

CYBER ABUSE PROJECT PODCAST 1.4

Imelda Buncab (CALCASA) | Marta Beresin (Break the Cycle) | Kelli Musick (Feminist Majority Foundation)

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Starts podcast's themed-song Intro

IMELDA:

Welcome to the Cyber Abuse Project Podcast series! Where we invite guests to talk about the use/misuse of technology in Sexual Assault, Domestic Violence, Dating Violence and Stalking (including Cyber-Stalking cases). This project seeks to support the work of Criminal Justice Professionals, as they navigate these cases. CAP is a project of Break the Cycle and partnership with CALCASA. I'm Imelda Buncab, Project Coordinator, with California Coalition Against Sexual Assault (CALCASA). Joining me is my co-host and colleague from Break the Cycle, Marta Beresin, Director of Public Policy and Legal Services. — Hi Marta!

MARTA:

Hi Imelda! — At Break the Cycle, we work with students on Secondary and College Campuses every day, and receive importance of Title IX and insuring that schools, respond to Cyber Abuse appropriately to keep students safe and able to stay in school and learn. So, we're really excited to have our guest with us from Feminist Majority Foundation today, to talk about Cyber Abuse on school campuses and Title IX. Joining us are Kelli Musick, the National Program Coordinator for the Feminist Majority Foundation. A cutting edge organization dedicated to Women's Equality, Reproductive Health, and Non-Violence. She received her bachelor's degree in Sociology from the University of Mary Washington. She's a passionate organizer and advocate for Reproductive Freedom, Queer Rights and Women's Equality. — Hi Kelli!

Kelli:

Hi Marta

MARTA:

And we also have with us, Gaylynn Burroughs, the Director of Policy and Research to the Feminists Majority Foundation. With more than a decade of experience advocating on behalf of women and communities of color, Gaylynn was previously a Clinical Visiting Assistant Professor at Fordham University School of Law. She began her career providing direct Legal Services to indigent parents, as a Staff Attorney in the Family Defense Practice as a Bronx Defender. Gaylynn graduated Cum Laude from Yale University, and earned a JD and LLM from New York University School of Law. — Hi Gaylynn!

GAYLYNN:

Hi Marta!

MARTA:

So, let's jump right in. First, I'd like to ask both of you to tell us about the University of Mary Washington case in Virginia, and what your relationship is to that case?

KELLI:

Hi Marta! This is Kelli. I was a student at Mary Washington when we filed the Title IX Complaint. I'm the Main Plaintiff on the case and at that time I was the Vice President of Feminists United,

the student-group. In the Fall of 2014, Feminists United chose to focus our advocacy for the year on the [unintelligible] of Sexual Violence on Campus and our first campaign was participating in, um, what's called the Other Freshman 15; an online action in which students and parents and alumni email the college president, demanding changes to Sexual Assault Policies on campus. Our campaign actually generated more than 200 emails to President Hurley, the President at the time of Mary Washington. Following this, we set up a meeting to discuss what changes we wanted to enact on campus. At this same time, conversations were taking place about institutionalizing Greek Life, which had never existed on campus, and which currently doesn't. During a forum about Greek Life, members of the [unclear] spoke out, pointing out correlations to, you know, increased numbers of sexual violence and the rape culture that is associated with Greek Life, and our concerns about the impact of the institutionalizing it on campus. Immediately, we were hit with a barrage of, you know, harassing and vile comments on the online platform YIK YAK. So, while, you know all of these conversations are taking place at once on campus, and it's a pretty volatile situation in the Fall of 2014. Shortly thereafter in the Spring, the administration decided to suspend the Rugby Team. However, because of the lack of information put out by administration, the students body thought that it was because of the [mis --] that they were suspended and that is when the threats on YIK YAK really started to escalate and at that point, we started receiving threats of rape and murder; our locations were posted, members of the group were identified by first and last name, you know, and were told where we were going to be, at what time and location on campus, so that folks could, you know, deal with us in person. And we begged our Title IX Coordinator, our administration to clarify, you know, what had happened, and President Hurley responded we come up with our own solution of how to resolve what was going on; and even went so far as to try to get us to come up with legal advice to bring him on what other schools had done. You know, and all of this was going on while we're trying to go to class and handle our extra curriculars and, you know, be a 20-something-year-old student. Finally, after you know, looking to the Administration to do anything to stop the barrage of threats that were occurring every single day, we decided our only action was to file a Title IX Complaint in the Spring of 2015.

