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DEFAMATION LAW IN THE AGE OF THE INTERNET: YOUNG PEOPLE'S PERSPECTIVES

Defamation Law in the Internet Age

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EXECUTIVE SUMMARY

This report is based on interviews that were conducted with 20 youth between the ages of 15 and 21 in Ontario during the winter of 2017. The purpose of the interviews was to explore young people's attitudes toward and experiences with online defamation, reputation, anonymity, including their opinions on the benefits and drawbacks of existing mechanisms for addressing online defamation³.

Reputation: Judging and Being Judged

Participants repeatedly emphasized the blurry, if not indistinguishable line, between online and offline spaces. At the same time, they distinguished real world reputations (which are rooted in social relationships with others) from online reputations (which are self-consciously constructed in order to satisfy the needs of the particular platforms that house their content). They accordingly felt that they had a number of reputations that were determined by the context of the sites of interaction. However, they recognized that their online reputations could affect the way that they were judged both online and offline, and they accordingly took a number of measures to maintain their reputations. Prominent among these measures was controlling an element of privacy in their online interactions (in the form of control over the information and audience) by using different platforms or different elements of platforms for different purposes. By doing so they represented themselves in different ways for different audiences. They were also aware that others' online postings *about* them could also affect their reputations. A number of them felt that it would be unfair for future employers to judge

them based on what was posted about them online because online information can so easily be taken out of context.

Law reform take-away: In an increasingly seamlessly integrated online/offline world, reputations can be established or broken by both online and offline content. In the online context, maintaining control over the information and audience can be challenging. Consequently, legal privacy protections are intimately connected to reputation creation, maintenance and protection.

Reputational Harm: Truth and Falsity

Participants described numerous instances in which their reputations or the reputation of others had been harmed by what others posted about them online. In a great many cases, however, the reputational harm derived not from the posting of a false statement, but from the posting of either a true statement or a non-consensual disclosure where the truth of the contents of the disclosure was not in dispute (e.g. intimate images or personal information). Further, their opinion of others emanated, at least to some degree, from what was posted online about those others even though they recognized that it is difficult to discern truth from falsity or fact from opinion. Participants also expressed serious concern about the reputational harm experienced by members of vulnerable groups, such as Muslims and racialized persons that are targeted by online hate.

Law reform take-away: In an online world characterized by misinformation, alternative facts, non-consensual disclosures of personal information and images, and group-based hate, defamation law's focuses on *falsity* and *individual* reputation, and its distinction between opinion and fact may weaken its contribution to reputational protection.

Resolutions

Participants viewed law (whether civil or criminal) as a last resort for dealing with online reputational attacks. Instead, they described a litany of other approaches as those they would try first, including: individual/community-based responses; social media platform reporting; and school-based responses. However, many participants expressed dissatisfaction with the non-transparency and unpredictability of results from reporting to social media platforms and with the lack of a whole school approach to reputational attacks and harm. Nonetheless, most felt options such as these were more accessible, understandable, and affordable, and less likely to blow things out of proportion than were legal options.

Law reform take-away – In an online/offline world where numerous resources exist for dealing with online reputational harm, law reform efforts that provide more support for individual or community-based responses, improve accountability of social media platforms, and encourage educational approaches that enhance awareness of rights and responsibilities may provide more relevant support to young people dealing with reputational harm than civil litigation or criminal prosecution (except in the most serious cases).

Free Expression

Participants valued free expression and the interchange of ideas that the internet can facilitate, but the vast majority felt that it needed to be balanced against other competing rights and considerations. They identified three central limitations: group-based hate speech; defamation; and hurting or threatening to hurt other people. Some participants were concerned about the way that social media platforms were handling decisions to remove content, and the implications of those decisions for free expression, as well as users' reputations. Others perceived the private rules imposed by social media platforms to have supplanted public policy on these issues.

Law reform take-away – Maintaining the proper balance between free expression and other rights and considerations remains an important exercise, notwithstanding the transition to a highly connected network environment. If important existing constitutional rights are to be protected in an accountable and transparent way, interventions by social media platforms that affect the balance between free expression and other rights are matters of concern for public policymakers.

Privacy

Participants interwove privacy concerns throughout our interviews about online reputation and reputational harm. Perhaps most significant to our participants was the ability to maintain a degree of control over information about them, including the ability to self-represent in different ways for different audiences. Further, the violation of privacy inherent in situations of

non-consensual distribution either of personal information or intimate images, was a serious harm they associated with reputational attacks in which the truth of the content of the attack was not in issue.

Law reform take-away – In an online world characterized by non-consensual disclosures of personal information and images, where maintaining control over one’s self-representation and the audience that has access to that representation is important to individuals, legal protections for privacy are a critical aspect of reputational well-being and protection.

Anonymity

Most of our participants had not posted online completely anonymously, although many had used user names/pseudonyms. Many of those who had participated completely anonymously had done so at a younger age. Most of our participants tended to see anonymity as a double-edged sword. From their perspective, anonymity facilitated both socially positive and socially negative online expression. For example, on one hand anonymity minimized the risk of judgment and therefore made it easier to ask for help and to learn more about socially marginalized topics, such as sexual and gender identity. On the other, it could embolden hate speakers by diminishing the fear of being caught.

Law reform take-away – Anonymity online can be an important tool for enhancing free expression, privacy and equality, but can also be used in ways that present risks to each of these rights. In terms of legal process, anonymity may help to encourage young people who

have been defamed to seek a legal remedy, and to help young people who have defamed to rehabilitate.

INTRODUCTION

Defamation law, which is aimed at protecting a claimant's reputation from harm caused by false statements, strives to balance the protection of reputation and freedom of expression.⁴ Profound social and legal changes such as the constitutional enshrinement of the right to freedom of expression, combined with technological change such as the advent of the internet have led to questions about whether defamation law (the fundamentals of which were established hundreds of years ago) requires reform in order to remain relevant.⁵ The internet, in particular, could re-open a variety of issues of relevance to defamation law and to the social value of the protection of reputation because it offers a widespread opportunity for all of those with a connection to distribute their messages, often with an added sense of anonymity. These shifts raise a number of questions, including whether and how the nature of privacy and reputation are changing, and what the relationship between privacy and defamation is.⁶

Young Canadians are highly connected⁷ and are therefore well-placed to contribute meaningfully to discussion and debate about internet-related policy based on firsthand experience. Too often, however, those involved with law reform and policymaking fail to consult or to consider the views of young people.⁸ This report seeks to help to ensure that policymaking with respect to online defamation is informed by the voices and experiences of young people. It does so by reporting on interviews with young people about their experiences with and perspectives on online defamation, reputation, free expression, anonymity, privacy and various available responses for dealing with online reputational attacks.

This report is based on interviews that were conducted with 20 young people between the ages of 15 and 21 in the winter of 2017 in one urban and three rural locations in Ontario. (A more thorough explanation of the sample and how it was selected is set out in Appendix A - Methodology.)

Our research questions were:

1. What are young people's attitudes toward and experiences with online defamation and anonymity?
2. What are young people's experiences with and needs from existing mechanisms for addressing online defamation?

With respect to the second question, we were particularly interested in exploring young people's understanding of and opinions about various aspects of defamation law, but also in finding out more about the other kinds of redress mechanisms available to them (e.g. through social media platforms and schools) and how they evaluated those mechanisms by comparison to legal ones. Understanding both what young people know about law and whether it is actually relevant in assisting them to resolve online reputational conflicts is key because it can help to shape decisions about whether and, if so, how legal reform could meaningfully support them in avoiding and/or resolving reputational harm in the future.

This report is organized into four sections. Section I focuses on our participants' understandings of online reputation, the methods they use for creating an online reputation

and avoiding reputational harm, how they make sense of other people's reputations, and the value of private socio-technical spaces. Section II explores our participants' views and experiences with reputational harm, breaking it down in terms of categories that arose from our interviews: true stories; false stories; mixed true and false stories/opinions; group-based hate; and "throwing shade". It also highlights the blurry line between truth and falsity described by our participants, as well as the relationship between truth, falsity and degree of harm. Section III describes our participants' opinions about and experiences with various ways of responding to/resolving online conflict relating to reputation, including: interpersonal/community-based responses; social media platform responses; school-based responses; and legal responses. Section IV examines our participants' views about and experiences with free expression, privacy and anonymity in an online world, highlighting the interconnections between these rights and values, and their relationships with equality.

Our Conclusion brings together the main concepts and ideas emanating from our interviews and suggests their possible implications for law reform and policymaking with respect to defamation law, as well as other ways in which law or legal reform can support reputation protection, while maintaining fundamental constitutional commitments to free expression, privacy, and equality in an increasingly digitally networked society.

I. THE MEANING AND VALUE OF REPUTATION

A. Understanding Online Reputation

All of our participants shared a common understanding of reputation as “the way people see someone ... in society” (Daniel) or the “opinion” people have of someone (Caitlyn). Only Marcus linked reputation to personal integrity: “Reputation is like a, like a certain standard of how people view you, I guess. Like, I guess it has to do with like your character...” For the rest of our participants, reputation was less about character and more about conforming to a set of shared values and expectations, such as “having a good life, having a career, having a job, having a family” (Caitlyn). Daniel put it this way: “... reputation is ... social values that just come together and everyone’s like ‘oh, like that person’s a great person.’ But like you don’t actually know if they are.”

From this perspective, reputation is an important instrumental tool. It helps us navigate the social world because “how generally people think of you” (Aaron) gives others a sense of how to interact with you: “reputation is like one of the most important things when it comes to ... meeting people and stuff like that” (Daniel). Even Ashley, who questioned the importance we give to others’ opinions of us – “I’m kind of a little bit like why should our reputation define us? Like, why does it matter what other people think?” – concluded, “But at the same time, it does. So that definition [of reputation as how others view someone] makes sense to me.”

1. In the real world, reputation varies by social context—A number of our participants spoke about having different reputations among different sets of people, depending on the context of the relationship that defined the group. For example, Aaron noted:

... there might be different circles of people that have different opinions on you ... like if you're a supervisor at a store or something, right? Your employees might know you as kind of a hard ass but then your family knows you as a big sweetheart. So your reputation can kind of, um, you know, it's, it's what others think but there's differing groups with different opinions of that.

2. But on social media, reputation varies by platform—The context is determined by the design of the platform rather than by the social relationships of the people who inhabit the platform. For example, all of our participants recognized Instagram as a place to build a reputation as “artsy” and to post things about “your life and food and tips and hacks” (Ashley) to show you are living an “outgoing, happy and ... fruitful life” (Caitlyn); Facebook was seen as a place to appear to be “social”, “family-oriented”, “accomplished” and someone who travels; and LinkedIn was a place to “be professional”. Our participants did not open a Facebook account, for example, because they *were* social but because it was a common thing for people their age to do; they then presented a view of themselves *as social* because that fit into the context of the platform. Caitlyn summarized it this way:

... on my LinkedIn, I have more of a professional, ah, everything is—on there I post and portray is all like my resume and professional side of things and your connections and what you follow on there as well. But then on your Instagram it's all photos. So it's just photos of what's happening in my life. While on Facebook, I will—so, yeah. So on Facebook, it's more I keep it very family forward in thinking. So a lot of things I post are more universal or cool things you can do. And then the photos that I put on there or talk about are more my accomplishments *per se*, to show my family. So, I would say in reputation-wise, when you look at each one, it might show a different side of who I am. But all—if you look at it all together, I would say it shows one person, like who I am. But you have to connect them together. You can't just look at me on LinkedIn and that's, that's all I am.

