

SAN CLEMENTE TRAGEDY

The Case That Changed the Bullying Debate **P. 82**

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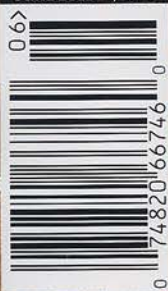
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P. 90

The Uncertain

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DEATH

of

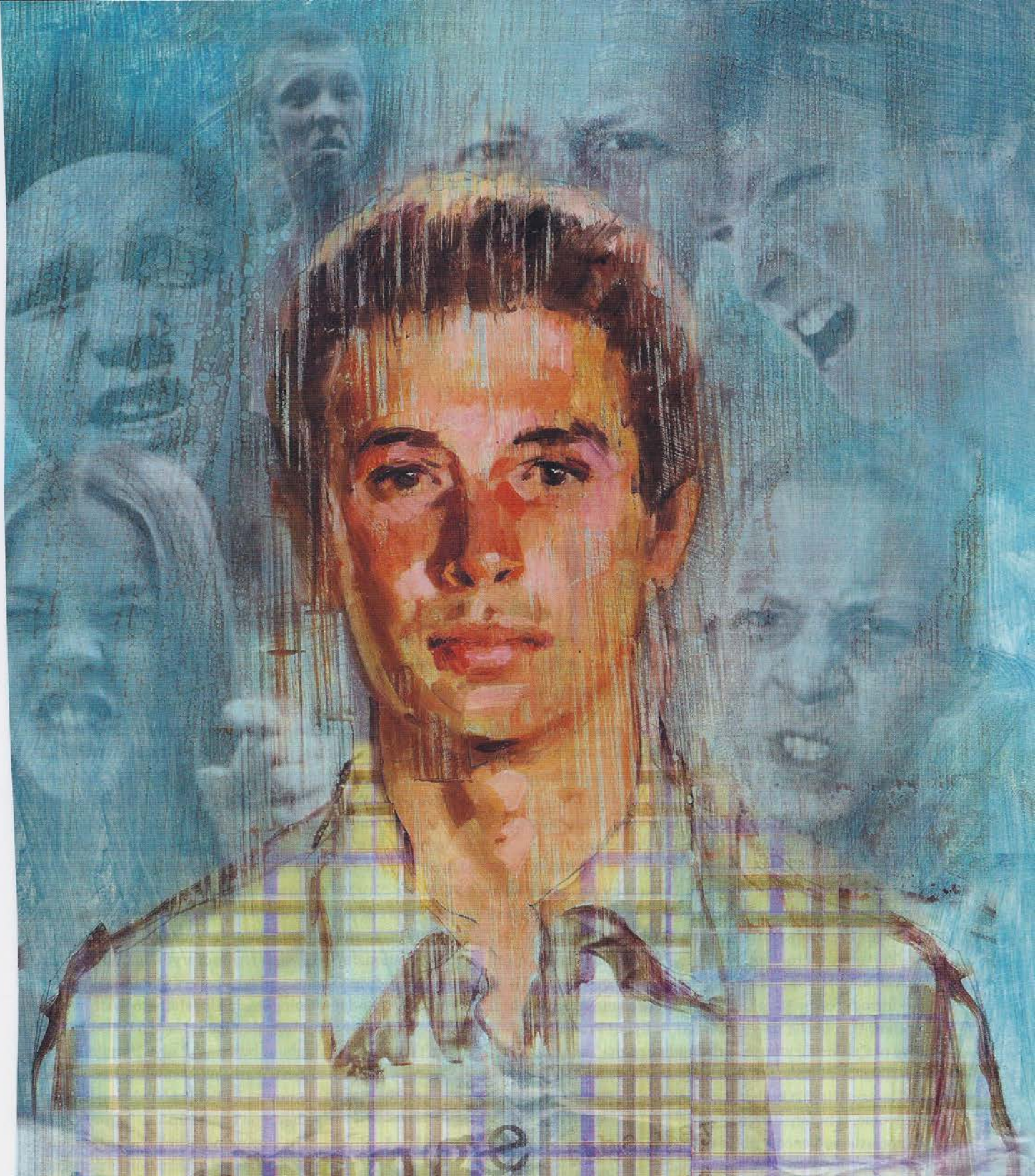
DANIEL

MENDEZ

Two years after a troubled teen was overwhelmed by hopelessness on a San Clemente street, the debate over school bullying continues—with no easy answers in sight

by **Matthew Heller**

illustration by **Joseph Adolphe**



...change the way we treat each other. You see, the way wasn't working.

an Clemente High School sophomore Daniel Mendez is driving through his neighborhood near Bernice Ayer Middle School on a spring afternoon. The following morning, he's due to take a mock SAT exam. He has dreamed of attending college in San Diego and studying law. Later, his mother would recall that he was "extremely excited about his future."