MARTA:

But I'd like to hear a little bit about that complaint, but before we go into that, you touch on this a bit I mean you all were college students in your early 20s, trying to you know, have a normal college life; with all of this going on and attend your classes and graduate, how did this impact you and your fellow students who were involved?

KELLI:

As you can imagine, it was a little hard to focus on our daily studies. You know, on the most benign level, as well as there were times when we were terrified for our safety, as the threats escalated both in the types of violence and the amount of threats per day. There were members of our group who were afraid to, you know, leave their house or stay out after dark. Students were afraid to engage in on-campus activities because you didn't know who was going to be there or who would see you; even so far as it was scary to go to class not knowing if someone sitting next to you was the person making these threats online or, you know, every time you saw someone glance at you and pull out their cellphone – were they upvoting, you know, a threat against you? It was overwhelming.

MARTA:

Your point is so excellent about, you know, it really being a university's responsibility to know what action that they should take to protect students, and, in this case, the university was turning to you and saying, well when do you want US to do about it? But did you have things in

mind or in hindsight, what do you believe the school should have done in response to your complaint?

KELLI:

We wanted the Administration to take us seriously. We wanted them to investigate who were making the threats, you know, and if the threats were serious then to hold the individuals accountable. We wanted them to publicly end the threats and say that, you know, that it was part of the Administration's responsibility to protect students, when in fact they did the opposite and said there was no recourse and we wanted them to prioritize student's safety. We specifically asked for a Sexual Assault Response Coordinator, and were denied immediately and were told that they didn't have the funding for that, while we looked around and saw, you know, countless other initiatives and programs receiving, all of this funding, while I was working as a fundraising supervisor on Campus with some pretty intimate knowledge of school finances. And so to be presented flat out with this statement that, "oh, we can't hire someone," you know we can't put our money where our mouth is to protect students, to prioritize the safety of women on campus.

MARTA [to Gaylynn]:

Taking a step back, and speaking a little more broadly, can you talk a little bit about how you believe gender-based type of harassment impacted student? And Kelli talked a little bit about this personally, but maybe more broadly and more generally, the impact you think it can have on students?

GAYLYNN:

I think it can have a devastating impact on students. We live in a world now where there isn't that much separation between what happens "in real life" and what happens "online." Online is real life at this point and no one, I think, can function when they are being harassed daily. I mean, when we're talking about University of Mary Washington in particular, there were hundreds of posts on YIK YAK directed at these women. It's not unusual: 29% of young women, age 18-24, have been the target of online sexual harassment. That's a lot of people who are just trying to go about their day while they're being stalked, called names. I mean, if you can imagine going through your day at school with someone behind you, yelling vitriol, or threatening to harm you, no one would think that was OK, but also no one would expect that a student would be able to thrive in that kind of environment. We know that victims of harassment, including cyber harassment, have had problems focusing at school. Their grades have suffered, they've had to leave school, they've had health problems and then some of those problems lead to financial problems when they have to drop out of school. So, there's broad effects that aren't that different from how we would expect people to respond or be affected by harassment that is taking place "in real life."

KELLI:

So, the platform that one uses to commit violence against women, it doesn't matter, the results are going to be the same. The impact is going to be the same. You know, we had several members of the club, myself included, you know started going to counseling for anxiety, depression, general stress you know some students were prescribed medication to deal with PTSD and the trauma of that. These are real life consequences, even if the Administration believes that this violence is just happening "online."

GAYLYNN:

And then for a lot of people, you know, not only are they dealing with sort of sex-based harassment, they are also dealing with race-based harassment. There's vitriol about, people's religion or LGBTQ students are particularly vulnerable, and all those things are happening at once and so, we talk about, especially in a current climate, we've been talking about being black in public, right? And what that means, and how micro-aggressions can really take a toll on people. It's the same online. Being online is being in public and what is happening through this type of cyber abuse is that the Internet is becoming unsafe. It's becoming unsafe for certain people, especially vulnerable people, people from historically marginalized communities. For women who speak out, feminists being in public, it's a way to silence voices that you don't agree with, tell people that they're not welcome and they're not wanted and in particular when thinking about Title IX. Title IX was supposed to create an environment where women could actually thrive on campus, where they would be able to enjoy educational opportunities and by pushing women off-line, it's pushing them out of public discourse. It means that they can't participate in campus life, the way any other student would be able to online.

MARTA:

I'm glad you raised Title IX because I was just going to ask about how you see gender-based cyber harassment fitting into the protections of Title IX. Title IX is our federal civil rights law that prohibits gender-based discrimination by educational institutions that receive federal funds, and that includes [unintelligible], sexual assault and harassment. And how does gender-based cyber harassment fit into those protections and obligations of schools under Title IX?

