Laura had her hands full last fall. She had broken up with her boyfriend, Mark, the week before. Since then, he had been stalking her at school, where he was a student too. He cut class to follow her to and from her classes, where he stared at her through the windows. He called her derogatory names like “bitch” and “whore,” pressured her to come back to him and barraged her with text messages. He also followed and harassed her on the way to and from school, Laura later told the police.

Laura told Mark to leave her alone, to get away from her, that it was over; still he persisted. On the way to school one morning, a neighbor overheard Laura yelling at him and called the school, concerned for Laura’s safety. A school administrator asked Laura about the incident. Laura assured the staff member that everything was under control. Laura thought she could handle it on her own.

Later that week, after stalking her all day at school, Mark again pursued Laura on the way home from school, and she finally decided to phone for help. That’s when Mark attacked her. Witnesses in the neighborhood saw what was happening and stepped in immediately to stop him and call the police. Still, Mark managed to pull Laura’s hair and head towards the ground and strike the back of her head with his hand, according to police records. The police arrived and arrested him.

At the time of the attack, Sept. 20, Laura and Mark (not their real names) were Gunn High School students. What happened between them is a very common pattern of behavior and a classic example of teen dating violence, according to Emily Austin, a staff lawyer with Peace Over Violence, a Los Angeles-based nonprofit organization dedicated to the prevention of teen dating violence.

Editor’s note

The Weekly is publishing this article on dating violence to examine how and whether Palo Alto schools are equipped to handle situations of harassment and assault between students. It was undertaken with the consent and cooperation of the family of a Gunn High School student who last fall was harassed and attacked by her ex-boyfriend and who later filed a complaint with the federal Office for Civil Rights alleging the school violated Title IX in its handling of the matter.

Superintendent Kevin Skelly declined numerous requests to participate in interviews for this article or provide answers to questions. Through spokesperson Tabitha Kappeler-Hurley he indicated no other district or Gunn officials would comment.

Skelly and Kappeler-Hurley said they would be unable to discuss the topic of dating violence, how schools are trained to handle these situations, what resources schools have available to them or other topics related to the implementation of policy without at the same time revealing specific confidential student information.

“This is based on the need to be confidential about student information,” Kappeler-Hurley said.

Skelly instead provided general written information about school policies and prevention efforts related to sexual harassment. He also said he didn’t think it was appropriate to run this story at this time, citing the ongoing Office for Civil Rights investigation.
According to Austin and other experts, the biggest threat of violence is after a break-up, a time of great volatility.

Violence within a dating relationship is not rare. Each year, about one in 10 teenagers suffers from physical violence at the hands of a boyfriend or girlfriend, according to the national Centers for Disease Control. However, often it is not recognized as a serious, widespread problem — threatening the mental, physical and educational health of many teens — as most incidents go unreported, unnoticed or minimized, according to experts in the field.

Research shows that the long-term consequences of dating abuse are more severe for young women, who are more frequently victimized — though young men too can be victims, as can partners in same-sex relationships, where the tendency to report is even lower due to added stigma and fear of being “outed,” according to experts.

“Many young victims do not recognize warning signs and confuse controlling behaviors as a sign of care. Fear and shame discourage victims from seeking help, and when they do, adults often minimize the potential for harm,” according to a Fact Sheet from California Assemblyman Ricardo Lara’s office, a legislative leader on this issue.

In 2012 Lara sponsored a bill to promote dating-abuse prevention programs and policies in schools, citing a “serious gap” in the Education Code. The proposed legislation, which is still pending, was in response to a teenage girl killed on school grounds in Lara’s district, as well as other publicized dating-related violent attacks.

In addition to proposed legislation, Peace Over Violence and another nonprofit, California Partnership to End Domestic Violence (CPEDV), are partnering with the California Department of Education and California School Boards Association on a project, “Delta Focus,” to promote school environments that support healthy relationships and prevent adolescent dating abuse. The project includes development of policy resources for school boards, superintendents and other education stakeholders, according to Lisa Parks, CPEDV’s prevention program director.

Whether dating abuse and violence occurs on or off school grounds, it “can have devastating effects on academic achievement, campus safety and positive development ... (because) teens in a dating relationship also see each other at school and their violent association can cause a severe safety hazard to themselves and other students,” according to a report Austin co-authored with the California Attorney General’s Office, “Guide to Addressing Teen Dating and Sexual Violence in a School Setting.” (See sidebar: “Dating violence: What parents, other adults can do.”)