But Daniel's thoughts weren't always so positive. For a year, he had been telling psychologists that he didn't fit in at school, that he had "almost no social life," no friends, no future. To sharpen his social banter at school, he'd even ordered a copy of "1001 Insults, Put-Downs, and Comebacks." But nothing seemed to work. "I've always been a nobody, I am right now a nobody, and I always will be a nobody," he wrote in one email.

After driving about 1½ miles, Mendez stops in front of a home on Via Sage in the Forster Ranch neighborhood. Why he chooses this spot remains unknown. He parks on the street and gets out of the car. In his hand is a revolver—he had broken into a cabinet where his father kept several guns.

On the afternoon of May 1, 2009, at the age of 16, Daniel DiPronio Mendez is about to make the same anguished decision that all too many American teenagers make—one motivated, his parents said in a lawsuit, by bullying at his school. A short time after he stops his car, a Via Sage resident hears a sharp sound, a sound like a firecracker.

On a recent spring evening almost two years later, about 100 people fill an auditorium at UCI Medical Center in Orange. They include psychiatrists, psychotherapists, social workers, school counselors and nurses, and Orange County Department of Education officials. They have come to hear Marlene Snyder discuss "The Best Practices in Bullying Prevention."

Snyder is one of the country's foremost experts on combating the problem. The Clemson University professor has helped train thousands of teachers, students, and parents to deal more effectively with the issue. The intensive Olweus Bullying Prevention Program, for which she is training director, has been adopted by some 7,000 schools nationwide. At UCI, she is introduced by Dave Dickstein, a retired mortgage banker and chairman of the newly created Bullying Prevention Initiative of California who tells the audience that, as a child, he was bullied by a teacher. "What we know now," he says, "is that bullying, carried to an extreme, is highly dangerous."

Many in the audience scribble notes furiously as Snyder, a personable, energetic woman, gives a snappy, polished, hour-long presentation, complete with PowerPoint slides. "Bullying is not 'kids being kids,'" she says. "It's something very different. ... Bullying is, in fact, peer abuse."

This message has resonated amid what has been dubbed a national epidemic. A child is bullied every seven minutes and,

according to the National Education Association, 160,000 students skip school each weekday in order to avoid it. Between 15 and 25 percent of students are frequent victims of bullying, and 15 to 20 percent of students are the perpetrators. "Fat. Gay. Or just different from the crowd. These are the reasons children are being bullied—sometimes to death—in America's schools, with at least 14 students committing suicide in the past year alone," ABC News' "20/20" reported in an October 2010 report.

After years of toiling in obscurity, experts on the subject are suddenly in demand. A veritable army of consultants, therapists, and motivational speakers is offering everything from high-end programs such as Olweus—which charges schools \$4,500 for a mandatory two-day training session for staff—to "Victim-Proof Your School," a \$495 package that includes two DVDs. "School districts are in denial [about bullying]," says Brenda High, a

Pasco, Wash., activist whose teenage son committed suicide after being harassed. "They won't wake up."

In a growing number of cases, bullying also has led to litigation as devastated parents try to hold teachers and administrators responsible for failing to protect their children. A Florida jury in 2007 awarded \$4 million in damages to a bullying victim who sued his school. Snyder notes that litigation has become "a huge risk-management issue" for schools.

Daniel Mendez's parents, Danny and

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Anna, went to court. In a lawsuit seeking \$3 million in damages, they sued the Capistrano Unified School District over his suicide, saying Daniel was “relentlessly bullied” by older students, four of whom also were defendants. They claimed district officials were at fault for doing “nothing to stop [the] actions of the aggressors, even after it was reported to them.”

“They are not interested in getting money for the death of their son, but they want something to be done with this bullying that is so pervasive in the Capistrano Unified school system,” the parents’ attorney, James Traut, said of the suit. Any damages, he said, would be donated to Orangewood Children’s Home, a shelter in Orange for abused, abandoned, and neglected children.