Our participants' online reputations on each platform were accordingly always partial, as they were shaped to fit the design of the space: "In which case then you have, you know, two altered reputations based on which platform you're using" (Aaron).

3. The incomplete nature of online reputation means that there is often a gap between a participant's reputation on a particular platform and who their friends know them to be—

For example, Michael told us that:

... I think [*chuckles*] I have a reputation on Instagram for being an artsy little crap, but [*chuckles*] just because that's why, that's what I like to post. Um, actually yeah, my friends — it's sort of a joke between me and friends that my Instagram is just completely photos because it's like, you know, calling me hipster and stuff. I'm like 'yeah, whatever.' I don't care ... You know I think, I think some people might like associate me with the emo crowd, but I'm like 'um, no not really.' And most of my friends realize, they're like 'yeah, you like appear to be this but you're not at all.'

Part of this gap rests in the contrived nature of online self-presentation. As Daniel explained:

I think there's more like a difference between like your reputation like on social media versus like your reputation like in person ... Like, so I feel like people like online, like they only get to see a certain part of you almost, right? ... Like they only can see the stuff you decide to post. They don't actually get to see yourself ... someone like that like sees me in person would obviously know like the more like traits about me ... people do—like that like know you in real life, there's just going to know like the full side of you ... So like there's these like almost like these two—the person you're trying to portray on social media versus like the person you kind of are.

4. Platforms also tend to be designed to reward or privilege one characteristic in particular.

Because of that, online reputations tend to be driven by the person's ability (or failure) to project that characteristic consistently—For example, "being able to answer all the questions" and "being supportive of things" on game sites tends to create a good reputation.

On the other hand, “being an idiot” who reposts jokes in humour groups is a marker of bad taste as jokes are only funny once. Michael told us that one person he knew did this and he became a meme: “... it’s gotten to the point where people making jokes like with his username because he had such a bad reputation for reposting saying [*chuckles*] joking around this guy like little rage comics with him as the main character.”

5. Metrics matter—Online reputation is also quantified through the use of tags, “likes” and follower counts. Gaming sites, for example, use “some sort of recognition system” that places tags beside a player’s username to indicate how often they post or if they are “reckless” or crash a lot. These tags are read as reputational markers that let others “see that and go ‘oh, this person knows what they’re talking about, or oh, this person’s honest, or oh, this person’s different’” (Michael). Participating in a number of job competitions and having a growing number of followers on LinkedIn signals that a person is “professional ... hardworking and she has people who support her” (Caitlyn). And a high number of “likes” and followers on Instagram is a sign of popularity and social confidence.

This quantification of reputational success, especially through the number of “likes” and followers, encouraged our participants to post content that would actively build their numbers. Monitoring photos and deleting those that do not immediately attract “likes” was common, and careful attention was paid by some to the hashtags they used to attract viewers. Similarly, a number paid a great deal of attention to the captions they

attached to their photos because, “Ah, you have to make it almost like catchy now for people to actually like stop and look” (Daniel).

The metrics also shaped how they saw others online. For example:

... in the realm of like dating and all like people like always look at how many followers you have and like what's ... your ratio, you know, how many people, ah, you follow compared to following you ... That's like a big thing ... Like, if I see like a girl with like 2,000 followers and like she's only following 1,000, I'm going to like be intrigued and like look more, right? ... Because you're like why are there this many people following her? ... Like what is—like what does she have to offer [*chuckles*]? (Daniel).

It's all, it's all based on followers in 'Likes' and comments. So if, if like the popular people have, like, 1,000 followers then it's like they know a lot of people. A lot of people know them. And like, just from like—like somebody says like 'oh do you know like [name of student]?' or something. She goes to another school and yet she's just so popular that people at other schools know her. She just—she's really good at—like, I'm good friends with her and she's, she's good at just being friends with everybody. She just has that reputation (Rain).

The quantification of online reputation was also a real cause of anxiety for many of our participants: “So I know a lot of people, they're like ‘my video has 30 views but only seven ‘Likes’. What the heck is going on?’” (Ashley). Even when one is successful, i.e. when he or she attains “the feeling you get, like when there's a lot of ‘Likes’ or like someone posts something and you're like I feel special and like I feel popular” (Stéphanie), it is important to attend to the metrics:

Like once you hit, like a thousand followers, you're like okay, well I'm popular. But then it's like there's—they also look at the statistics of like, okay well I have 1,000 followers, then I should be getting at least 500 'Likes' on my photos and stuff like that. Or if they don't get like 500 'Likes' they're like well I have a lot of ghost followers. I have to start unfollowing people that aren't, ah, active. Like on my account and like a lot of people they're really, ah, concerned about like their image, their 'Likes', it's all about the numbers (Ashley).

Online reputation is accordingly built less on a person's character, interests or social relationships, and more on that person's ability to create technical connections to people who can help him or her construct an online trace that triggers attention from a large number of people. As Stéphanie summarizes, the person with a successful online reputation will get a notice from someone asking to unfollow them and:

... they're like okay, well unfollow—unfollowing you too because they want to have like the most followers as possible. They want to have like the coolest posts, the most like comments or like if they don't get, get as much 'Likes' or like the comments they're expecting, they'll delete it. Like some people like really care about like their image on social media, like so much.

B. Creating an Online Reputation

Interestingly, when our participants talked about their own reputations, they were less engaged with how others actually saw them than with how they wished to be perceived. For them, their own reputations were a matter of performing certain desired characteristics and managing their audiences' access and reaction to those performances. This was especially true once they left high school: as Katherine put it, starting university "was kinda like you had that second chance to show this is who I actually am. Like, this is what I want to be known for..."

1. Give the platform what it asks for but be nice—All of our participants were sensitive to the ways in which each platform structured their disclosures, and sought to create a positive reputation within those constraints. Being nice was a particularly strong theme. Lina's comments were typical:

Well I mean like personally on Tumblr, I try to be just like solely art, so people—like, I try to make it so that when people think of me on Tumblr, they're just 'oh, that person makes art.' ... They're not—it's not they're a mean person. They're a nice person, just they make art. And

that's why I don't post text. On gaming sites, I try to be as helpful as possible usually because that way ... when people think of me—like if, um, I want to apply for a contest or I want to do this or that, then they will—they can ask someone or they could, um, just look at my kind of history and go 'oh, this person is a nice person. They're knowledgeable, um, and well-behaved.' And then on Facebook, I try to be more outspoken. I mostly get into like political, unfortunately [*chuckles*], ah, pages and some like humour pages. So if you looked at my Facebook history, it would be 'this person's just here for fun and then sometimes to look at the news.' So they're—like they try to be, ah, bro—like broaden their horizons I guess, but I try to make it so that on no platforms I am viewed negatively.

2. Market yourself—The commercial structure of the platforms they use significantly shaped their reputational efforts. A number of them used advertising metaphors, consciously branding their online profiles with “in-thing[s] personality-wise” (Harper) and “style[s] ... and preferences” (Rain). They also took a “very like scientific, like very particular” (Harper) approach to finding captions that are “shorter”, “artsy” and “catchy” so people will not “just like scroll down and double tap ... [but] stop at the picture and look at it and maybe comment” (Stéphanie) because comments are “like a reputation boost” (Daniel). As Daniel noted, “I try and like almost like make it sound like I'm—like a marketer or something. I try and intrigue my audience, you know?”

3. Be positive—The imperative to be nice also meant it was necessary to avoid negativity. A number of our participants indicated that they had been judged badly when they posted “really depressing stuff” or looked too “emo” (Michael). Negativity was particularly dangerous because it attracted the wrong kind of attention. As Rain illustrates:

Like, a weird, a weird quote that's very depressing. And it's talking about hurting themselves. It's just like, they're, they're looking for attention but not the right type of attention, I think. They're looking for pity ... you shouldn't look for pity. You should look for compliments ... I look at it as you should just be happy in life. Like, life is too short to be depressed, looking for pity,

looking for judge—like, judgement. And when you post things like that, it's just like me personally I start thinking like 'why? Why would you post something so sad?'... When I post, I always think 'oh, maybe it'll put a smile on somebody's face.' So that's why I post. Not to show people I'm depressed and I have no friends and I have no life and I have rude parents or—yeah.

4. Steer clear of controversy—Being nice also meant avoiding controversy: “if I’m going to try to make a reputation, I don’t like to stir people up. I like to, you know, be a nice person or like be genuinely helpful” (Michael). Controversy was particularly problematic because it was difficult for them to control who saw them when they were online:

... with social media ... I would like it to be professional and nice, like all of the positive comments because I don’t know who’s looking at me. Um, and I can’t be there to give an impression myself. I would much rather give my impression myself than my social media, but I know that that tends to be the first thing that people hit ... So I hope it portrays in a positive sense because I’m—I can’t be there and everything’s technology. It’s becoming technology first too (Caitlyn).

5. Conform—In order to avoid creating a bad impression among unknown viewers, our participants tended to conform to the type of content they found online. Accordingly, expressing one’s individuality or actual opinions or tastes was frowned upon. Michael noted that he could avoid a negative reputation because, “my content is similar enough to [other people’s] content that they don’t even notice.” In like vein, Nicole never posted about “my love of Disney” because it would set her apart and open her up to ridicule for being different. Paradoxically, this imperative to conform means that a good online reputation is built by attracting a lot of attention but only by doing what everyone else is doing and just doing it better.

C. Avoiding Reputational Harm

Since online reputation is so closely tied to attracting attention, being seen on social media is central to creating that reputation. However, too much visibility or the wrong kind of visibility creates its own problems. Accordingly, our participants spent a lot of effort managing—and sometimes limiting—their visibility and taking other steps to safeguard their online reputation.

1. *Be visible, but not too visible*— Although all of our participants used social media, some were less visible than others, and that lack of visibility was often equated with not having a reputation at all. As Michael said, “I’m not sure I’m really big enough on any site to have [an online] reputation.” Lina agreed: “I’m just kind of a question mark because I am not as active on social media. And so I don’t think, it’s more like a non-opinion of me—like I’m—they don’t think about me as much because I’m not as present.”

Limiting one’s social media presence had its benefits, especially since a good online reputation was based on successfully seeking attention without *appearing* to be seeking attention. Accordingly, a number of our participants, like Rain, chose to limit their disclosure to avoid the negative reputation of an attention-seeker: “I don’t post much but people who post a lot of pictures of themselves, they’re considered full of themselves and they just think like—or maybe they want, like, attention and they want to see those ‘Likes’ and comments.” Morgan likewise managed this conundrum by posting infrequently and only posting content that was impersonal and “not of me”, and Michael chose to be “just the sort of the guy who’s not that great at it.”

Others selectively disappeared to avoid getting “embroiled in something and it doesn’t stop, and it can, not ruin your reputation, but it’s not fun... It’s one of the reasons I try to keep out of social media a bit because I feel like the more active you are, the more people that are paying attention, so the more chance there is that stuff like [damage to your reputation] would happen” (Lina).