Lara and Mark were lucky in one way. Residents near Gunn noticed the problem, took immediate action and put a stop to the violence. They also exposed for the first time the dangerous dynamic in the teenagers’ relationship.

The adults now were the ones with their hands full.

The steps that followed, especially between Lara’s parents and school officials, illustrate the difficult issues faced when dating relationships turn violent. Within a six-week period, the parents and the school wrestled over the following:

■ Whether the school should have called Laura’s parents or taken other proactive steps when the neighbor called the school concerned about Laura’s safety;

■ Whether the school was obligated to follow the terms of a 300-yard stay-away court order, which would have made it impossible for Mark and Laura to attend the same school;

■ Whether the school could (or should) transfer Mark to Palo Alto High School;

■ Whether the school’s proposed accommodations to allow Mark to continue attending Gunn (assigning Mark and Laura walking routes at school, having security staff monitor Laura, etc.) were sufficient to ensure Laura’s safety;

■ Whether the school could/should discipline Mark for any of his alleged misconduct on campus and/or to and from school.

“Getting to yes” with the school district proved difficult, stressful and time-consuming, Laura’s mother said. It required many emails, phone calls, meetings, research of school policies and Internet resources, consultations with private attorneys, the police and the district attorney. During the process, the family felt a continual sense of urgency to get an effective safety plan in place in time for Mark’s release at a date uncertain, possibly imminent.

Instead of being able to rely on the district as their ally, the family said they found themselves fighting an uphill battle in an effort to keep their daughter safe. They increasingly turned to the Santa Clara County District Attorney’s Office and Probation Department for help; by early November, those offices were able to facilitate an agreement with Mark’s family that he transfer to another school. The court also renewed for three years the protective order requiring Mark to stay 300 yards away from Laura at all times, including her school, making it impossible for him to return to Gunn without violating the order.

The family was grateful and relieved and credited the criminal justice system with making the right thing happen. School officials appeared to share the relief.

“The good thing is the kid is in school in (another city), far away from the district and this young lady,” Superintendent Kevin Skelley wrote in an email to Board of Education member Melissa Baten-Casswell.

But while the situation eventually resolved for Laura, Laura’s mother, a long-time PTA volunteer, today expresses her lack of confidence in the Palo Alto school district’s ability — or willingness — to be proactive in protecting a victim from a boyfriends. She said she worries about the next victim of harassment, stalking and violence, especially if he or she chooses not to pursue criminal charges, which many victims are reluctant to do for a variety of reasons.

Is there good reason to believe the schools will handle things differently in the future? With the past as an indicator, Laura’s mother has doubt. (See online sidebar: “Women tell of partners who harassed, assaulted them.”)

Since the fall, Laura’s parents have had time to digest their experience and learn more about the school’s obligations under state and federal laws, including duties to investigate fully as soon as the school is on notice about possible sexual harassment and to take prompt and effective actions to provide remedies for victims, like their daughter, caught in a hostile environment at school. They believe those obligations were not reasonably followed or fulfilled in their daughter’s case and that the school, especially after being alerted by the neighbor’s call prior to the school’s investigation, should have helped prevent further harassment and violence.

In March, Laura’s family filed a complaint alleging Title IX violations with the federal Office for Civil Rights at the U.S. Department of Education. (continued on next page)
Title IX issues raised in latest federal civil-rights case

An article detailing the allegations in the Gunn High School family’s complaint to the federal Department of Education’s Office for Civil Rights (OCR) is posted at PaloAltoOnline.com.

The complaint was filed March 5 and alleges that the Palo Alto Unified School District violated Title IX of the Education Amendments of 1972 in its handling of peer sexual harassment and violence in which their daughter, a Gunn student, was victimized by her former boyfriend, also a Gunn student.

In response, Klein emailed: “I asked (Laura) very direct questions about their relationship and her safety, and she gave me every assurance that things were under control, she didn’t need help, and she wasn’t concerned about him hurting her. Unfortunately, I took her at her word.”