But Capistrano Unified and Daniel’s alleged tormentors fought back, saying Daniel had “unmedicated depression and identity issues,” that his parents had produced no evidence he had been bullied, and their lawsuit was a “misinformed response to local gossip.” Daniel’s psychiatric records—which became public record as a result of the lawsuit—show he had been threatening to kill himself for at least a year. “I have nothing good for me right now, I probably have a crappy life ahead of me, and I should probably just die right now,” he wrote in an email he sent to a psychologist in September 2008.

In April, Daniel’s parents agreed to a settlement with Capistrano Unified that paid the family nothing in damages. Defense attorneys say Daniel’s parents also have settled with at least two of the alleged bullies, one of whom now is a college student. “He did nothing wrong other than be in the same class as the deceased,” says his attorney, Edward Susolik.

“The problem of bullying and its solution goes way beyond the schoolyard,” says James Alan Fox, professor of criminology, law, and public policy at Northeastern University in Boston. “In our competitive society—in sports, in corporate America and especially in politics—we admire aggressors and pity pushovers. Sure, schools need to change, but so does society in general.”

The April 20, 1999, massacre at Columbine High School in Littleton, Colo., was a watershed event for the movement. Heavily armed seniors Eric Harris and Dylan Klebold killed 12 fellow students and a teacher before turning guns on themselves. Media reports seized on the bullying angle, in part because shortly after the shootings, police received an email purporting to be Harris’ posthumously delivered suicide note. “If you are reading this, my mission is complete. ... Your children who have ridiculed [sic] me, who have chosen not to accept me, who have treated me like I am not worth their time are dead,”



At age 12, Daniel attended his aunt’s 2005 wedding with his 8-year-old sister, Victoria.



Mitchell Anderson, left, Brenden Kim, Daniel, Jacob Schultz, and Jason Fitzgerald before a 2007 eighth-grade dance. According to court records, Daniel was unsure if some groups of friends really liked him, or if they “forgot I was even there.”



Daniel on a 2008 trip to La Jolla.



Daniel snowboarded in Park City, Utah, with friend Brenden Kim during spring break 2009, just weeks before his suicide.

read the note, dated one day before the rampage.

Investigators concluded the note was a fake. "There is very little reason to believe that [Harris or Klebold] had anything to do with sending that email," a police spokesman said at the time.

Still, some continue to portray Columbine as the revenge of the bullied. "The real message of Columbine is that ridicule and rejection by peers is so painful that it can drive people to ultimate acts of violence!" proclaims the "Bullies to Buddies" website. Snyder recalls that when she started as a researcher on the subject, only a handful of people would show up for conference sessions on bullying. "After Columbine," she says, "it would be standing-room only."

The rash of suicides attributed to bullying has added fuel to the debate over what schools can do to prevent schoolyard taunting from turning tragic. Among the particularly high-profile deaths was that of 15-year-old Phoebe Prince, who hanged herself in January 2010 after what a prosecutor called a months-long campaign of verbal abuse and threats of physical harm by older students at her Massachusetts high school. But the outcome of that case was equally unclear. Three of the accused teens received probation and community service last month, while two others faced only probation.

"Cyberbullying" hit the national radar when 18-year-old Tyler Clementi jumped to his death from the George Washington Bridge last September after two fellow students at Rutgers University allegedly used the Internet to out him as gay.

In the book "Columbine," an exhaustive account of the mas-

sacre, journalist Dave Cullen concludes that "all the talk of bullying and alienation provided an easy motive." There was "no evidence that bullying led to murder," he says. Harris and Klebold emerge from the book as "cut off from humanity," desperately lonely, and plagued with feelings that they didn't fit into the social hierarchy at Columbine High. "I don't know what I do wrong with people," Klebold wrote in his journal, "it's like they are set out to hate & (insult) me." Harris said of his classmates in his own writings, "I hate you people for leaving me out of so many fun things."

Jerry Weichman, a Newport Beach psychologist who specializes in counseling teens, describes the social struggle in today's schools as a Darwinian survival of the fittest in which children "measure their social status according to how they are perceived by their peers instead of feeling comfortable in who they are." And social failure—or the perception of it—can have dire consequences for a particularly sensitive kid, a kid such as Daniel Mendez.

An honor student, Daniel had diverse interests ranging from tae kwon do and karate to playing the guitar and trumpet. With Italian and Mexican ancestry, he studied both Italian and Spanish. As a Boy Scout, he enjoyed camping, hiking, rock climbing, and river rafting. He was "the kindest, nicest, most sensitive, caring, deep-thinking person," one San Clemente High student has said of him.

Daniel's problems allegedly began during middle school at

Five Survival Tips

Newport Beach psychologist Jerry Weichman's advice for teens

1

Remind yourself: This is only temporary!