KELLI:

I think that platform, you know someone chooses to commit violence against women on college campuses, it doesn't have an impact, it doesn't matter when someone is committing violence against women. The judge decided that because UMW had "limited," if any control over YIK YAK, then our Title IX discrimination complaint failed. However, I really appreciated some of the dialogue between a few of the judges, during the oral arguments in the appeal, where they laid out just because this is happening online doesn't make it not real. You know, if someone were to take a sky-writing plane, and you know, write a rape threat or a death threat in the sky above the campus, would the university have an obligation under Title IX to investigate that? To protect the students, the female students who are being targeted with that and I was deeply disappointed by the commonwealth attorneys, saying that, you know, they couldn't come up with an answer — a yes or no. So, I think getting into the weeds about, well was it written on a white board? Was it a note slipped under your door? Was it, you know, posted on a anonymous [indecipherable]? That doesn't matter; these are all platforms that students are engaging with on a daily basis, you know. Our generation of college students right now of Millennials and GenZers, we're all digital natives. We can't divorce our daily activities from interacting online, nor should we expect it to be and so I think absolutely Title IX requires Administration to take ownership over digital platforms that students are using.

MARTA:

Great! And what about The First Amendment here? Is that a red herring in this situation? I know that that was raised, I think in this case, as a basis, the university raised that as a defense to having to take some action against YIK YAK or against students, I believe. Is there a real issue there, in your mind?

GAYLYNN:

No. I think that the university tried to hide behind the First Amendment; but the First Amendment doesn't protect threats of rape and death threats. Those are not protected speech;

there is no personal protection for that and so, the university had an obligation to do something about this harassment. I also think it's interesting that the First Amendment protects the ability of people to speak in the Public Square. YIK YAK was a public square and these women were really pushed out of the Public Square. At one point, I believe someone said, why don't you just delete YIK YAK from your phone? Which is the same thing as saying, why don't you just avoid the public square? Because of what you have to say, or contributions are not valuable. Right? And I don't think that that's what the First Amendment is about. It's not about using the First Amendment to silence people and that's what was happening. So, I don't think that the First Amendment is really implicated at all here. It's very clear, under the law, that a school has an obligation to prevent gender-based harassment that prevents students from enjoying equal access to educational opportunities by creating a hostile environment, and I can think of no better situation for illustrating what a hostile environment is than having a platform full of death and rape threats.

MARTA:

So, let me turn to Kelli for this next question, since you have gone to your school in the past to bring a gender-based cyber harassment complaint, what would you recommend to school safety officials across the U.S. who are responding to gender-based cyber harassment complaints from students? If you could speak directly to them, what would you say and what would you recommend?

KELLI:

Trust women. First and foremost, just listen to what students are saying and take them seriously and then follow through, whether that's investigating using campus police or using IT Department, or whatever resources that you would use to investigate other crimes or other threats of violence on campus. Using those. Also taking a proactive approach to, you know, gender-based harassment or rape culture in general on campus. Speaking out from a student-to-student, is accepted in a university and is involved in orientation practices of choosing, you know, what harassment is, community values, illustrating those from the beginning, that students know if they harass or if they make any of these vile comments, or especially if they threats online, they will not be tolerated and they certainly won't be swept under the rug. They'll face consequences from the administration.

MARTA:

Great! And speaking a little bit more about as far as us taking a proactive approach, are their models out there that schools can follow? Do you know if schools that are taking that proactive approach and have good programs in place, around these issues?

KELLI:

I remember doing some research when we first filed the Title IX complaint and looking at the vast variety of schools who had pending Title IX complaints against them. This is not a problem that is unique to Mary Washington; this is something that I think all institutions of higher education are reckoning with in some way or another. This is part of a national conversation of how do [indecipherable] campus? What obligations the administrations have? And I think you know, overwhelmingly administrations have been failing their students for a very long time.

MARTA:

And can you say a tiny bit more Gaylynn, just as our final question about trauma informed practices and how universities can use trauma informed practices, you know, as a best practice in this area?