“...In hindsight, I too wish I had more reason to be concerned about the domestic situation between Laura and Mark. Klein also said that Gunn had no reason to observe the restraining order because Mark had a right to attend Gunn regardless of the order. Klein reiterated that she and Laura’s mother were “your point people if Mark were transferred to Paly, they said. “We need a plan that can be executed immediately to ensure (Laura’s) safety.”

Klein replied by email: “This is not the kind of situation Dr. Skelly would be involved in, nor Ms. Villalobos.”

Laura’s mother briefed her as well on the past week’s events. Klein told her that the school was not required to observe the restraining order because Mark had a right to attend Gunn regardless of the order. Klein also said that Gunn had had a previous case with a 300-yard restraining order in which the school didn’t follow the specified yardage but instead followed the “spirit” of the order.

Laura’s mother was stunned to hear this. Laura’s parents did not think Mark could be trusted on the same campus with her and had been counting on the protection order to help keep her safe at school.

Laura’s parents decided to appeal their concerns to higher-level officials.

In a Sept. 28 email to Villalobos and Skelly requesting a meeting that week, they wrote: “I know when (Mark) sees (Laura) at school, he’ll be way too tempted to try to talk to her ... and I know that will just escalate again.”

It would “be best for both parties” if Mark were transferred to Paly, they said. “We need a plan that can be executed immediately to ensure (Laura’s) safety.”

Klein replied by email: “This is not the kind of situation Dr. Skelly would be involved in, nor Ms. Villalobos.”

Laura’s mother emailed Skelly again: “As Trinity has replied, she does not think that this warrants your attention. However, as a parent, I disagree.”

She said she wanted to be sure he was informed of the situation. Skelly didn’t respond.

In a later email sent to Katherine Baker, the district’s secondary schools director, Laura’s mother said: “Believe me, when a parent is told it does not warrant their time after their daughter is assaulted, it does not help the situation.”

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Meanwhile, Laura’s mother did not accept the school’s information about not following the protective order. She checked again with the police, did Internet research and consulted two local attorneys; no one agreed with the school’s position.

One Palo Alto attorney consult- ed was Emma Bradford. Bradford told the Weekly she was “incredibly surprised by the school’s initial reaction” that it could be exempt from the letter of the 300-yard court order.

“This is an unfounded idea,” she said.

“No one wants any student to lose out on education, or to get into more legal trouble by violating an order, so there is a need to help support that restrained stu- dent as well as the protected stu- dent,” she said.

“But at the same time, the school needs to be proactive in meeting these obligations. It can’t just sit back. If the order is unworkable and the school feels stuck, it can’t ignore the order. It needs to work it out with the judge, who is the ultimate authority on crafting the order so that all interests are pro- tected,” Bradford said.

Bradford said she has seen a number of cases in which these issues have come up in other schools and the first response has been “This is not our problem” or “We can’t do anything.” She said she thinks schools may be mis- informed about their differing obligations to both students and need more guidance about how to reconcile these obligations.

Neena Chaudhry, senior coun- sel with the National Women’s Law Center, told the Weekly that the first thing schools should do in cases like this is launch their own Title IX investigation, led by the district’s designated “Title IX coordinator” (in Palo Alto, this is Associate Superintendent Charles Young, who was not involved in this case, according to Laura’s mother). Chaudhry suggested that given the basic facts of this case, a full investigation probably should have commenced after the neighbor’s call alerting officials there might be a problem (whether or not the victim cooperated) or at the very least after the attack occurred. The investigative findings by the Title IX coordinator, who
is required to have specialized training, would help shape the ultimate remedies, including the need to follow any court protection order, she said.

“Their hands are not tied,” Chaudhry said. “If they had concerns about how to implement remedies, they could go to the police, the court or the OCR for advice. There are ways to figure it out. They need to be proactive to keep students safe in their learning environment. “No one wants to transfer kids from one school to another lightly,” she said, but at the same time, she doesn’t think students have a right to attend one school over another within a district, especially if safety and hostile environment issues are at stake. These are determinations that need to be made in conjunction with a full investigation, she said. (See online sidebar: “Title IX issues raised in latest federal civil-rights case.”)

In a phone conversation on Sept. 30, as confident committed to supporting and protecting (Laura), In doing so, we also have to follow the laws that govern our work.” She reiterated that “transferring (Mark) to another school without the request coming from the family itself is an expulsion. ... (Mark) has not done anything that would warrant an expulsion.”

