reputation by spreading false information about that person. In general, defamation that appears temporarily (as unrecorded speech or in a live broadcast) is called slander, and defamation that appears permanently (in a book or on a Web site) is called libel.

To be libelous, a statement must do harm to someone's reputation, have a clear and obvious target, and can be seen by people other than the person making the statement and the target.

In libel cases, the target can lay a suit against the person making the statement. If the suit is successful, the person making the statement will have to pay damages (money) to the target.

A person accused of libel may defend himself or herself by saying that the statement was true, that it was a fair comment (a genuine criticism, not a personal attack), or that he or she innocently reproduced the statement without knowing what it was.

2. The person cyberbullying may be creating an unsafe environment by making the target feel that she or he cannot go to school without facing violence, teasing or exclusion.

Schools and workplaces are required to provide a safe environment for their students or employees, and must take any appropriate action to do so. A school, therefore, might punish a student for online behaviour that is making it hard for other students to learn in a safe environment. In Ontario, the Safe Schools Act has been changed to specifically include online behaviour: students can now be suspended or expelled for cyberbullying, even if it is done outside the school.

A school or workplace that does not do everything it can to provide a safe environment can be sued by the target(s). Even if a statement is not libelous, spreading it around might still create an unsafe environment.

3. A person is responsible for any consequences that he or she might reasonably have guessed would happen.

Therefore, a person who is cyberbullying who suggests that a depressed student should kill herself would be liable if the student actually did kill herself, as long as the person who was cyberbullying had reason to believe it was a likely result.

Criminal law

This branch of law determines which actions are crimes against the state. In criminal law, there are two approaches to cyberbullying:

1. Harassment is a crime under the Criminal Code.

Harassment is when something a person says or does makes someone fear for his or her safety, or for the safety of others. Even if the perpetrator did not intend to frighten someone, she or he can be charged with harassment if the target feels threatened. **Criminal harassment is punishable by up to 10 years in prison.**

2. Defamatory libel is a crime under the Criminal Code.

It is most often treated as a crime if the libelous statement is directed against a person in authority and could seriously harm his or her reputation.

Defamatory libel is punishable by up to five years in prison.

3. Publishing intimate images without consent is a crime under the Criminal Code.

Publishing intimate images without consent was added as an offence in 2015. This includes both intentionally spreading an image “in which the person is nude, is exposing his or her genital organs or anal region or her breasts or is engaged in explicit sexual activity” as well as “being reckless as to whether or not that person gave their consent to that conduct.”

Section 2 of the Canadian Charter of Rights and Freedoms guarantees freedom of expression. However, this right is guaranteed, “subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society” and, in the case of cyberbullying, must be weighed against Section 7 which guarantees “the right to life, liberty and security of the person.” In general, Section 2 of the Charter has not been accepted as a defence in civil or criminal bullying cases.