2. Use privacy settings—The lack of privacy on social media was identified as a problem by a number of participants. Certainly, some of their worst experiences were when they neglected to set their accounts to private and they were held to account by others for what they said there. Jackson recounted a time when he was in public school and he was falsely accused of bullying a girl. The school administrator was able to look through his entire Facebook account because it was set to public: “So I try and explain what I did but they’re not trying to be—they’re not hearing it.” Blocking and de-tagging were also ways to limit exposure: “I know people my age tend to hide things from their parents or relatives, so they tend to just block them, and everything, so they don’t see what they’re doing, because they don’t want to get in trouble for it” (Ameera).

3. Don’t be mean or swear online—However, privacy settings are an incomplete corrective because everything said online can be captured and used against you later. Stéphanie explains:

I don’t say it online, but like sometimes like in the heat of the moment, you’ll be talking with your friends and you’ll be like ‘yeah well I, I totally think like she’s forcing so much on her

picture', you know 'like she's totally wearing a pushup bra'. Like you'll say that amongst your friends, but I try like the best not to say it like online, you know? ... cuz at any time, your friends could turn on you and they could be like 'well, oh you thought [name] was your friend. Well, look what she told to you like back in December' and then they'll just scroll up on the messages and show the person, you know?

Similarly, swearing and vulgar language online can also open you up to negative consequences in the real world. As Jackson noted, "You can be with your friends 'oh, f-you all the time' ... but you get no, no bad reputation, right? ... you come to school, everyone thinks you're a good kid because you are". Because of this, Jackson is careful about the language he uses online: "in a sense it's like for my own, I don't know, comfort. Like, I'm not—it's like I have to make my name, you know? It's my name. I can't put dirt on it, right? ... So, that's like a certain amount of respect you have to keep yourself with."

4. *Think twice about how others will see you before you post*—Given the lasting consequences of online interactions, our participants were all very careful to "always think twice before posting pictures" (Jackson) to make sure they avoided anything they would not "want people to think I'm interested in" (Caitlyn). This orientation to the opinions and sensibilities of others was so common that it was "kind of like an [automatic] you think in your head now ... I just try and like think of like how other people are going to perceive it. I'm like, 'I don't want anyone to thinking I'm like doing anything weird'" (Daniel).

This thinking twice typically leads to self-censorship. As Fadi put it, "... you need to think that the way you said something maybe didn't sound the way you wanted it to sound, right? ... That's why I feel like you need to keep this in mind when you post on social—when you use

social media you need to know those things.” Even Harper, who tended to post the most edgy content of the participants in the sample, indicated that:

I prefer it to just be, like, wholesome and like sometimes like just be like very honest kind of about who I am, but only to an extent. Like, I wouldn't, I wouldn't post my boobs on it. I'm like pretty honest about myself, like on Facebook and like I kind of post when I want to post and I post about what I want to post about for the most part ... Except for things that I worry will be like offensive to specific people [*chuckles*] ... Like, anything that ever touches on religion I won't do ...

5. Use different platforms for different audiences—All of our participants tried to keep clear boundaries between their various audiences by linking to them through different platforms. For example, LinkedIn was for employers, Facebook was for family members, and on VSCO, “like people take pictures of like their beer glasses or something and it's just a lot more teenage-wise than parents and adults” (Rain). As Lina noted, “I try not to involve people I know in real life in most of my other platforms ... Like, no one needs to know, um, what I drew today. But if I'm trying to sell art to someone, I can just link them ‘look at my portfolio on Tumblr’ and that's it. But no one on Facebook needs to know that really.” Clear boundaries also make it possible to “only post specific things to specific people, so you can kind of control, you know, you're not going to send something really stupid to somebody you respect or something like that, ... like it'd make you look negative” (Scott).

6. Work with others to co-curate your online reputation—All of our participants relied on friends to help them select online content, precisely to avoid any potential negative consequences to their online reputation. For example, Rain reported:

... like my friends always ask me like ‘oh, should I post this? Should I post this?’ ... Um, like I always ask my two very close friends ... They're my go-to people, right? So I always ask them,

like ‘should I post this?’ And if they say ‘I think so, yeah’ go for it. Like, my best friends think it’s okay, right? [*Chuckle*] I know I could trust them because like if there was something wrong with it or if I had a spelling mistake in my caption, they’d tell me and I know I can trust them. So, I go to them and I just think—like, I don’t post things that people could judge.

In addition, all of our participants indicated that friends would not post something that made a friend look bad, would “humiliate” them (Katherine), “or put [them] in a bad situation” (Fadi). Being nice again played a role: this pre-screening was seen as “generally just common courtesy. It’ll be like ‘hey, look at this photo. Do you mind if this goes up?’ Because it’s, it’s you know, just being nice” (Michael).

7. Don’t post things you don’t want others (especially employers) to see in the future—

Although friends can usually be trusted to better understand the context of online interactions (Stéphanie’s comments above were exceptional in this regard), the enduring nature of social media is particularly problematic when it comes to employers because it may “get like blown out of proportion”. As Scott noted, “I just don’t like posting excessive stuff knowing that people are going to be able to see it in the future and might give you a negative look in life”.

This concern is particularly salient with respect to the things people post when they are very young and immature: “I find that so, like, awful because you don’t know who’s going to see that and they’re going to know that you drink, like underage ... And that’s going to make you seem irresponsible and like a wild child [*chuckle*] ... And it can come back to bite you sometime in the future” (Morgan). Caitlyn concludes:

... online is a vicious world in some sense. Um, with I guess being a millennial [*chuckles*], um, everything you post or share or say online kind of follows you throughout, um, either the people around you can see it and resay what you've said and then you have the, a lot of concern of entering the workplace with what you have posted and not posted on social media.

The perceived permanence of online interactions was felt to be particularly unfair, since immaturity was just part of being a child: “that’s a problem with being a teenager is you [*chuckle*] like you’re making plans for your life at a time when your personality can literally be [*chuckle*] like polar opposites between two different weeks” (Michael). Our participants wanted to be able to move on from the mistakes they made when they were young: as Caitlyn commented that, “I wouldn’t want them to base me on the last 15 years because I’m a different person now.”

D. Making Sense of Other People’s Reputations

1. Taking others at face(book) value—In spite of the nuanced and conflicted relationship our participants had with their own online reputations, they tended to take the online representations of others at face value because, “you can kinda tell what, ah, kind of person they are depending on what they all do, what they post and what kind of articles they post or what they comment on and that kind of stuff” (Scott).

For example, Jackson indicated that, “you can tell quickly about a person just by their Instagram account”:

... when you see someone’s photo like a girl let’s say you could tell like ‘oh is this like a classy girl’ or ‘is she a little bit more of a like—you know she doesn’t have that much self-respect’ ... Like ‘oh he’s a sports guy cuz look, he’s, he’s like seems like a real jock. He’s always in like—or

it's like this guy looks like a really smart kid.' He's just all photos of him like graduating or something and at work. Or you could tell 'oh this guy's, like kind of like a thug guy. He's always on the street or whatever with a bunch of dudes.' You could tell pretty quickly.

Moreover, these impressions can override things you learn when you interact with the person in the real world. As Kim reported, "online is such a big part of almost everyone's lives these days that it's kind of a way to see how people are doing in their lives ... [even] when you meet them in real life they might [be different from what they have posted online]. But they still have that underlying thing like 'oh, like five weeks ago, I saw you posting this'."

2. *Unless I know them*—On the other hand, our participants were more skeptical of negative online comments about people they knew well in the real world. Content that put friends or classmates in a bad light, "might just be something they heard along, like the grapevine, so it might not be true" (Kim). In like vein, a strong real world reputation can mitigate an online reputation, for better or worse:

I guess it would depend how their ... reputation started. Like if they were known to be like let's say a Christian, like I don't want to do any of that, I want to wait until marriage kind of girl then they'd be like 'oh, she's not actually like that, she's lying.' Or if it's a girl like, you know, like she's a little promiscuous. She goes to lots of parties. They'd be like 'okay, like that's kind of' you can see that. So it depends how their rep—reputation is in the first place (Kim).

3. *Judging others based on their online representations*—However, without some real world knowledge of a person, this tendency to take things at face value lends itself to quick, and often harsh, reputational judgments of strangers and acquaintances. Our participants were all familiar with incidents where someone's posts led others to think of him or her as

an attention-seeking, “racist”, “argumentative”, “slut”, “ho”, “liar” or “dumb ass”. They were also aware they tended to judge unknown others in the same way. Ameera, for example, reported:

Because some people, they're very revealing about what they do, so you kind of form an impression as well as, like, I've been guilty of this and I know my friends have too. It's just like, oh if a girl is wearing a skimpy outfit, you're like, Oh that girl's like a ho, or like that type of stuff. But yeah, you kind of say something about them without actually knowing who they are, based off a picture.

In addition, they were very skeptical about the contrived nature of the positive online reputations of others because “obviously that can be, ah, like manipulated” (Sarah). As Marcus put it:

Like if you take pictures with like helping elderly, like helping the homeless, then I guess people would think that, ah, like you're a good person. But then at the same time, I don't know, maybe you could be doing that for—like to make people think that.

This was especially true for people they knew in the real world:

... online her reputation is more, ah, how do I—like Barbie Doll put forward. So, tons of makeup, um, dresses like she has a lot of money and, um, portrays herself as very sexual and, um, that's who she is online. When you see her in person and you talk to her, she doesn't—um, she doesn't always portray that side of her, ah, self. So online, she shows herself as very sexual and a person who has a lot of money and everyone loves her, but then in person she's very—a lot more quiet and she's, um, when she—she doesn't look the same when she doesn't have the makeup on and she doesn't have as much money as she portrays herself, so she's like two different people when you know her and when you see her online (Caitlyn).

However, our participants also tended to show a great deal of empathy for people who were trying, like them, to juggle the demands of online reputation and somehow missed the mark. Sometimes that empathy appeared as humour, like when Michael related a story about, “people where I'll, I'll see them share something and like either I know them in real life and I'm like ‘that's not true at all [*chuckle*].’ That should not like, ah, ah, if it's like they're sharing

something where it's like 'oh I'm this sort of person.' I'm like 'no you're not'". Sometimes it appeared as a compassionate understanding of how easy it is to make a misstep: "We all judge like that, but the thing is when you go—when we judge someone ... You need to know why you're seeing this problem, you know, because I look bad sometimes and I do stupid stuff too" (Fadi).

In addition, a number of participants were concerned about the feelings of the person who was being judged: I definitely think that if they posted negative things about other people, I wouldn't think of high, as highly of them and I'd probably be like 'whoa, buddy what are you doing?' Um, and about themselves, I'd be probably concerned about them, like why are they posting stuff? Are they just trying to get attention type thing" (Ashley).

4. Notoriety and the value of getting it all wrong—However, many of our participants acknowledged that getting it wrong, i.e. creating a negative online reputation, was not necessarily a bad thing. In the online world, where success is measured by "likes", followers and hashtags, attracting any attention can be a vehicle to being well-known. From this perspective, notoriety is a reward in itself. Michael said of one friend who received negative feedback because he had behaved poorly online that the negativity "arguably maybe that was what he wanted because he, he got popular on the site. Everyone knew his name. Obvious—it wasn't a big community, but you know, people knew his name."