Klein’s assertion about transfers proved incorrect. Transferring a student to another comprehensive high school in the district does not require grounds for expulsion because unlike suspension or expulsion, “an involuntary transfer does not deny access to public education,” a legal principle affirmed in a recent California appellate court decision. According to several legal experts consulted by the Weekly, reasonable justification (which could include, but not be limited to, disciplinary grounds or threat to another student) is sufficient, as long as the district has “substantial evidence” to back its decision.

Secondary Schools Director Baker, when contacted a few weeks later by Laura’s mother for help, described her understanding of what was required for the transfer process: “We cannot transfer a student to another school without going through a process that justifies the transfer. The restraining order would be a crucial piece in considering a transfer.”

One reason Klein thought that Mark could not be suspended or expelled was that she mistakenly thought the Sept. 20 attack had occurred in Laura’s home, even though Laura’s mother had discussed the assault with Klein and written to her about it. This mistaken assumption came to light in an Oct. 3 email from Klein, two weeks after the attack. Eventually Klein was set straight about this.

Three weeks after the attack, Laura’s parents and school officials (Klein and Lubbe) finally met. By this time, Laura’s family had retained a lawyer, and they let the school know this. Meanwhile, Mark was still in custody, but no one knew for how much longer.

Laura’s parents talked in this meeting about the danger they felt Laura would be in if Mark returned to campus, given past behaviors, and how upset Laura was at the prospect. Also they said they had learned that Mark had already disregarded the protection order by phoning Laura repeatedly from the juvenile detention center. 

Disciplinary options were discussed, though no action plan was formulated at the meeting. Klein still did not think any discipline was warranted, even if the assault occurred on the way home from school because, as she explained it, Mark had cut classes that week and so wasn’t “in school” even though he was allegedly on campus stalking Laura. Klein said his failure to attend classes rendered any misconduct on those days outside the school’s disciplinary jurisdiction.

Klein also said that even if the school had jurisdiction, discipline would need to be approached progressively, so the more serious measures of suspension (or expulsion) were not available even in that case. 

Laura’s mother was skeptical; Klein’s explanation did not seem logical or fair to her, she told the Weekly. It seemed to her like the school was foot-dragging.

Peace Over Violence attorney Austin and other dating violence experts say reluctance to take action is a common school response where concerns about the aggressor’s rights traditionally loom larger than concerns about protecting the victim.

“Schools traditionally have fought a lot of battles around a perpetrator’s right to access education,” Austin said. “As a result, victims’ circumstances are not weighed as heavily in many instances.” Fear of legal battles over disciplinary and transfer issues often overwhelm concerns about liability to victims under Title IX or state tort law, which are less familiar legal territory to schools, she said.

Victims are commonly expected by schools to make more concessions than perpetrators, Austin said. In these cases, accommodations such as walking routes, security detail and changing classrooms are common. If a school change is necessary for safety, often it is the victims who end up making the switch.

Other experts agree. “I’d estimate in about 90 percent of cases, it is seen as easier to ask the victim to make concessions, even though the law may require otherwise,” Kelley Hampton of nonprofit “Break the Cycle” (which works with schools nationwide) told the Weekly. Schools have a duty to comply with court orders, Hampton said, but in her experience, some do and some don’t. She said her organization tries to bring schools “into awareness that it’s not just liability involved, but it’s also about preventing future violence” that could affect all students at a school.

The ACLU’s Women’s Rights Project is a leading legal expert in this area. According to staff attorney Sandra Park: “A school can’t unilaterally decide not to follow the terms of a court order.” If that order has been made, she said, there has been a court finding that the restrained party is a threat to the protected party within the specified yardage, and the school “needs to deal with that legal reality.”

“The OCR’s letter on this is an important tool to educate schools about this,” she said, referring to the Office for Civil Right’s 2011 “Dear Colleague Letter” about sexual harassment and violence. After Laura’s family met with Klein and Lubbe, the school district decided it could suspend Mark for the Sept. 20 incident. Klein’s Oct. 14 email conveying this information did not offer a reason for this reversal, but Klein later explained to Laura’s mother that she had found a teacher Mark talked to at school on Sept. 20, so therefore Mark was “in school” that day after all, allowing the school to discipline, according to the Office for Civil Rights compliance documents. On Oct. 17, county deputy district attorney Barbara Cathcart confirmed in an email to Laura’s mother that it was the judge’s policy in all juvenile domestic violence cases to issue a standard three-year, 300-yard stay-away protection order if the juvenile admits to or is found to have committed any of the charged offenses.