Times may be tough now, but it won't always be like this. Ups and downs are part of life's natural peaks and valleys. During a low, remind yourself that a high point is on the way. Teens who have suicidal thoughts or have attempted suicide have given up hope that things will get better.

2

Don't take a bully at face value

See bullies for who they really are. Anger and aggression comes from unexpressed hurt and pain. Bullies feel small and inferior. Think about what could be going on in their life behind the scenes. Perhaps their parents divorced recently, they have a bully of their own, or they've been abused. Understanding this will help you rise above it.

3

Remember that what goes around comes around

Remember that the bullying you are experiencing will circle back to your bully down the line, even if you do nothing about it. Some call this the law of karma.

4

Smile

A conditioned response exists between the muscles in your face and the pleasure centers in your brain. Smiling not only makes you feel better, but communicates to the bully that his actions are not getting to you.

5

Tell somebody

Due to the rash of school shootings across the country, most school districts have adopted a zero-tolerance stance on bullying. Tell your parents if you are being bullied and go with them to speak to a school administrator. If the bully retaliates, go back to the administration. Don't keep it to yourself.—M.H.

Do Prevention Programs Work?

The Daniel Mendez case raises the question of whether schools, armed with the most comprehensive of today's programs to combat bullying, can successfully intervene on behalf of students such as Daniel.

The intensive Olweus Bullying Prevention Program points to some success. In 2009, the Highmark Foundation, a nonprofit that funds initiatives to fight harassment, reported that in Pennsylvania schools where the Olweus program was implemented for three or more months, bullying decreased by 25 percent among high school students.

But in a major 2008 study, University of Oregon researchers and others concluded that school bullying interventions were modestly effective at best, and "it should not be expected that these interventions will dramatically influence the incidence of actual bullying and victimization behaviors."

There are signs, however, that some fresh approaches to the problem might work. Syndicated columnist and author Dan Savage recently launched the It Gets Better Project aimed at teens who are bullied for their sexual orientation. On its website, itgetsbetter.org, the project offers video mentoring by adults who experienced this in high school and successfully overcame it.

Many lesbian and gay teens "can't imagine a future for themselves," the site says. "So let's show them what our lives are like, let's show them what the future may hold in store for them."—M.H.

Bernice Ayer, where he was harassed for playing golf and called gay by members of the band. "He was shy and quiet and he took it, even though it bothered him," attorney Traut told the *Los Angeles Times*. At San Clemente High, his alleged tormentors included four boys, at least two of whom were on the football team. According to a court document, one called Daniel "a Mexican wannabe," an apparent reference to his dual ethnicity. On April 24, 2009, Danny Mendez testified, that kid "was sent to the office for constantly harassing Daniel. He also physically ganged up with [another of the accused four] and threw my son up against a wall, roughing him up and threatening to finish him later on the day that Daniel died."

On that May day in 2009, Daniel studied for the mock SAT exam. After arriving home from school, he went into the garage and broke into the padlocked cabinet where his father stored guns. At some point he hugged his grandmother, who had picked him up from school, telling her, "You always say that hugs make you feel better." Then he made the drive to Via Sage. The neighbor who heard the gunshot found Daniel's body with a wound to the head, a revolver beside him.

A classmate expressed his grief in an Internet posting. "What makes it worse is that I see the people who put him over the edge every day," Brenden Kim wrote. "I don't want people to think I am here for retribution, but the sad thing is bullying won't stop unless the people who caused this are severely punished."

Daniel's parents argued in a court document that the inaction of Capistrano Unified "led to the suicide of Daniel Mendez. Had [school] officials allowed for Daniel Mendez to lead a normal school life, without the pain and anguish of bullying and harassment, he would not have taken his own life."

But litigation can be agonizing for plaintiffs in school bullying cases. Communities have "a tendency to rally around school systems," says Snyder. "Parents [who bring allegations] are ostracized by their communities." In addition, defense lawyers may probe the most intimate details of plaintiffs' lives.

High, of Washington state, says that after she sued the school her son attended, the defense couldn't find anything on her family so they tried to find something on her. They said she was both inattentive and overly attentive toward her son.

In the Mendez case, attorneys for Capistrano Unified and one of the alleged tormentors pulled few punches. They attributed the bullying allegations to "innuendo" in website postings about the suicide. And they put more than 300 pages of Daniel's psychiatric records, obtained through subpoenas, into evi-

dence. Those records—which a jury will never see but which remain in the public court file—suggest Daniel was less concerned with bullies than with just trying to fit in.

