

TUESDAY, OCTOBER 21, 2014

PERSPECTIVE

Audrie's Law a reminder of the online dangers for teens

By Carrie LeRoy and Jennifer Kelleher

The recent signing of “Audrie’s Law” in California is a reminder that the intersection of bullying, sexual assault and the Internet is a treacherous place for teens. A disturbing narrative has sadly become familiar: A teen is sexually assaulted and then is further victimized by cyberbullying and harassment on social media. Audrie Pott, a Saratoga high school student, committed suicide in 2012, days after learning that photographs of her sexual assault had been shared with her classmates.

The new California law that bears her name increases penalties for those convicted of sex acts on a person passed out from drugs or alcohol or incapable of giving consent due to a disability. The law requires that teens convicted of such a crime pay for and complete a sex offender treatment program. The law also allows for typically confidential juvenile proceedings to be open to the public in cases that involve a sex assault on an incapacitated person.

Sexual assault, however, isn’t the only danger afoot for teens in the digital age. A “sexting”-focused study by Drexel University recently published in “Sexuality Research and Social Policy” revealed that a majority of undergraduates surveyed had engaged in “sexting” as minors, with 28 percent indicating that they have sent “pornographic” sexts. Many teens don’t realize that photos they may send can carry serious legal consequences: Distribution of illicit materials featuring underage parties can be charged as child



Associated Press
Sheila Pott, mother of Audrie Pott, reads a statement in support of Audrie's Law, March 7, in Saratoga.

pornography in many jurisdictions, including California. On a positive note, the same study also suggested that educating teens about the laws governing consent and dissemination of content online can make them less likely to engage in unlawful conduct.

We need to do a better job of making sure our teenagers understand their legal responsibilities — and rights — in the realm of social media. Paradoxically, the teens who live in the world’s epicenter of Internet technology are no better-prepared than teens elsewhere to navigate the ever-changing social media landscape. But in our experience discussing these issues with high school students in Silicon Valley, we have discovered that students are eager to learn about their rights and obligations under the law, in particular as they apply to an increasingly important aspects of their lives — social media and intimacy. Many students who have witnessed cruel behavior online ask great questions, such as whether a teen could

be prosecuted for underage drinking that preceded a sexual assault. These kinds of questions present an opportunity to highlight that the law does not line up with cultural misunderstandings regarding sexual assault. Victim-blaming is a cultural phenomenon, not a legal principle. Teens may not understand that while drinking underage is against the law, a prosecutor decides what crimes to prosecute and has a greater interest in protecting society from those who commit serious crimes, such as rape or sexual battery.

Teens should understand that victims have options and absolutely should exercise their rights — and that legal system should protect their confidentiality. For example, they need to know that the identities of juvenile victims are kept confidential in legal proceedings. Furthermore, teens regularly see content that no adult may ever see due to privacy settings, so it is important to talk to teens about their options for reporting abusive, and in some

instances unlawful, content. All the social media sites have terms of service that include reporting mechanisms of some kind. These are only useful to teens if they understand how they work. Two separate recent studies, one by the “Green Dot” bystander education program and another study focusing on Kentucky high schools, found that educating bystanders can greatly reduce incidences of sexual assault.

We’ve found that teens respond enthusiastically to learning about these concepts, such as that the law can be used to promote their dignity and to protect their reputations and that it is up to this generation of teens to decide what the norms of tomorrow will be — whether they will challenge cultural misunderstandings and create a better online world for themselves. This is an idea that can and should go viral.

Carrie LeRoy is counsel in the Palo Alto office of Skadden, Arps, Slate, Meagher & Flom LLP. **Jennifer Kelleher** is the directing attorney for Legal Advocates for Children and Youth, a program of the Law Foundation of Silicon Valley. They helped develop a pro bono outreach program titled “Know Your Rights and Know the Law: Sexual and Social Media Misconduct.” The program is offered to Bay Area high school students.



CARRIE LEROY
Skadden Arps

JENNIFER KELLEHER
LACY