In like vein, Harper purposely sought to create an online reputation that others may perceive as negative when someone spread the rumour that she:

... gave [a boy] a blow job and I didn't. And so they were like saying that and like again, like on their Facebook statuses. I'm like what is—why? Get Twitter. Tweet it! ... I think that kind of already was my reputation. I think that's kind of the reputation I had wanted to construct for myself a little bit ... I like to use the term 'slutty' ... and like I kind of liked that reputation so it didn't [*chuckles*] really hurt [my reputation].

Morgan suggested that this kind of edgy online reputation could be valuable because, "I guess more boys will like you, so the girls will be scared of you. So it's like people will be, like, more nervous about you, so they like feel the need to have to like be friends with you."

The value of notoriety underscores how complicated online reputation can be, especially in high school, where people are exploring different roles and experimenting with different lifestyles.

E. The Value of Private Socio-technical Spaces

Given the complex nature of creating, maintaining and navigating online reputations, it is particularly important to note that all of our participants valued private media, like texting, Facebook messaging, and Snapchat chats, because they provided relief from the demands to conform to the strictures of online publicity. Many indicated that they did not have to be concerned with reputation at all on these media. As Caitlyn reported:

... it'd be who I am as a whole then, um, that would be portrayed out because it—it's a full on conversations with one other person versus just like, ah, 'hey, this is what's kind of going on my life' ... I would say if it's to represent just me as like who I am as a whole, yeah it'd be the personal conversations that I have on Snapchat or Facebook Messenger or just general texting. Yeah, that—in that sense it'd be yeah, 100 per cent my—like of who I am.

Jeff agreed: “When you’re talking in the heat of the moment with your friend on Facebook Messenger, it’s like, you know, you’re saying your true opinions ... I don’t know if there’s really a reputation on Facebook Messenger ... Well yeah, it’s just talking to people, right?”

Once again, our data underscores the importance of providing young people with privacy, so they can benefit from online social interaction in ways that are not structured by the demands of the platform or the surveillance of others, like parents and school administrators, who are seeking to protect them.

II. REPUTATIONAL HARM

Our participants described a variety of situations in which their reputations, or more often those of others, had been harmed by online postings. These situations involved postings that tended to fall into one or more of five categories: (i) true stories; (ii) false stories; (iii) mixed true and false stories/opinions; (iv) group-based hate; and (v) “throwing shade”.

A. True Stories

Our participants described a number of different kinds of situations in which the spread of truthful content led to online conflict and reputational harm. A number of them considered these incidents to be particularly harmful because they often involved a breach of privacy, confidence and/or trust.

1. *Non-consensual distribution of intimate images* - A number of our participants described incidents involving the non-consensual distribution of intimate images within their schools. In these situations, the truth of the content was not really in question, since, as Caitlyn put it, “well they’re pictures”. In all cases described, the targets of the circulation were girls, who then almost automatically gained a reputation for being a slut.

Caitlyn recalled a situation where naked photos of a girl in her school were circulated, which led to the girl going “through a lot of depression and anxiety and not wanting to be around people anymore ... so this is all very, very negative”. Kim described an incident in which a boy in her

school threatened over social media to show naked photos of his ex-girlfriend and the boy “actually had his phone taken away and wiped by police.”

Rain also shared an incident involving non-consensual distribution of an intimate video that a girl in her school had initially sent to a boy in her school via Snapchat. A video was taken of the Snapchat video and then distributed around the school. And, as Rain put it, “in high school word gets around really quickly”, so that everyone was starting their conversations with “oh my God. Did you hear about that video that the girl posted?” Although, she said, “in the movies, and things, [this kind of disclosure] ruins [target’s] lives or something just because they care so much about what other people think”, Rain felt that the target in this case “didn’t really care all that much” and “learned to accept it”. Nevertheless, because the boy who distributed it was popular, “it just got around really fast” and “a lot of words got exchanged about her being like a slut.” She noted that the target was in the grade below her, which was known for “being more messed up ... a lot more sleeping around, a lot more drugs and things like that. And ... like for her to do that [send the video] just enhanced what we already thought about the year below us.”

Stéphanie shared a similar kind of story to that of Rain, involving the reposting of an intimate video and then she said, “they shared it to everyone, basically everyone, like in [city name] knew about it”. Since, in Stéphanie’s view the girl already had “a reputation of being a ho ...most girls were like ‘oh well she wanted the attention’ and ... ‘she had it coming’.” She

reported that young people from other schools “already know who [the targeted girl is] ... they know about the incident.”

2. Other kinds of broken confidences – Our participants described other instances of broken confidences that led to reputational harm, apart from non-consensual disclosure of intimate images. For example, Morgan described a situation where a girl confided in a friend that she had had sex and the friend told others because “she didn’t understand it was a secret and not to be told to anyone.” As a result, “everyone ended up finding out and like shaming” the girl who had had sex. In Katherine’s experience, online conflict over true statements was more frequent in high school than it was as an adult. Her own example from the past involved, as she put it, “something that happened personal and ... I didn’t want others to find out. And a friend kinda leaked it and it ... travelled and travelled, and then it was just broadcasted.”

3. Public shaming – Some of our participants recalled situations in which bad conduct by one person in a smaller online forum was more broadly disclosed for purposes of shaming. For example, Ameera recounted a situation where some people made a Facebook page about a guy “who made [online] hate comments toward gay people”. Numerous negative comments about the target were posted by others. Although Ameera felt that what was being said about the target was true and he deserved it, “at the end of the day ... a bunch of people shouldn’t target one person because he is very rude and very discriminating towards other people.”

B. False Stories

Our participants recounted numerous situations in which online false stories about them, and others, resulted in reputational injury, ranging from stories about “sexually what you’ve done” (Caitlyn) to accusations of theft (Caitlyn) to allegations of “smoking weed in the bathroom” (Kim) to allegations of having told another person to go kill herself (Jeff). We’ve outlined below two particular kinds of false stories that stood out from some of the others in terms of their depth, complexity and reputationally harmful results.

1. Allegations of bullying - Jackson described a situation in which an exchange of false statements ended in significant conflict and, ultimately punishment. When Jackson was in grade 6, a girl from his neighbourhood posted “oh you’re gay” or words to that effect on a picture he had posted online. Jackson retaliated by posting “oh, you’re a lesbian”. About 20 of Jackson’s friends tried to come to his defence by posting comments “making fun of this girl”. Ultimately, the girl reported that Jackson had bullied her, he was called into the office at school, told to delete the post, suspended from school and required to make a presentation to the school about bullying. Reflecting back the situation, Jackson noted:

... till this day, my dad still thinks I was bullying this girl when really, I wasn’t. ... It ruined my reputation, yeah. Like at school everyone’s like ‘yo, this guy bullies a girl.’ I had to make a presentation for bullying. But it’s like no. You know all my friends knew, my close friends. But everyone else, you know?

2. False impersonation – Two of our participants described situations involving online impersonations. Morgan reported that a group of girls placed an ad on Craig’s List, provided another girl’s address and invited men to come over. When a man showed up at the girl’s

home, the police were called and charges were laid. In this case, not only did the false posting affect the targeted girl's reputation, it also put her in physical jeopardy. Caitlyn was aware of other incidents of online impersonation, one of which involved an acquaintance of hers who:

... found an Instagram account with her name and a picture of her, and ... that girl was pretending to be her and was adding all of her friends. And, um, I knew another person and the same thing happened. It was all on Facebook and that person that impersonated it even would send messages to their friends being like 'hey, delete the other account, like this is my new account and be friends with me.' But they weren't real.

C. Mixed True and False Stories/Opinions

Many of our participants discussed online situations that led to reputational harm, but where truth, falsity and opinion intermingled. Daniel suggested, that in his experience, truth and falsity were not always easily discernible in online attacks that harmed reputations, noting:

I think when it's like sometimes like almost like truthful things, ... but then they over exaggerate them to a certain extent. ... say if someone like, like, I don't know—like got drunk at a party and passed out or then someone posted like a photo or something and saying like 'oh, this person is like the most lightweight drinker ever.' Like, people always take things out of context I find.

Similarly, Katherine described one situation involving online stories as a:

... mixture of both [truth and falsity]. It was kinda like what they wanted people to think. ... So like they wanted to think this person was doing this, but really they only half did it. Kinda like they did this part but they didn't go do that, so it was kind of ... like spreading rumours, like you have a little bit and you're kinda like well I'm going to spin it like this way if I'm going to pass it along kind of.

Other participants described reputationally harmful situations that revealed the complex effects of exaggeration, personal perspective and non-consensual disclosure of the identity of a victim of sexual violence.

1. Exaggeration - Harper was targeted by an exaggerated story about a sexual encounter she had with a boy, in which she was portrayed as the aggressor and the sexual act alleged in the posting was more extreme than the act that had actually taken place. As a result, she said:

So it did kind of hurt my reputation. There was a—everybody kind of just thought—like, all boys kind of thought from that point on that any like, interaction I had with them was me trying to like get in their pants. ... And they'd like – just like yell at me and make jokes about me, like giving hand jobs.

2. Untrue, but on reflection, sort of true - Rain also described the circulation of rumours about her online, which she was concerned would affect her reputation at the high school she would be attending the following fall. While she initially described the comments as untrue, the complexity of the situation, and the degree to which it turned on matter of viewpoint and interpretation became obvious as she continued:

And like, now that I look back on it, like when I've talked to her about it now, it's just like I, I didn't realize how rude we were. It wasn't necessarily rude, it's just we, we almost like ganged up on her because we just like—she'd say something silly and then, like I'd back up my friend. And I'd be like 'why would you say that?' right? And then it was just things like that. ... And she just misread that I guess and started telling people about that....

3. Non-consensual disclosure of the identity of a victim of sexual violence - A teacher in Stéphanie's high school had been fired for sexual misconduct with a student. A popular male student in the school who found out the identity of the student targeted by the teacher posted a picture of the girl with a caption to the effect that "she's the reason why ... this teacher got fired" on his Snapchat story. Because the teacher had been popular with many students, "everyone knew about it, like in the click of a minute", and everyone was talking about her, leading her to go home, "shut down all her social media accounts" and not come to school for a week. After that, Stéphanie said the girl was "like emo. She was kinda hanging around by

herself for the rest of the year.” When asked about the truth and falsity in the situation, Stéphanie noted that while it was true that the girl had initiated the complaint against the teacher, she was not, as the male student alleged, responsible for the teacher being fired: “But like it wasn’t her fault, he wasn’t—ah, he had no right to do the things that he was doing to her. So technically it’s his fault for putting his job in jeopardy”.

D. Group-based Hate

A number of our participants recounted stories of online attacks (usually against others) that were grounded in racism (especially against Muslims), homophobia and ableism. Michael, for example, noted that “racist slurs and homophobic statements” were “extremely common” based on his experiences with online gaming. His view, however, was that in that particular context the posters tended to be “trolls” who “just want to piss people off” by using “generalized slurs” to attack specific game players. Rather than “getting all worked up”, he suggested the simplest response was to use a “hot command for ... ignoring” the poster, and having the moderator of the game add “a mute onto [the poster’s] user name so that he couldn’t say anything.”

Lina and a friend were the targets of homophobic attacks after Lina corrected confusion on an LGBTQ news page around the meaning of the term “pansexual”. The attacker originally targeted her with messages, and went into her friends list and found her friend’s name and “messed [the friend] hate mail too”. Although Lina “replied another couple of times, [trying]

to defend [herself]", she ultimately decided to leave the forum because she felt "why even try" given it was obvious to her that the attacker was "set in their ways, however wrong they are".