GAYLYNN:

I do know that we can't expect people who are experiencing trauma, to have all of the answers and put on their back the work that school administrators should be doing. I think that it is shameful that the women in Feminists United were expected to protect themselves from this type of abuse that they were on the receiving end of without any help from the people who were in charge of the university. It was a total failure of leadership, and that also re-traumatized some of these students because they felt like they were made powerless multiple times over. So, we can't expect change to come on the back of the survivor, it's not fair. But also, we have to engage in practices, in which we understand the kinds of trauma that people have experienced. That we understand that being the recipient of this kind of cyber harassment and cyber stalking has real impact. We can't just say, well, "you were asking for it," or you know, "what do you expect if you spoke out? This is what was going to happen." That is another type of victim blaming that has no place in the kind of response that we should expect from a university.

MARTA:

Well thank you so much for joining us, Kelli and Gaylynn, it's been a pleasure hearing from both of you, hearing recommendations for college administrations around trauma informed practices, believing women, understanding the impact, not blaming the victim; I think these are all such important things to really have a good national conversation around and I also just want to thank you both for your work and your advocacy around this important issue.

IMELDA:

Again, I echo Marta's gratitude for you joining us today and what you offer the field and what you shared, Kelli, is a lot of the things that we've also been hearing in terms of high school campuses and students experiences with cyber harassment. Then definitely your voice along with the high school folks' voices, will definitely bring this further into light, rather than what you shared that you've been told to get off of YIK YAK, or get off of Snapchat. That's not what we are going to do. We're going to bring it forward. But thank you!

KELLI:

Thank you so much!

GAYLYNN:

Thank you so much!

Both Kelli & Gaylynn Exited out the Podcast interview

IMELDA:

You just heard an interview with Feminists Majority Foundation, Kelli Musick and Gaylynn Burroughs, in our fourth episode of The Cyber Abuse Project Podcast Series. Marta, what an impressive young woman to experience that kind of cyber harassment and use her experience to help other student victims.

MARTA:

Yes, Kelli and Gaylynn really helped us understand what it's like to be on the receiving end of this kind of harassment and how campus administrators can step up to support, rather than blame students, who are victims of cyber abuse on the campuses.

IMELDA:

Yes, and many of these suggestions can really benefit both campus administrators and campus safety personnel responding to these incidents. What were your favorite take-away from Gaylynn and Kelli?

MARTA:

So, I had several but one of the biggest things we heard from them was that change must come from campus officials, not from the victims of these crimes. In some cases, like this one, campus administrators are putting onus on students to come up with a plan of action to keep themselves safe. When really, it's campus officials who, first of all, have the ability and knowledge to create such a plan and second of all, have the obligation to do so under Title IX. Another important take-away was around the importance of trauma informed responses and practices. This goes back to not expecting the victim to have the answers. Trusting and believing victims and understanding the impact on their lives. And finally, they recommended that universities take a proactive approach to cyber abuse on campus. This involves not only teaching students what harassment is, but also making it clear that the university has zero-tolerance to cyber abuse and what the consequences will be.

IMELDA:

Yes, and it's so important to believe survivors and we can't expect people, especially young people, who've experienced trauma, to have all the answers and do all the work. The response has to come from the university and it must be trauma informed and victim-centered. Messaging matters too.

MARTA:

Exactly. As Kelli mentioned, the school's public response for the traumatized students, who thought they weren't being believed or trusted.

IMELDA:

It sure will be interesting to see how the appellate court rules in this case. We will certainly do some follow-up on this one when the rulings come down.

MARTA:

Yes, hopefully the court will send a clear message that universities must take these complaints seriously and take appropriate action to ensure the safety of all students. After all, Title IX is all about ending sex-based discriminations on campuses and ensuring equal access to education. And Kelli made it crystal clear that it was very hard for her to continue to attend classes and keep up with all of her other activities, while constantly being threatened over YIK YAK and having to look over her shoulder.

IMELDA:

The anonymous nature of the online threats created an environment of fear and Kelli's heightened hyper vigilance of hoping she wasn't going to be harmed. Her advocacy, on behalf of victims like her, surely impact how campuses handle cyber harassment cases.

MARTA:

Well that concludes our fourth episode in The Cyber Abuse Project Podcast Series. Thanks for joining us and be sure to tune in to the remaining podcast in the series by visiting, BreakTheCycle.org

IMELDA:

The Cyber Abuse projects addresses the use/misuse of technology in sexual assault, domestic violence, dating violence and stalking (including cyber-stalking cases). CAP is a project of Break the Cycle and the California Coalition Against Sexual Assault. It is supported by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions and recommendations expressed in this program are those of the authors and do not necessarily reflect the views of The U.S. Department of Justice, Office on Violence Against Women.

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And California Coalition Against Sexual Assault at: CALCASA.org to learn more about our work and CAP Resources.

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