

CASE STUDIES



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Produced by:



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Elena and Taylor

Elena and Taylor are both 15 years old. They dated for almost a year. Early on in their relationship, Taylor pressured Elena to let him take nude photos of her. Later, Taylor pressured Elena to send more nude photos. Taylor also abused Elena physically during the relationship. Elena ended the relationship, but Taylor did not accept that. Taylor shared a nude picture of Elena with other teenagers over direct message on Instagram. Elena heard Taylor has done this before and bragged that he can do it without getting in trouble.

Q: What kind of cyber abuse has occurred here?

A: This is an example of revenge porn, a subcategory of nonconsensual sharing of intimate images. Taylor posted the nude image of Elena without her consent when Elena ended the relationship, which is one common scenario under which the nonconsensual sharing of intimate images occurs.

Q: What recourse is available to Elena?

A: 40 states and the District of Columbia have enacted laws specifically criminalizing nonconsensual sharing of intimate images, and 9 states have civil nonconsensual sharing of intimate images laws, so depending on Elena's state, Taylor's behavior may be a criminal act on its own. Depending on the state in which Elena and Taylor live, criminal harassment, stalking, or child pornography laws also may apply to Taylor's conduct. If Elena took the photos herself, she likely owns the copyright to the image Taylor posted and could potentially send a takedown notice to the social media platform requesting that the image be removed under the Digital Millennium Copyright Act (DMCA). The DMCA provides a mechanism through which copyright holders can request that social media platforms and other websites remove content that belongs to the copyright holder. Elena could also likely file a petition for a domestic violence restraining order. Most state laws regarding dating and domestic violence would apply, given both Taylor's physical abuse of Elena and the more recent harm done by his distribution of the photo.

Q: What kinds of evidence could you help Elena collect?

A: You can help Elena collect any screenshots that she has of the photo that Taylor shared. If possible, ensure that the screenshots include information that can be used to identify Taylor as the sender. For example, a screenshot of a social media message with Taylor's name and profile picture included would likely be sufficient to positively identify Taylor as the sender. Help Elena think through ways to store this evidence securely and privately, whether that is by giving printouts to a friend or by saving screenshots to a cloud service.

Q: What are some other ways to support this young person?

A: The best way to support Elena is to take her situation seriously and help her create a safety plan. Additionally, think through possible outcomes with Elena before pursuing a course of action as there may be unintended consequences of some courses of action. In this Break the Cycle case, Elena ended up dismissing her petition for a civil protection order out of fear that Taylor would distribute the image more widely if she pursued the order. Break the Cycle carefully explained to Elena that a protection order or future criminal penalties unfortunately could not remove her image from the internet or prevent further sharing from downloads that had already occurred. In other words, in some cases the damage has already been done when a young person reaches out for help. It is important to discuss the pros and cons thoroughly with your client and of course let them decide how to proceed. Elena may also benefit from connections with other services, such as counseling, to help her deal with both the physical and cyber abuse she experienced.

RESOURCES

Sample DMCA Take Down Notice
Cyber Abuse Safety Plan
Digital Evidence Collection Guide
Protection Orders 101
Protection Orders: Special Considerations for Minors

Jess and Ash

Jess is 16 years old and dated Ash off and on for a couple years. During that time, Ash physically abused Jess. Jess is afraid that Ash is cyber-stalking her. Once, Ash clicked around on Jess's computer, and showed Jess how easy it is to figure out Jess's password based on metadata. Jess believes Ash has figured out all of her passwords. (Recently, Jess tried to end the relationship with Ash, and then Jess's gmail account was deleted.) Jess also believes Ash has been monitoring her phone or computer. The other day Jess said something on the phone to a friend about a specific topic. A short while later, Ash texted Jess about the same topic using Jess's words. Also, Ash has been showing up when Jess is out. Jess suspects Ash is tracking her with GPS. Jess has let her phone battery die and is afraid to charge it, thinking Ash could find Jess's location or learn other information about Jess. Jess has also changed all passwords and created a new email account.

Q: What kind of cyber abuse has occurred here?

A: This is an example of cyber-stalking. As is true in many cases, the cyber-stalking Ash is perpetrating against Jess (monitoring her devices and hacking int

Q: What recourse is available to Jess?