1. Group-based hate can harm individuals - At least three of our participants felt that group-based hate could negatively affect the members of targeted groups and their reputations. For example, Stéphanie, decided to report a racist slur against Obama's daughters to the platform on which it was posted, noting "I felt like it touched me personally", even though the comment was targeted toward two specific people. Ameera expressed a similar sentiment after describing a situation in a group chat where a particular member made "racist jokes about skin colour or like if you're Arab, oh you're a terrorist". These kinds of comments, she felt could hurt other people because:

... then people feel like, "Oh that guy thinks that way about a certain group of people." It's like, Oh I wonder what he thinks about me, if he thinks about that guy like that? If we're, like, the same, from the same place?"

Kim reported a friend's meme page making fun of autism and other mental illnesses to Instagram, who took it down in 24 hours. Although the comments were aimed at a group, she felt that individuals could be hurt by it, "I don't like those kinds of jokes. It's like people's lives there. It can actually hurt some people there."

E. Throwing Shade

A number of our participants described situations in which conflict arose not from truthful or untruthful comments per se, but from subtler actions or comments. At least one referred to

this as “throwing shade”, which involved making comments that were implicitly insulting to or negative about another person. In these kinds of situations it may be difficult for an outside person to discern who the comments are about and whether or not they should be believed. As Kim put it, after describing a bullying situation from grade 8, where students in her class were saying negative things on Twitter about other students without using their names (which she referred to as sub-tweeting):

... if you don't know who it's about, you can assume who it's about and you might talk to your friends or gossip and be like 'oh my God, did you see what they tweeted about this person?' And it might not be about that person.

Rain offered two other examples involving an anonymous Instagram account “where we kid about just like our grade”. In the first, a post was made about a couple who is “considered weird” because of public displays of affection for each other. In the post they were called “number one couple of the year”. In the second, a picture of the “class clown” holding his hand up was posted on Valentine's Day with the caption, “his hand has been his Valentine for the past, like 16 years”. While Rain felt the post about the couple was “unnecessary” and the one about the “class clown” was funny, she felt “if you don't have a person's consent to post something like that ... it's just not right. You should not do that.” She felt this was especially true in relation to that particular account since everyone on the account is “at the same school” and “know[s] exactly who ... the person's talking about”, which exacerbates the negative impact on the target's reputation because “we can all talk to each other about it”.

F. Truth vs. Falsity: The Blurry Line

Given that falsity is critical to proof of defamation, we asked participants about their experiences with how truth and falsity operate in online spaces. While Rain felt that she would place more trust in the veracity of a story in a newspaper versus what she reads online, she noted that young people do not read newspapers because “they’re usually online checking the Snapchat news or whatever.” To the degree that she is right, this heightens the importance of being able to sort truth from falsity in online spaces, a task that many of our participants felt was difficult for a variety of reasons. Jeff put it quite succinctly when he stated, “there’s not many facts anymore”, not just among regular folks online but, he said, among traditional media members who, from his perspective, are acting “irrationally and doing really opinionated, not even fact pieces ... to keep their view counts coming in”.

1. It can be hard to tell what’s true and what’s not - Often drawing on examples related to politics (particularly with respect to Donald Trump), many of our participants talked about false news, as well as the difficulty of strictly discerning the truth or falsity of the stories and rumours that affected the reputations of them and their peers. Aaron put it this way, with respect to discussions about politics and celebrities online:

I try to avoid talking about subjects that I’m not terribly knowledgeable about. So I don’t really like go in there and talk about like ‘oh, politician X did this in 2003. It says a lot about him’ or something and it’s just like—yeah, like you’ll see that and people will be like ‘oh well that was actually refuted.’ ‘Oh well that refute was refuted’ ... and people [are] just throwing around facts. And it’s like ‘well, I’m not sure.’

From Ashley's perspective:

It's kinda hard unless you go and look it up yourself. ... it's difficult unless it's like completely bogus and you know it's absolutely bogus. ... So it was really hard to tell the difference between that type of stuff. It's like it seems [*chuckling*] absolutely ridiculous but it isn't.

2. Costs of accessing data can impede investigation of truth or falsity - Lina noted: "sometimes when I don't have the time or when I'm trying to save on cell data, I don't open [a full story]. ... I just go to the comments and hope I can get enough information."

3. Context is important - A number of our participants discussed the importance of context in understanding online posts. For example, when Rain noticed a rude remark posted about her friend's photo, she stopped to consider, "Maybe it's an inside joke." In this way, although to an outsider a comment may appear negative and even defamatory, insiders in a chat group or forum may understand it to be perfectly benign.

4. Truth can snowball into falsity - Kim noted that, online, sometimes something true can snowball into a big lie:

It's like the game Telephone. Like, when you start—like when you're little you say, let's say 'green apples' and by the end it goes to 'purple grapes.' So it's just miscommunication and people like mishearing things or they don't tell the story right.

Ashley echoed this sentiment, recalling a situation where something "snowballed from one little ... truth" where a girl was just being nice to a boy, but it "turned into a big rumour that this person liked that person and they were dating someone else." She concluded, "So, it can definitely come from a truth, but then there's other ones that are complete lies."

Rain noted that sometimes a rumour begins with a falsity, but:

... a lot of times it's just one person says something and then the next person that passes on changes it just a bit. And then the next person changes it just a bit and then it's like completely different than what it started as.

G. Relationship Between Truth, Falsity and Degree of Harm

Most of our participants felt that the degree of harm suffered did not necessarily depend on the truth or falsity of the posting in question; both true and false statements could cause reputational and other harms. The critical issue was less whether the content posted was true or false and more what its effect was on its target. Harper noted the potential gravity of disclosure of truthful content in an online context:

50 years ago ... It might have been gossip at the next Thanksgiving or something. But ... now ... our world and society has changed so that a very real possible consequence of your actions could be a Facebook post.

1. Degree of harm depends more on extremity of content than its truth or falsity - As Ashley

put it:

Rumours can be just as bad as the true things ... especially if ... a rumour [is] a lot worse than truth, like this person doesn't wash their hands after leaving the washroom, whereas this person sleeps with this many people a week. Like, it's different and the rumour is almost worse.

Similarly, Jeff felt that "whenever something's true it's usually not as extreme as the drama that going around", so that true content might cause less harm if disclosed than would false content. Lina felt that "if it's clearly fake, then no one will share it because it's obviously fake. ... But if it's just convincing enough to seem real, and lots of people are saying it's real, then I think

people will not be likely to check.” Further, she felt that whether someone would believe what they read about someone (whether true or false) would depend on whether the comment fit with the reader’s “existing view” of the person commented upon.

2. Truthful disclosures can be as or more harmful than lies - A number of our participants felt that sometimes true comments can be worse than false ones, and sometimes worse in situations involving a breach of confidence or trust. As Daniel put it:

... publicizing [true] things, [is] almost like a slap to the face and ... the rumours and lies is almost like a slap to the wrist where you can keep slapping someone on the wrist, but if you get slapped in the face, no one likes that.

Further, he said that targets of published true facts were less likely to seek help because they’re “thoroughly embarrassed and ... just want it to go away”, whereas with false rumours, targets are more prone to telling others it is not true in order to make it stop happening.

When asked about a situation in which a person was outed as a member of the LGBTQ+ community without their consent, Michael responded:

... that can really suck for some people, especially if it’s a family that you know ... isn’t going to take it well. ... In that case yeah, the truth might be really ... worse [than a lie] because if it’s false then like you can at least deny it... But then ... you don’t want to deny it because if you eventually do want to come around and tell the truth ... people are going to be like ‘then why did you lie back here or whatever’.

In a similar vein, Kim noted:

I think they’d feel better if it was false because they can at least prove that’s false. While, if it was true, like they might have told them in secret or like trusting that they wouldn’t leak it to other people.

Ameera’s perspective was:

I feel like the truth hurts a bit more, whereas like false is, like, 'Oh I know it's not true, and it might hurt for a bit, but then you'll talk to people about it and say, Oh that's not true, and people will figure that out on their own, maybe; whereas the truth is the truth. And then people will be like, Oh well that's true, so I'm going to think that way about her because of what happened, say in that situation about the nudes, oh if one person saw the nudes, Oh that's true, from like, Oh I heard a rumour or that she has nudes, and then they perceive her in a bad way after that, and then that ends up hurting her because she lost friends because of it.

3. Lies can hurt even if other people don't believe them - More than one participant felt that people and their reputations could be hurt by a lie even if others didn't believe it. Michael noted, "for a brief period of time [before you set the record straight] you have to deal with the fact that people believe you're something else." Stéphanie opined:

Like cuz the person still said that, like even if like your circle of friends, the people that were involved know it's not true. There's someone out there that thinks it's true and the person's like probably still hurt, but like you're forced to like move on with it and be like okay, put it in the past but there's still a part of you that's like hurt about like what the person said about you and that the person would believe, like what you did is true.

Ameera felt that lies spread by someone you care about could be especially hurtful: "I feel like people, if you care about them, and they lied about you, then it would really hurt" even if others didn't believe the lie."

III. RESOLUTIONS

While many of our participants had a relatively rich level of experience with diverse responses to and interventions in online conflict that affected reputation, most had relatively low awareness of legal responses to defamation. In general, law and legal responses were seen as a last resort for dealing with online reputational harm. Our participants instead tended to rely on a relatively nuanced and graduated approach for dealing with online reputational attacks that turned largely upon selecting the response that best fit the severity of the circumstances and, wherever possible, de-escalated the situation. Typically, our participants preferred using interpersonal or community-based resolutions before resorting to social media platforms, schools or the law. As Katherine put it:

I find if it's just girls trying to be popular, trying to just make themselves feel better than I don't think it's that big of a deal to bring in the law or the police to deal with this when you have parents that you can go to, or you have siblings, or family members, or close friends that you can—like people you can go to that won't—not that it's wasting their time but it's kinda like that don't have to be involved.

While on occasion our participants reported having relied on more than one form of response in a given situation, for purposes of clarity we have divided responses into four categories: interpersonal/community-based responses; social media platform responses; school-based responses; and legal responses.

A. Interpersonal/Community-based Responses

For most of our participants, interpersonal and community-based resolutions were the preferred option for dealing with all but the most serious situations of online reputational

attacks. Many of them preferred responses that maintained a degree of privacy, which they often saw as key to de-escalating the situation and to a faster resolution of the situation. Our participants discussed the following kinds of responses within this category:

1. *Technological solutions* – Rain and Morgan suggested that, where possible, a harmful comment (e.g. one posted on the target’s Facebook page) should be deleted “as soon as it [is] made”. Following that, Scott suggested that the target should block the person who posted a defamatory comment to prevent a future attack. Both were deemed quick responses that minimized the prospect of others reading the comment and reduced the risk of future conflict.

2. *Letting things die down naturally* – A number of our participants described situations in which online reputational attacks initially escalated, but eventually dissipated with time. As Stéphanie put it, although there might be discussion about an online conflict for a couple of days afterward at school, eventually “they’ll just stop talking about it. People like might ... never be friends again, but they’ll just let the problem go.” Sometimes this process is aided by an apology.