In early June 2008, the Mendezes took their son to a hospital emergency room, records say, after Daniel told his father, "I am thinking of killing myself." He was released the following day and began therapy with David Aronson, a Laguna Niguel psychologist. In his patient notes, Aronson says Daniel told him, "I am a failure in sports, socially, in school." He had tried out more of a "gangster persona" to overcome his social awkwardness, Aronson notes, but had "given up on that because it didn't seem successful at making him fit in with peers."

Daniel would see two more psychologists before his death: To Perry Passaro of Newport Beach, he emailed a "bunch of stuff explaining why my life sucks," which he had written a few months earlier, a single-spaced outpouring of teenage angst and self-disgust. His biggest problem, he wrote, is "I have almost no social life and I can't do anything about it ... I push people away without even realizing that I'm doing it." He can't be himself at school, he continued, because "you need to be what everybody else wants

you to be. My 'friends' were able to accomplish that and they are all happy as a result. Since I don't know how to talk to people at all, I had barely any friends at all, which has now turned into no friends at all."

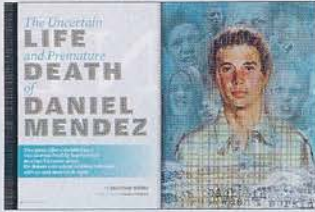
There is no specific reference in the email to being bullied, and none of the psychologists' notes mentions Daniel having problems with bullies. But Daniel indicates he was at least subjected to verbal taunting. "People talk shit to me and mess with me because they know I won't do anything about it," he says. If the person doing the taunting is "more popular than you ... you're supposed to sit there and take it. ... People will listen to them and never listen to you. And it's not just like that in high school but in all aspects of life, even among adults."

Alfonso Bustamante of Anaheim, the last psychologist to see Daniel, diagnosed his depression and social anxiety, and recommended he be referred to a psychiatrist for medication. But Daniel never did see a psychiatrist.

One of the alleged bullies testified in court that on the day of Daniel's suicide, he saw another of the accused boys grappling with Daniel before their fifth-period Spanish class. But he also said Daniel appeared to be the aggressor. By killing himself later that day, Daniel acted on "a distorted

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belief that his life was worthless, and that his social anxiety was too much to bear," Susolik argued in court papers.

Through their attorney, Danny and Anna Mendez declined a request to be interviewed for this article. They have, no doubt, suffered terribly from the loss of their son. But Daniel Spradlin, an attorney for Capistrano Unified, says, "As tragic as this incident was ... it was not the fault of the school district." He insists the district "has strong policies against bullying."

At San Clemente High, meanwhile, members of the class of 2011—Daniel Mendez's class—are poised for the next chapter in their lives. A month of fes-

tivities awaits them. There's the Senior Awards, a trip to Knott's Berry Farm, the senior picnic, the prom, and, graduation on June 22. After that, some will start careers, others will continue their studies at colleges across the country.

But the seniors haven't forgotten Daniel. Last May, on the first anniversary of his death, they held a candlelight vigil on the Forster Ranch greenbelt, not far from where he died. Classmate Reilly Gorman read the lyrics to "Changes," a Tupac Shakur song that Daniel had posted on his bedroom wall: *Let's change the way we eat, let's change the way we live, and let's change the way we treat each other. You see, the old way wasn't working.*

"This sums up the problem of bullying at our school and schools nationwide," Reilly told the gathering. "It's a very moving passage when you think about it, because we do need to make a change."

Just last month, on the second anniversary, Daniel's family and friends gathered in Forster Ranch to release balloons in his memory. His memory also lives on

in a club called Cool to be Kind, which Reilly, Brenden, and other classmates formed and dedicated, according to its Facebook page, to "changing the culture of San Clemente High School to a place where students do not tolerate bullying in any form." Club members staff a "safe room" on campus where students can talk—peer to peer—about bullying.

Katie Mann, a San Clemente psychologist and adviser to the club, recalls that one student reported harassment by some girls. Club members, she says, "asked the girls, 'Do you know you're really hurting this kid?' They said, 'Oh my god, we like him! We didn't mean to be mean.' The kids stopped harassing him." Mann adds, "Kids will listen to each other much more than they will listen to us."

MATTHEW HELLER is a frequent Orange Coast contributor. His last story, which appeared in October 2010, chronicled events surrounding the suicide of Newport Beach socialite Debbie Simon.



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