A: Jess could obtain a domestic violence restraining order in most states because most states define cyber-stalking as a crime. (Additionally, Ash physically abused Jess during the relationship.) A civil protection order could require Ash to cease all communication with Jess, including via the internet. State criminal stalking statutes normally define stalking as repeated behavior intended to cause harm or fear. Most states have expanded definitions to include online stalking or communication via the internet, e.g., stating that the repeated behavior can be in person "or by any means." Some states have separate cyber-stalking statutes that criminalize this behavior. Turning to federal law, the Violence Against Women Act includes the Interstate Stalking Punishment and Prevention Act, 18 USC 2261(A)(2), which prohibits harassment and intimidation in interstate commerce and does not require direct communication with the victim (but would require the stalking to occur across state lines). If Jess and Ash resided in different states, this would be applicable.

Q: What kinds of evidence could you help Jess collect?

A: You could help Jess collect screenshots of any contacts she has with Ash, especially the text message Ash sent her that suggests Ash is monitoring Jess's phones. Jess could also start keeping a log of stalking incidents that records the date, time, location, and what happened during each incident. A log like this makes it easier for Jess to present a clear narrative about her situation, and can also be helpful for remembering incidents that happened some time ago. Clear narrative reporting can be challenging for clients who have experienced trauma. You also could suggest that Jess give evidence, especially electronic evidence, to a trusted person for safekeeping since it is likely that her devices are not secure.

Q: What are some other ways to support this young person?

A: You could help Jess obtain a new phone so she has access to a device that Ash does not know about or have access to. Free phones are available through the Federal Communications Commission's Lifeline program if Jess is income eligible. Some domestic violence programs offer phones free to victims as well. You could also help Jess safety plan so that she has a system for letting people know where she's going or bringing someone with her when she goes out. Another element of Jess's safety plan could include asking her friends not to tag her on any social media posts or pictures to make it more difficult for Ash to find Jess's location online.

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Cyber Abuse Safety Plan
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Cameron and Tiana

Tiana is 21 years old. Her ex-boyfriend, Cameron, is 23. They met in college and dated for about 3 years. After Tiana ended the relationship, Cameron refused to stop contacting her by email, text message, and Snapchat. Sometimes Cameron would insult or threaten Tiana. At other times, he sent her long romantic messages. Snapchat does not keep a record of conversations, but Tiana took screenshots of the messages before they disappeared. Tiana told Cameron to stop contacting her, and she blocked Cameron. Unfortunately, Cameron found other ways to contact Tiana. For example, Cameron sent Tiana money through Square Cash on several occasions. The app allowed Cameron to write messages to Tiana in the memo field. On her birthday, April 18th, Cameron sent Tiana \$4.18. All Cameron needed was Tiana's phone number to make these payments. Tiana had to delete her app, even though she used it to exchange money with friends and family.

Q: What kind of cyber abuse has occurred here?

A: This is an example of cyber harassment or cyber-stalking. Cameron is repeatedly engaging in threatening behavior towards Tiana using technology.

Q: What recourse is available to Tiana?

A: A domestic violence protection order is probably Tiana's best option. Because some state criminal harassment statutes require physical proximity, whether they apply to cyber harassment like this will be highly state-dependent. If Tiana and Cameron live in different states, the Interstate Communications Act and/or the Telephone Harassment Act might apply depending on the severity of the behavior. The Interstate Communications Act prohibits people from communicating threats to others across state lines. The Telephone Harassment Act prohibits abusive, harassing, or threatening communication through a telecommunications device across state lines.

Q: What kinds of evidence could you help Tiana collect?

A: Since Tiana has already taken screenshots of the Snapchat messages Cameron was sending her, you can help her organize them to make it easier for a judge to understand what occurred. You can also encourage her to take screenshots of the other ways Cameron contacted her, such as email and the Square Cash app, if she has not done so already. You can offer to store the evidence for her if she does not feel she can keep it safe and private on her own, or suggest that she ask a trusted friend or family member to do so.

Q: What are some other ways to support this young person?

A: You can help Tiana create a safety plan that addresses this specific type of cyber-stalking. Additionally, helping Tiana access a new phone (see above case study) that the abuser has no knowledge of could also provide support. If she cannot obtain a new phone, help Tiana change her phone number so that she can use the Square Cash app safely. Tiana may also benefit from connections to other forms of support, such as mental health counseling that can help her deal with the cyber abuse she experienced.

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