(continued on next page)
es. She indicated that this would mean that the two teens could not attend the final disposition hearing.

“...In fact, it would probably be impossible,” she said.

Laura’s mother relayed this and other Cathcart updates to Klein the next few days to Klein. On Oct. 21, Laura’s mother also let Klein know that if Mark were to be released with a 300-yard order, as expected, and the school allowed him back on campus, that she would call the police and they would arrest him on campus.

Klein replied within the hour: “You are correct that we can require a change of placement if the restraining order is over 300 yards.”

The next morning, Oct. 22, Klein spoke directly with Cathcart. Following that conversation, Klein took the “following precautionary steps” documented in an email to Laura’s mother: communicating with Mark and his family that Mark was not to come to campus at this time and outlining next steps for a meeting off campus; informing pertinent school staff that Mark was not permitted on campus and how to respond if he were seen; exploring options for alternative school environments; filing a suspension for the Sept. 20 attack; and sending an email to all of Laura’s teachers advising them of the situation.

Laura’s parents were gratified and relieved at Klein’s turn-around and willingness, finally, to take clear, assertive actions to protect Laura. Baker also emailed her assurances: “I believe (Trinity) is on top of this situation. ... At this point I believe (Trinity) is not on top on campus, and we are exploring every option to ensure that (Laura) remains safe at school.”

Laura’s mother replied: “I do appreciate that Trinity has been much more communicative and helpful in the past week or so. But it was a rough start, and I think some of the legal statements she made ... were too quickly stated before checking facts. And because it took us so long to actually meet with her, some of the facts of the case she had wrong (like the fact that the assault did not happen at my house ...). Just seemed like knee-jerk statements in the beginning, but I do agree that much improvement has been made.”

The final disposition hearing occurred Nov. 5, resulting in the expected three-year, 300-yard protection order. Mark’s release and his attendance at a new school.

A week later, Laura’s parents sent an email to the school board and Skelly. They characterized the school handling of their case as “pitiful” and listed areas they believed to be in need of improvement, including: better staff training on what to do (and whom to consult) when legal or other difficult issues arise; better communication among school staff (especially regarding multiple incidents of misconduct involving the same student); better communication between school staff and parents (especially if safety issues are suspected, as when the concerned neighbor called the school about Laura); and more effective use of discipline and measures to ensure victim safety.

Maybe our feedback can help the next family that faces a bullying/assault issue in our district. They shouldn’t have to endure the same mistreatment. Laura’s parents wrote. They believe that parents should be able to rely on the school for accurate, expert information and clear protocols for handling such a crisis. Not every family will have the resources or inclination to involve law enforcement or private attorneys to help them persevere.

Shortly after emailing the board, Laura’s mother heard for the first time from Skelly, who called and then emailed: “(We) will be seeing what we can learn from the experience. I for one will be changing my practice of asking staff members at sites to respond on my behalf to making contact directly with whoever has a concern.”

Baker also called Laura’s mother; that conversation was reported to Caswell (with whom Laura’s mother had earlier met to ask for help) by email the next day; “Katherine (Baker) admitted that this boy could have been considered for expulsion since it was a serious enough offense ... something Trinity told me no way could be done, even though I pointed out (information to the contrary) in the school handbook.” So Katherine said that she will be sure to tell Trinity that in the future when something serious like this arises, to be sure to escalate to Katherine right away so it will be handled better.” Laura’s mother disputed this point to Caswell, saying that district officials “knew all along (of the situation’s seriousness) and still just backed Trinity up.”

She concluded: “I can’t see where anything will ever change in this district.”

On Nov. 23 Laura’s mother wrote Skelly. Baker and Villa-lobos: “I am willing to meet if gaining more information would help to ensure this fiasco did not happen again.”

Ten days later, she re-sent the email, having heard no response.

The next day, Dec. 4, she heard from Skelly. In their final phone call, Laura’s mother said he declined to meet, saying: “No, thanks. I think we’re good.”

Editor’s note: Freelance writer Terri Lobdell is married to Laura’s mother. Her full story can be found in a separate feature.

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