3. *Apologies* – While many of our participants felt that apologies could positively contribute to resolving reputational attacks online, most felt that face-to-face apologies were more important than those published online because they questioned the sincerity of online apologies. Kim, for example, felt that online apologies meant less than face-to-face ones

because “these days, like everyone is behind a screen. The screen is so easy to lie behind. You can type things without actually meaning it.”

4. *Adapting socially* – Many of our participants suggested that targets could make social adjustments in response to reputational attacks by peers. These ranged from finding new friends, leaving online gaming sites where the comments are being made, or changing schools.

5. *Talking to the defamer offline or in a private online forum* – Many of our participants advocated taking conflict offline or into a private online forum in order to de-escalate it and to avoid any further miscommunication that can sometimes result from textual communications (Ashley). Kim, for example, suggested she would “talk to the person first” and ask them to delete the defamatory comment before reporting to social media. Morgan suggested telling the person, ““if you have anything negative to say, I would prefer if you private ... messaged me about it.’ ... Because then we can resolve it instead of making a scene.”

6. *Seeking support from friends* – For many of our participants, talking to friends was preferable to starting “a big drama” by engaging with the defamer online (Sarah). Ameera felt it was important to “talk to ... friends or people close to you about it” in order to “release all of the emotions about what happened.” Sometimes our participants sought out friend support in smaller online forums. For example, Harper reported that when she receives a racist or offensive comment on her Facebook page, she will react by “screenshotting it and then posting it on my private Instagram, and [continue] a conversation ... about them there.” In this way,

she felt she can address her feelings and concerns about the poster with a smaller circle of friends rather than engaging with the content in a more public forum. Seeking friend support in larger online forums, however, can lead to unhelpful escalation, as Jackson learned when he retaliated against a false posting with a false allegation against the poster. In turn, his friends repeated his false allegation against the girl as a show of support for their friend. As discussed above, the situation ultimately culminated in his suspension from school.

7. Responding with the truth has drawbacks – While some of our participants felt that untrue statements could be countered effectively by disseminating the truth, a number of their experiences reveal the complexity of trying to fight lies with truth in online forums. For example, when Lina tried to respond to homophobic messages targeted at her, it ultimately became clear that her attacker was too “set in their ways” to be convinced by counter-arguments. Ultimately, she had to leave the forum. Michael also noted that responses to hateful comments can prolong and deepen the attack because the attacker: “...might focus in on one person if that person tries to stand up for [the target] ... by fighting back against them, it’ll egg them on to fight back more and ... cause more of an issue.”

Further, a substantive response to a hateful attack can be recast as a contest of opinions, rather than a falsity that can be adequately addressed by adducing true facts. As Sarah put it, “often people that are racists will try and use the excuse ‘it’s my opinion’”. Responses can also result in retaliation, such as in Daniel’s case when he was “kicked out of the group” for responding to

“crazy racist stuff about Muslim people”. Morgan pointed to a technical impediment to responding with the truth:

... if someone says something negative as long as the person can like respond and make it like the truth be known, that’s like the good thing. But a lot of people don’t have the same followers. So what one person posts... That’ll be seen by a group of people but if ... the person being attacked ... posts something on their account, they don’t have the same, like group of followers, so not the same people will see it. So no one will really know, like the truth.

8. Publicizing the attacker’s bad behaviour – Our participants described a number of variations aimed at addressing the bad behaviour of the attacker. Least dramatic among these was a response described by Ameera where the target decided *not* to delete the offending content “because they’re like ‘Oh I want people to see that’ instead of like, ‘Oh that should be taken down because it’s rude.’” A number of participants described more active forms of publicization, particularly in relation to group-based attacks. These included:

- “get[ting] in contact with [the attacker’s] school and let[ting] them know that this person’s going there and ... send[ing] them pictures of what they have said” (Sarah); and
- posting to Facebook screenshots of racist jokes made by a participant in a small group chat forum after “someone in the group chat got sort of tired of that and decided to expose him” (Ameera).

9. Sanctions by sports teams – Our participants had competing views about whether it was appropriate to expel a boy from his hockey team for non-consensually distributing an intimate video of a girl at his school. While Rain felt the boy’s place on the team should have been determined solely by “his athleticism and how he played and his attitude toward other

players”, Stéphanie felt expulsion was appropriate in this kind of situation given the negative impact on the girl targeted.

10. Intervention by community-based moderators – A few of our participants were involved in smaller online platforms (e.g. certain online games) that relied on human moderators who had authority to intervene when conduct by another player was inconsistent with community standards. Michael and Lina described these responses as quick and effective, especially where the moderators were also “players ... [s]o they know the people involved and they ... know how to talk to them and ... I guess and de-escalate fairly calmly and usually without bringing any action ... which I think is a good thing” (Lina). In contrast, she said, on some larger sites the moderators were simply staff:

... just kind of a faceless, nameless entity. So when they get involved, people don’t view it as a person coming in to just calm everyone down, it’s someone coming in to infringe on their rights of free speech So whatever they do, ... someone’s going to be mad.

B. Social Media Platform Responses

Our participants described a range of experiences with reporting harmful online content to social media platforms, involving everything from an Instagram page making fun of people with mental illnesses (Kim) to “a really, really, really embarrassing picture of [me]” (Katherine) to a racist comment on Instagram that suggested that the Obama children “look like gorillas” (Stéphanie) to “sort of like a sex scene with the teddy bear” from the movie Ted that had been posted on Facebook (Nicole). For many, the content was deleted expeditiously, for others,

including Nicole, it was not. Nicole said Facebook concluded “[the teddy bear image] doesn’t conflict with anything” in its community standards, but she felt “it really should”. While some had in mind lines that demarcated when social media platforms *should* remove content, others noted the complexity of the exercise, raising a number of concerns including the implications for freedom of expression and privacy.

1. When should platforms intervene? – Participants who favoured platform intervention on reputationally harmful content recognized the need to accommodate other competing considerations. As Ameera put it:

I feel like people should be able to state their own opinions, because we live in a democratic area, ... but at the same time, if it’s biased, really, against a certain group, then no. If it’s really offensive ... like racism or those types of issues, I feel like you can have an opinion but not be too opinionated on it.

Others felt that the propriety of intervention depended upon the impact of the offending content on its target. For Lina, for example, “if someone lied that ... someone had murdered someone or done a crime, like something that would have real world impact, I think Facebook has a responsibility to if not like remove it, then at least do something to fix the problem” such as by checking to see whether the poster has an established problematic history. Katherine felt platforms should intervene if someone’s “mental health is at risk” due to posted content, favouring a notice and take down system where posters would be specifically advised of what rules they had violated before content was removed.

2. Concerns about platform interventions – Participants raised a number of concerns about platform interventions on content:

- *platforms aren't good arbiters of truth* – Scott felt it would be quite difficult for platforms to know whether content reported as defamatory was true or false, noting “how’s this person from Facebook gonna know whether it’s a lie or not? So they can’t just go and delete everything that anyone reports.” For this reason, Daniel suggested a system under which allegedly false content could be “contested in a way that like if someone can prove that it’s true, it should be allowed to stay online. But like if it’s not, it, it should be removed”, although he admitted that this form of regulation would be difficult;
- *complaints don't go anywhere because intervention is inconsistent with platforms' business objectives* - Lina felt that social media companies “have no reason to care” about the content on their sites, that intervention is inconsistent with their business interests in many cases, and that in any event “they are the law on their own platform”. Aaron concurred, noting that if a platform like YouTube started “getting their hands dirty” by removing content, they risked “offending people with the whole like encroaching on free speech” thing, and that “it’d be really expensive and YouTube already operates at a loss”. Although he recognized that the more “exciting” the post, the more attention it would garner and thus, the “more popular Facebook makes it” because that’s how their “algorithm works”, Aaron felt that content is “more the responsibility of the people saying things than the people hosting”. In any event, he said, “I feel like if you complain to a social media site it doesn’t go anywhere”;

- *platform intervention could undermine free expression and privacy* – While Daniel felt like social media platforms were “getting better at actually deleting stuff”, he was also concerned that “they can almost be ... too sensitive” in terms of content removal. Although Ashley thought that social media platforms should consider disabling the ability of bullies to post content on their sites, she was also concerned that in order to do so they would be “looking through personal messages ... [because] a lot of people don’t want those things being seen, especially since it involves other people”;
- *machines aren’t good arbiters of community standards* – Harper was concerned that automated reporting and removal systems used by social media platforms would miss subtler forms of discrimination and reputational attacks because they would be unable to “decipher whether or not [a message] was wrong because like some of them were like a little hidden in the message.” Jeff shared similar concerns, noting:

They need to have people to investigate this instead of machines for filing complaints. You need to talk to a person obviously. ... Because when you have someone who’s detached from the situation whose job it is to resolve things, things get worked through a lot faster.

Michael also raised concerns about automated responses, noting how effective moderation by trustworthy humans could be, especially for “comment sections and ... videos”. He concluded:

That’s ... the thing YouTube needs to work on is they don’t have proper moderation techniques. Ah, it’s all automated. But, um, yeah, having a moderator is definitely something that is useful and should be pretty much the norm in like, like large group servers.

C. School-based Responses

Most of our participants described situations in which online behaviour that harmed reputations led to interventions by elementary and high school teachers and schools, which occasionally also involved police intervention. Police intervention in most of these cases typically did not involve criminal charges. The advent of liaison officers in Ontario schools forms a link between schools and police officer involvement that is not necessarily tied to criminal prosecution.

Overall, those participants who recalled school-based interventions again suggested that – if community-based responses or platform reporting had not resolved a situation so that school-based responses had to be sought out – less intrusive interventions by individual teachers were often preferable because they would enable the students involved to maintain a degree of control over the situation and keep it from escalating further. However, “when [the situation is] like really out of hand” (Aaron), so that targeted students experienced significant distress, many participants felt it was appropriate to involve school administration and sometimes police officers in cases involving non-consensual disclosure of personal information or illegal conduct such as non-consensual distribution of intimate images.

Although they were cautious about assuming that situations outside of school were “necessarily the school’s responsibility” (Aaron), most recognized that an online incident

“usually ... carries on into the school” (Nicole) and can affect whether people could learn or felt comfortable in school. A number of participants noted that students may be reluctant to report unless, as Marcus put it, “it’s like really bad” because “they don’t want to be considered a snitch”.

Again, school-based responses to online reputational attacks were preferred to legal remedies.

As Morgan put it:

I feel like they should go to the school because the school is like the—like largest—like they could talk to the person, they could call the parents, whereas court is like a lot bigger. And unless the like lie could have hurt the person, other than like mentally, I think that they should like talk to the teachers or something first and try and resolve it in a small group...

1. Telling a teacher first can help to avoid unwanted escalation – Morgan suggested that it was sometimes preferable to “talk to the teachers ... first and try and resolve it in a small group” in order to contain the matter, rather than reporting to the administration, where there was a risk of things getting blown out of proportion. Ameera, for example, described a situation involving non-consensual disclosure of intimate images where the girl targeted “didn’t really want the school involved ... because her parents worked at the school, so she told one teacher that she really trusted, and they kind of resolved the situation.” After a discussion with the poster and a threat to report him to the principal if he did not delete all the photos, the teacher was able to resolve the situation without compromising the girl’s confidentiality. Further, Ashley felt that because teachers are people who care about kids, they might be able to get to the bottom of a particular student’s aggressive behaviour by asking, “Is there something going on in their life or are they just rude people?”

