

## Bullying, Suicide, Punishment

By JOHN SCHWARTZ New York Times Week in Review

Published: October 2, 2010

[TYLER CLEMENTI](#) may have died from exposure in cyberspace. His roommate and another student, according to police, viewed Mr. Clementi's intimate encounter with another man on a Webcam and streamed it onto the Internet. Mr. Clementi, an 18-year-old violinist in his freshman year at [Rutgers University](#), [jumped off of the George Washington Bridge](#), and now the two face serious criminal charges, including invasion of privacy.

[Enlarge This Image](#)



Agence France-Presse — Getty Images

Tyler Clementi, Rutgers freshman

### Related

- [Legal Debate Swirls Over Charges in a Student's Suicide \(October 2, 2010\)](#)
- [Before a Suicide, Hints in Online Musings \(October 1, 2010\)](#)
- [Private Moment Made Public, Then a Fatal Jump \(September 30, 2010\)](#)

The prosecutor in the case has also said that he will investigate bringing bias charges, based on Mr. Clementi's sexual orientation, which could raise the punishment to 10 years in prison from 5.

But the case has stirred passionate anger, and many have called for tougher charges, like manslaughter — just as outrage led to similar calls against the six students accused of bullying [Phoebe Prince, a student in South Hadley, Mass., who also committed suicide earlier this year](#).

What should the punishment be for acts like cyberbullying and online humiliation?

That question is as difficult to answer as how to integrate our values with all the things in our lives made of bits, balancing a right to privacy with the urge to text, tweet, stream and post.

And the outcry over proper punishment is also part of the continuing debate about how to handle personal responsibility and freedom. Just how culpable is an online bully in someone's decision to end a life?

It is not the first time cruel acts and online distribution have combined tragically. In 2008, Jessica Logan, 18, hung herself after an ex-boyfriend circulated the nude cellphone snapshots she had "sexted" to him.

Public humiliation and sexual orientation can be an especially deadly blend. In recent weeks, several students have committed suicide after instances that have been described as cyberbullying over sexual orientation, including Seth Walsh, a 13-year-old in Tehachapi, Calif., who hanged himself from a tree in his backyard last month and died after more than a week on life support.

A [survey of more than 5,000 college students](#), faculty members and staff members who are gay, lesbian, bisexual or transgender published last month by the advocacy group Campus Pride found that nearly one in four reported harassment, almost all related to sexual orientation and gender identity.

Warren J. Blumenfeld, an associate professor of curriculum and instruction at [Iowa State University](#) and an author of the Campus Pride study, also conducted a smaller survey of 350 nonheterosexual students between the ages of 11 and 22 and found that about half of the respondents reported being cyberbullied in the 30 days before the survey, and that more than a quarter had suicidal thoughts.

"Those students who are face-to-face bullied, and/or cyberbullied, face increased risk for depression, PTSD, and suicidal attempts and ideation," Professor Blumenfeld said.

But punishment for people who do such a thing is still up for debate. In the Rutgers case, New Jersey prosecutors initially charged the two students, Dharum Ravi and Molly W. Wei, with two counts each of invasion of privacy for using the camera on Sept. 19. Mr. Ravi faces two additional counts for a second, unsuccessful attempt to view and transmit another image of Mr. Clementi two days later.

If Mr. Ravi's actions constituted a bias crime, that could raise the charges from third-degree invasion of privacy to second degree, and double the possible punishment to 10 years.

Still, for all the talk of cyberbullying, the state statute regarding that particular crime seems ill suited to Mr. Clementi's suicide.

Like most states with a cyberbullying statute, New Jersey's focuses on primary and high school education, found in the part of the legal code devoted to education, not criminal acts. The privacy law in this case is used more often in high-tech peeping Tom cases involving hidden cameras in dressing rooms and bathrooms. State Senator Barbara Buono sponsored both pieces of legislation, and said the law had to adapt to new technologies. "No law is perfect," she said. "No law can deter every and any instance of this kind of behavior. We're going to try to do a better job."

Still, the punishment must fit the crime, not the sense of outrage over it. While some have called for manslaughter charges in the Rutgers case, those are difficult to make stick. Reaching a guilty verdict would require that the suicide be viewed by a jury as foreseeable — a high hurdle in an age when most children report some degree of bullying.

Besides, finding the toughest possible charges isn't the way the law is supposed to work, said Orin S. Kerr, a law professor at [George Washington University](#) who specializes in cybercrime. "There's an understandable wish by prosecutors to respond to the moral outrage of society," he said, "but the important thing is for the prosecution to follow the law."

The fact that a case of bullying ends in suicide should not bend the judgment of prosecutors, he said. Society should be concerned, he said, when it appears that the government is "prosecuting people not for what they did, but for what the victim did in response."

Finding the right level of prosecution, then, can be a challenge. On the one hand, he said, "it's college — everybody is playing pranks on everybody else." On the other, "invading somebody's privacy can inflict such great distress that invasions of privacy should be punished, and punished significantly."

There is also the question of society's role. Students are encouraged by [Facebook](#) and [Twitter](#) to put their every thought and moment online, and as they sacrifice their own privacy to the altar of connectedness, they worry less about the privacy of others.

Teenagers "think that because they can do it, that makes it right," said Nancy E. Willard, a lawyer and founder of the [Center for Safe and Responsible Internet Use](#).

Impulsiveness, immaturity and immense publishing power can be a dangerous mix, she said. "With increased power to do things comes increased responsibility to make sure that what you're doing is O.K.," she said.

That is why Daniel J. Solove, author of [“The Future of Reputation: Gossip, Rumor and Privacy on the Internet,”](#) said society needed to work on education.

“We teach people a lot of the consequences” of things like unsafe driving, he said, “but not that what we do online could have serious consequences.”

That sounds good, of course, but adults still drive recklessly after all that time in driver’s ed. And it is easy and cheap to say that “kids can be so cruel at that age,” but failures of judgment can be found almost anywhere you look.

After all, what are we to make of Andrew Shirvell, an assistant attorney general in Michigan who devoted his off hours to a blog denouncing the openly gay student body president at his alma mater, the [University of Michigan](#)? His posts include accusations that the student, Chris Armstrong, is a “radical homosexual activist” and a photo of Mr. Armstrong doctored with a rainbow flag and swastika. He told [Anderson Cooper that he is “a Christian American exercising my First Amendment rights.”](#)

On Friday, [the attorney general’s office announced that Mr. Shirvell was taking personal leave](#) pending a disciplinary hearing.