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JAG FOUNDATION CYBERBULLYING MATERIAL

1. Introduction

- 1.1. Bullying not only happens in the physical world but also online.
- 1.2. Online bullying (aka “Cyber Bullying”) can be more damaging than physical bullying because:
 - Cyberbullying allows a bully to harass a victim not only when they are at school but also after hours where they are able to torment their victims 24/7 without external intervention
 - Abusive material about a victim can be spread to millions of people online or across schools much faster than bullying that occurs in a playground.
 - Unlike in the physical world where addressing one bully can stop the abuse of a victim, online bullying can go viral creating multiple online bullies. Under such circumstances it is not possible to stop the bullying by merely confronting one bully
 - Cyber Bullying is longer lasting because abusive material posted online can be visible to the victim and outside world for years after an abusive post has been created

2. Legislation

- Childrens Act 38 of 2005
 - Regulation of Interception of Communications Act 70 of 2002
 - Electronic Communications and Transactions Act
 - Harassment Act 17 of 2011
 - Common Law *Crimen Injuria*
- 2.1. While all the above legislation provides omnibus prohibition for online harassment and bullying salient provisions are:

Harassment Act - "harassment" means directly or indirectly engaging in conduct that the 5 respondent knows or ought to know- (a) causes harm or inspires the reasonable belief that harm may be caused to the complainant or a related person by unreasonably- (i) following, watching, pursuing or accosting of the complainant or a related person, or loitering outside of or near the building or place where 10 the complainant or a related person resides, works, carries on business, studies or happens to be; (ii) engaging in verbal, electronic or any other communication aimed at the complainant or a related person, by any means, whether or not conversation ensues; or 15 (iii) sending, delivering or causing the delivery of letters, telegrams, packages, facsimiles, electronic mail or other objects to the complainant or a related person or leaving them where they will be found by, given to, or brought to the attention of, the complainant or a related person; or (b) amounts to sexual harassment of the complainant or a related person;

The threshold to lay your claim in law is proving a reasonable belief that harm will occur from wrongful conduct of the perpetrator.

"harm", means any mental, psychological, physical or economic harm;

Crimen Injuria - "unlawfully, intentionally and seriously impairing the dignity of another." Although difficult to precisely define, successful instances of *crimen injuria* have been established in case-law to include:

- instances of road rage,
- stalking,
- racially offensive language
- emotional or psychological abuse
- sexual offences against children

3. What To Do When Cyberbullying Occurs

- 3.1. Depending on the form of cyber-bullying and conduct in question, if the bullying amounts to harassment and / or *Crimen Injuria*, lay a complaint with the police and open a docket to pursue a criminal case against the perpetrator.
- 3.2. This form of remedy is free and protects victims of all socio-economic brackets. It also an effective way to have bullies remove any offensive material they have posted before that material goes viral because those bullies fear criminal cases being laid against them.

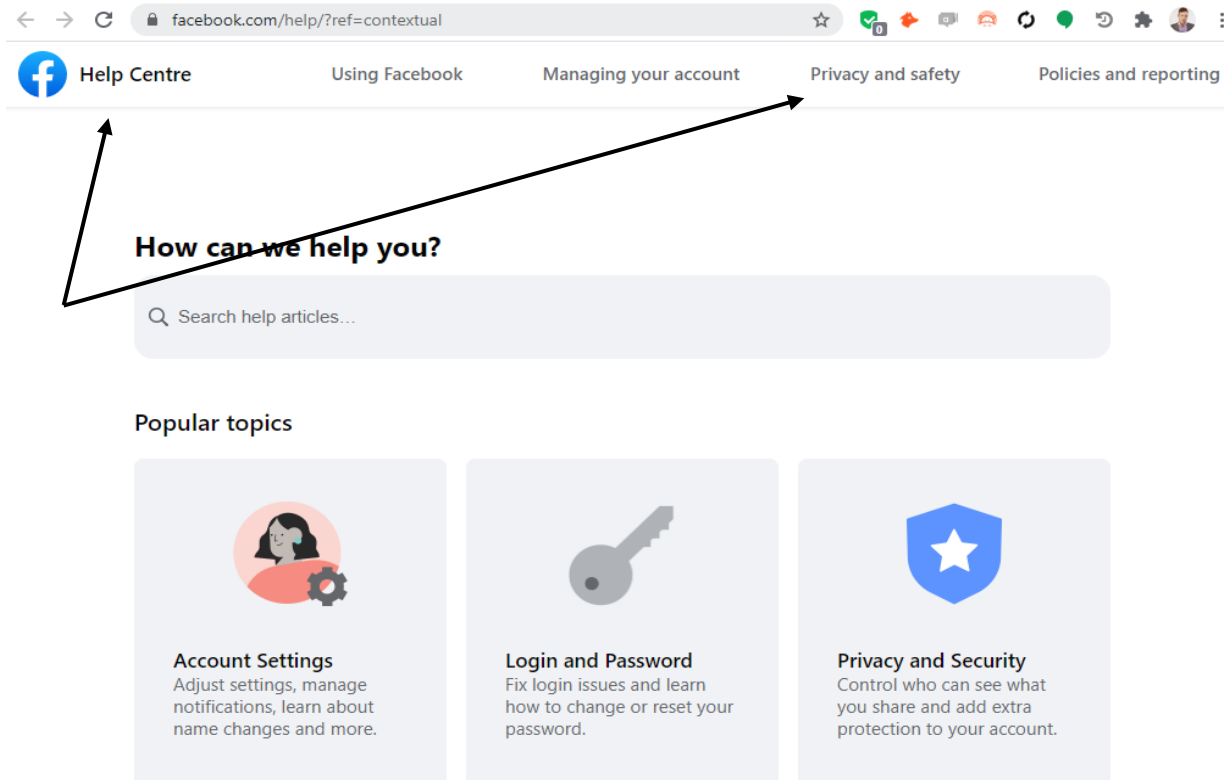
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3.3. In conjunction with the above, social media platforms such as Facebook / Instagram / Twitter / YouTube and LinkedIn all have internal policies which prohibit the use of their platforms to propagate cyber-bullying. Victims can select the “Settings” icon and find the “Security & Safety” option to lay specific complaints against bullies and have the offensive material removed.



Yours faithfully,

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