2. Reports aren't always taken seriously – Michael recalled a situation where an unpopular classmate's name was used as the name of a file posted on social media that included a photo of an ugly person. His classmate became very upset and reported the situation, but the poster's denial led to the situation being treated like a joke. Michael felt that that school needed to "take the idea of bullying ... a little more seriously" and believe those who report when they say they are hurt by the conduct, even if others might not be.

3. There should be a range of responses - Where school administrators (rather than teachers) do get involved, our participants felt there should be a range of possible approaches that were geared to the specific situation. Sarah, for example, suggested that "for a smaller argument ... they should bring them in and talk and try and resolve the issue", while punishments like expulsion and suspension should be reserved for "something like really bad".

4. Responses should reflect the degree of harm to the target's reputation – Michael and Stéphanie both described situations involving non-consensual disclosure of intimate images in which they felt their schools should have done more. Although in the situation retold by Stéphanie the boy distributing the intimate video had his phone "wiped" by the police, she felt he and other boys involved ought to have been suspended or forced to apologize because of the serious impact of their actions on the targeted girl's reputation:

... it's not fair that people—a bunch of people had already seen like that part of your body then, so many people, and like everyone my age like knows her name, like your reputation. ... And it's just like not fair that she has to still go to school with these guys and act like nothing happened and be like cool about it.

Stéphanie was also dissatisfied with the school's response to a male student's disclosure of the identity of a female student who had complained about unwanted sexual touching by a teacher, which ultimately led to termination of the teacher's employment. In that case, although the school made an announcement telling students not to post bad stuff and advising them if they needed support, they should see a psychiatrist, she felt the boy, who was a popular athlete, should have been made to apologize. Similarly, Morgan felt that it was unfair that in some cases girls who had been targeted by lies were the ones who ended up leaving their school, rather than the person who spread the lies. As she put it, "It's not the person who's like victimized who should be leaving. It should be the one who's [doing the] hurting."

5. Students' privacy is at play – As described above, Jackson recalled a situation where he was called to the principal's office for cyberbullying after he retaliated against a homophobic slur posted by a girl in his class with a homophobic slur against her. During a meeting between him, his principal and his dad:

She [the principal] puts a stack like—I mean like this [*makes a hand gesture to show stack of paper*] of paper of every swear word I have ever said on Facebook. ... So my dad was like so like saying, like he was like 'who the hell are you? How are speaking like this?' You know you come home and you're like some goody two shoes but you leave the house and, you know, you're some—trying to be like a thug or something?

Unable to explain to his father the different roles he played online vs. offline as a son at home, Jackson "never went on Facebook again, made Instagram and stuff later. Was hesitant to even do that because I thought I was like watched." During the interview he queried:

I thought it's illegal to do that, for a school to go through a kid's profile but whatever. I can't say anything. That was in the past. But now that I'm older, I thought like isn't that friggin' illegal to go through all my posts and whatever?

In a similar vein, although Scott could not recall an instance of suspension at school relating to online conflict, he recalled being told by his teachers that “the principals and stuff, know about everything going on online”, so he assumed “they were following everything online and as much as they could”.

6. Sometimes students target teachers – Daniel recalled a situation where a negative posting about a principal on the app YikYak that said, “Mr. [principal's name] said, ‘if she's old enough to pee, she's old enough for me.’” This led to an assembly where students were told they had hurt the principal's feelings. Ultimately, the school banned use of the app.

7. Responses need to reflect group dynamics – Both Daniel and Harper raised concerns about gaps between adult-created responses and group dynamics among youth. Daniel recalled having been “scared shitless” to report bullying to the principal because he feared “nothing's going to happen about it”. Ultimately his fear came true when the principal forced the two to shake hands, which Daniel felt was meaningless because he knew “it's not sincere”. Similarly, Harper felt that “touchy feely, let's all hug” approaches to dealing with online reputational attacks were often ineffective, noting that “more mental health awareness” was important, as was creating an ethic of “stand[ing] up for each other” among students.

8. Out of school suspensions can be treated like a holiday – Rain recalled a situation where a popular male athlete at her school was suspended for two days for non-consensual distribution of intimate images of a female student. From her perspective, “suspensions should be at school because – they’re only one day suspensions and the person just stays home ... it’s basically like a PD day for them. ... [It’s] almost like the person doesn’t really mind.”

9. More holistic approaches are needed - Caitlyn, after recounting a case of non-consensual disclosure of intimate images said that schools could do better:

... it needs to be addressed more broader, so if something happens at school, I think the whole school needs to be informed of the lie and why it’s not okay to be doing it, versus like ... okay you did wrong. Bye, like that’s it.

Further, she noted a lack of continuity in school messaging around these issues:

I found, um, just throughout growing up and school and with the internet, um, they kind of drilled it in elementary school about bullying and online harassment, but then the minute you kind of got into middle school and high school it was kind of like you should know.

She recommended that schools should spend more time educating young people “about the use of technology and the benefits of how it could really help you in life. And the negatives and how you can abuse it. ... When it’s acceptable and when it’s not.” Constantly focusing on the negative, she said meant that “we’re not going to go anywhere.” Harper concurred with the idea that schools should “go beyond like the crappy workshop interventions” that are done once and move toward a “more integrated approach to anti-cyberbullying” that incorporated regular weekly lessons in the curriculum.

10. The threat of criminal prosecution can be effective in some cases - Ameera suggested that involving the police, without going through with a criminal prosecution, could have a deterrent effect:

I feel like they shouldn't necessarily punish him, but kind of like scare him. Because it's happened before, whereas someone did something that was not media related, but they did a joke on someone, and they just brought in the police to scare the kid so he would never do it again, and it worked.

Two participants described this kind of response in relation to non-consensual disclosure of intimate images. While Caitlyn said police got involved, "just like to threaten, like 'hey I could go farther than this'", in the case recounted by Stéphanie the police "came and they called the guys out of their classes and they confiscated their phones and swept their phones clean." Harper recalled a situation involving online threats where she thought that a police warning to the poster that "'this is verbal harassment' ... you can get charged for it" was effective. However, she felt that police should not be involved with situations involving online lies unless it is "going to damage [the target's] reputation severely to the point where they can't function and live a normal life."

D. Legal Responses

We discussed law and legal remedies for online reputational attacks with the participants in a number of ways, including with respect to their general views about law's applicability and usefulness in this area, and their thinking about specific aspects of defamation law in both civil and criminal contexts. Perhaps most notably, their experiences with and observations of the harm that can be done by truthful postings and by group-based hatred and attacks, as

discussed above in the Reputational Harm section, suggest that traditional defamation law, focused as it is on *false* statements and harm to *individual* reputations offers limited potential for relief in any event. Caitlyn's suggestion that laws to stop harassment were more important than laws to deal with false statements reflects this limited potential:

... when it ... comes to bullying, harassment and those things it's, it's a form of harassment, yes the law should be in place but really like focusing specifically on people who are telling not the truth, maybe not. I think that would just be a waste of time and I don't think a lot of people would follow it per se.

1. Law as a last resort

Overall, most of our participants saw law as a last resort for dealing with online reputational attacks, reserving legal remedies for the most serious of cases involving financial, physical or emotional harm. Sarah described a spectrum from less serious to most serious, with "I don't like your hair" being on one end, racism being in the middle and "you were at an illegal party and you got arrested" on the other end. Some of the most common of the many reasons our participants offered for seeing law as a last resort are discussed below.

Involving law will escalate the situation – Morgan, for example, was concerned that if courts became involved the situation would get "blown up into like a larger thing than it really was" and worried that even reporting to school would lead to police getting involved and her having "no control in stopping it". Kim concurred, noting "involving the police or the law might be worse than actually what's happening because then it can be blown out of proportion and then if the parents can be involved ... then it can be bad for the children," if the kids do not want their parents to know.

If you invoke law, you could be in trouble too – Katherine’s friend’s ex-boyfriend had threatened to distribute nude photos of her after they broke up. When her friend came to her for advice about going to the police, Katherine advised against it:

And I’m like ‘I need you to know because you sent out those pictures you could also get in trouble at the same time.’ ... Um, he will get the worst of it, but you will get in trouble.’ ... Um, so it was kinda like that’s what took her—like ‘okay, I can’t go to the police.’

Involving the law will increase publicity and exposure – Our participants felt that often the targets of reputational attacks simply wanted the matter to die down – something that could be jeopardized by involving the law. – As Katherine put it:

So, I think that’s what’s stopping people. So I—and it’s like they’re getting stepped on because they’re worried of what’s going to happen to them and what’s going to happen to their reputation if it gets out.

Kim concurred, noting “if the police get involved, then it’s kind of – brings more spotlight to [the person defamed]”

The courts will be overrun – Fadi speculated that suing for reputationally harmful lies on social media could lead to an explosion of court cases because “social media lies” are so frequent, “everybody’s gonna get \$20K because how many people lied about you – and how many times you see stuff about you ... and it’s not true?”

Law won't resolve the social and emotional harm – The harm that defamatory statements can do to social relationships, and to targets' emotional states, were key concerns for many of our participants and a number felt that a legal remedy could do little to address that. As Kim noted:

Like, what are you going to do with the money now? You're still going to have the information. You're still going to be depressed about it. You're still going to be harmed by it. It's more that they should be able to be ... forced to pay for the therapy so that they can get over it.

Similarly, Nicole distinguished between situations where the defamation undermined the target's ability to make money (in which case a lawsuit for monetary damages made sense to her) and a situation that affects "just a person". In the latter situation, in her view, "I don't think money would solve the problems. ... If you really care for the person [who defamed you] maybe therapy" would resolve them. Likewise, although Stéphanie favoured damage awards for emotional harm due to defamation, she noted "no matter how much money you give them it won't heal the pain you've caused them." Ameera echoed these sentiments, noting:

It might make them feel good at first, because oh it's just cash, but at the same time, does it really resolve anything? They're always going to be like, Oh that person. They're always going to be mad at that person for telling lies about them, so I don't think it resolves anything in any way.

Aaron concurred, noting that often, untrue statements lead to hurt feelings and having your friends think of you differently and asked rhetorically, "how do you assign a dollar value to that?"

Legal remedies don't necessarily help targets mend their reputations – Even if a target were to succeed in a civil defamation action, Morgan felt it would not always mend their reputation,

even though it may make them feel better and “make the person who did it know that it was wrong”:

Not always. It like—it’ll make it more publicly known that that person lied. But people will always have it in the back of their head ... it’s like ripping open a pillow case. All the feathers will be gone. Like, you can’t get them all back... Like, someone will always think something like that about you.

Stéphanie felt this was especially true in terms of mending your reputation with your peers, where social hierarchies meant that more popular people were more likely to be believed:

... if it’s like a popular person [who defames you], you’ll—you think that even if you tell, um, the law or whatever, they’ll believe you, but people at school they still won’t believe you. They’ll still have that reputation at school. Even though something was done about, it still stays with you, like every day at school.

A loss in court could make things worse – Kim was concerned about the risk that losing a law suit could just reinforce the untrue statement, noting:

... or the judge says ‘oh, I think that’s true.’ And the person who the lie it was about and they know that it was a lie, they’d feel like nobody believes and that might cause them to get more depressed or more self-conscious or got—get them to have like some doubt about I.... And it can always be the—based on how good the lawyers are—like if the defence lawyer is better than the person who’s trying to sue the other one, then it could always be that the person who was harmed ends up losing.

Going to court is inaccessible and messy – A number of our participants highlighted concerns about the cost and delay involved with obtaining legal remedies. As Ashley put it, resolving it in person is:

... really the better result because then there’s—it’s not as messy, and it’s so messy. And in court, things can run on forever and it’s just—ruins people’s lives a lot of the time because there’s so many things going on. And especially if you’re a kid, you don’t want to be put into that situation.

Jeff added to this idea, saying, “[w]ell the justice system is kinda problematic. And our whole—I’d say our whole, ah, country is a little problematic at this point just because it’s based off of things that were made hundreds of years ago.”

Going to court won’t change bad behaviour – Ameera felt that damage awards were not likely to change the defamer’s behaviour, noting:

I feel like getting money from someone doesn’t really resolve the situation, because even if they get money for it, say that person stops posting about that other person, they can easily just move on to the next person and keep doing the same thing.

In a similar vein, Ashley said, with respect to cyberbullying:

Like I wish that the law could get involved and just put a stop to it but it—it’s really about the people. And if they want to find a way around it, then they can. It’s just like no matter how much security system you have in your house, if people want to break in, they—they’ll still find a way.

2. Civil litigation

Our interviews touched on a number of topics related to substantive aspects of defamation law, including: absolute privilege; qualified privilege; fair comment; responsible communication of matters of public interest; and balancing reputation protection with freedom of expression. Overall (and perhaps unsurprisingly given its complexity), our participants were generally not familiar with defamation law. They did, however, share a number of insights that provide some fresh perspective on the law in this area.

Special protections for parliamentarians may send the wrong message - Our participants generally disagreed with parliamentarians having special rules to protect them from defamation claims in relation to statements made in Parliament. Although they were generally quite jaded about the reality of politics, most still believed that parliamentarians ought to be held to a higher standard because they are responsible for “important decision-making” (Aaron). As Michael put it:

I believe that arguably politicians should be, ... held to a higher sort of degree of like telling the truth than other people because, you know, yes, politics are—politics, you know, there’s the natural sort of assumption that there’s going to be lies and defamation campaigns and such. But like [*sigh*], you know, it’s as a politician it’s your duty to do what’s best for the country.

Some participants connected this issue to a larger one, and suggested that a lack of truth telling negatively affected politicians’ ability to be role models for others. Michael used the example of the election of Donald Trump and untrue generalizations about certain equality-seeking groups, noting:

That’s one of the reasons so many people are pissed off that Trump got elected. And personally, I’m pissed off. Like because him taking such a role reinforces the idea that his behaviour is acceptable. That it’s acceptable to be that being sexist and being homophobic and being Islamophobic and being racist ... and essentially being that sort of person will get you far and actually encourages people because it’s like if you do this you can be the president.

Stéphanie brought this idea home to the Canadian context, suggesting that those young people who do pay attention to politics might feel “well if the prime minister is not saying the truth then why do I have to say [it]?”

Genuine, though mistaken, belief in truth - When asked about whether those who honestly believe the truth of what they were saying, such as an employer giving a reference, should

nevertheless be held legally responsible if their statements turned out to be false, many of our participants suggested that there should still be consequences, but that they should be less serious than in situations of a deliberate misstatement. As Lina put it:

I think ... there's still a level of responsibility, but it's kind of like, um, the difference between manslaughter and murder. If I accidentally killed someone and I felt terrible about it, I would fully support and expect legal action to be taken against me, but not to the extent that—as if I had purposely killed someone. It's kind of like it should be taken into account, but it shouldn't be the sole deciding factor.

Damages for defamation should only be awarded in certain contexts – When asked whether someone should be able to recover money in court from someone who lied about them publicly, our participants offered a variety of situations in which they felt that a damage award was merited. These included:

- a. where there is a provable financial harm, including the ability to get or keep a job because, as Harper noted, “I think my generation’s biggest concern with social media is that we’re all going to get fired or not hired”;
- b. getting suspended from school for a lie (Lina);
- c. exposure to a physical threat (Jackson);
- d. any suggestion that the target was doing something illegal (Sarah);
- e. lost scholarship opportunities (Scott); and
- f. if the defamer is a news organization or media outlet because, in Aaron’s view, they should be “held accountable for what [they’re] saying”.

Predictably, these were the same kinds of situations that many of our participants said would be serious enough for them to consider initiating legal action if they were defamed. For less

serious situations Caitlyn said she would prefer to report to a social media platform. Before she would sue, she said she would have had to have lost a “substantial amount of money [because] going through the court process is costly ... especially if you have to hire a lawyer.”

In contrast, many of our participants felt that for many of the untrue statements they encountered in their day-to-day lives, a damage award would not be merited because often these situations just involved “friends joking around” (Harper) or having “friends dislike” you, but you “can always find new friends” (Lina). Kim felt that in many situations damages for harm to reputation among one’s peers were unnecessary for young people because:

... if it’s a reputation, it’s something that’s so flimsy that could be easily changed. Like, you’re gonna—if it’s a high school, you’re going to move away soon and you’re going to be in university and no one’s going to know who you are. Or even if you’re in university, you’re going to move out and go to a job soon and you’re not going to talk to half the people you did in university. So it’s, it’s such a small thing, your reputation that it shouldn’t be something you should be able to sue someone over.

It isn’t just false statements that merit damage awards – Given that most of our participants felt that *true* utterances could also harm reputation (as discussed above in the Reputational Harm section), many of them also felt that monetary compensation should not be limited to situations involving false statements. Most, however, were concerned about the free expression implications of monetary awards for reputationally harmful, but true statements. Michael, for example, suggested limiting “punishment” for certain kinds of truthful utterances to situations of intentional harm:

If you say something that is true and there is reason to believe that—or you can confirm without a doubt that they had the intention of getting that person harmed, like their purposely outing them. They’re purposely doing something like that. That case, I think yeah, they should be, um, there should be punishment. But if you’re simply saying the truth and you had no intention to harm

them, again, it's a grey area. It should be a case by case thing. But yeah, maybe in that case there shouldn't be so much punishment.

With respect to the related issue of non-consensual distribution of intimate images, a number of our participants noted that, although not technically “false”, these actions could lead to the very same kinds of harm as false statements. As Harper noted “it’s like messing with my potential to get a job in my field”. Lina distinguished truthful statements from non-consensual distribution of images for the purposes of awarding damages:

Or if someone’s distributing images ... with text over them and insults, that’s—I don’t know even if there’s a specific law, but I think that’s kind of, um, that can be something that you could take legal action against. And then statements about people, I don’t know if you can really kind of legislate that because it’s—if it’s true, then—and it’s, it’s not, ah, exaggerated or biased or anything, then there’s—I mean it’s unfortunate, but it’s not something that the law needs to get involved in, I think.

Interestingly, discussion about recovery for true statements that harmed reputation sometimes led to discussions about privacy and trust, since often the imagined circumstance of the dissemination of a truthful, but reputationally harmful statement about someone involved a breach of confidentiality. Many of our participants saw the harm arising in these situations as worthy of legal remediation. Harper, for example, suggested:

... if it was private information, um, that could, could get you hurt or could like make something bad happen to you, like get your, like banking info stolen or something like that somebody else shared about you. You know, I think then—like if it could really hurt you, um, or like your assets, then I think the person should be fined.

Jeff, however, was less convinced that the target of a true utterance should be able to recover damages where they were the ones who initially communicated the information to the person who ultimately distributed it. He noted, “Technically, the person gave him the information. ... And that’s where it’s unfortunate.”

Remedies against young people should be lighter than those against adults – Ashley

suggested that legal redress against young people should not be as severe as that against adults “because they’ve got their whole life ahead of them and it can affect them more”. She felt this was especially true where the posting was just a “stupid mistake” rather than an intentional act to hurt someone.

It “can be very difficult” to distinguish fact from opinion online – Discussions with our

participants about separating fact from opinion (a distinction relevant to defamation law) revealed the difficulty of distinguishing the two in the online context where, from Lina’s perspective, “people just are generally more argumentative” and “you can’t see them face to face. You can’t hear the tone.” Further, discussion of this issue often led into the similarly complicated topic of discerning true information from false information. Lina felt that matters became particularly complicated in relation to politics because every opinion is “as valid as any other opinion”, but “you can’t just Google it and find out whether or not it’s real.” As a result, she said, “You have to treat every separate person like they ... all have a separate set of facts.” In a similar vein, Jeff lamented “there’s not many facts anymore,” while Caitlyn noted, “it’s very difficult to tell when it’s partial fact, fact or their opinion.”

In light of these difficulties, Aaron emphasized the importance of being “someone who, who kind of flexes that critical thinking muscle in your mind” in order to be able to “distinguish between baseless conjecture and facts”. Harper further suggested that knowing “how to use

tools like Google and Snopes and other fact checking sources” was helpful in terms of distinguishing fact from opinion and truth from falsity.

It is important to protect free expression, but there are limits - All of our participants agreed it was important to balance free expression with protecting reputation, and most noted the difficulty in finding the exact right balance. As Michael put it:

... free speech does not necessarily, at least in my mind, include making something up about someone. You know ... free speech is within reason. ... yes you have the right to your opinion, but you don't have the right to your own facts.

A number of participants, including Kim, Marcus, and Ameera drew the line on free expression at “harm”, although the definition of harm was for some rather elusive. Lina and Katherine identified group based attacks as one limit, with Lina noting:

I think generally people agree that you should be able to say whatever you want as long as it doesn't, it doesn't impact or harm someone or a group of people. You know, it's not racist, sexist and all that.

As Katherine explained it, “You shouldn't ... get away with ... saying something... especially if it's going to affect their life, Like ‘all black people are this.’ It's kinda like you're stereotyping them.”

Caitlyn felt that greater leeway should be given to free expression in the context of discussions around public topics, than around private ones:

... there should be a balance. Um, when it comes to public topics and, um, like elections for example, or celebrities, I feel like, um, people can have more of an opinion. Um, while when it comes to not—things that aren't a public—in the public's eye, like personal relationships, ... [it] should be more watched in that sense and where it should be stopped if it becomes, um, aggressive.

3. Criminal prosecution

Our participants were in general reluctant to agree that defamatory statements should be criminally punished, unless the statements led to extremely grave circumstances, such as death or criminal investigation of the target of the comment (e.g. for rape (Jeff)) or as Harper suggested, “it’s something that’s going to really affect someone’s ability to function in society”). For Morgan, a girl at her school pursuing criminal charges had been “the right thing to do” when another group of girls had posted an ad on Craig’s List in her name, inviting men to come to her home address. She felt in that situation, the girls had “put her ... safety to ... the side. ... [So] they should have paid a penalty.” However, triggering the criminal process in less serious circumstances might, as Kim put it, simply “bring ... more spotlight” on the target.

Journalists should be held to a higher standard - Some participants also suggested that a criminal penalty for defamation may be appropriate for journalists, because they should be held to a higher standard and, as Lina put it, they “definitely have the responsibility to make sure what they’re saying is true.”

There should be a range of punishments - Ashley suggested that whether criminal law should be resorted to depended in part on what the potential punishment would be, noting, “if it’s like community service or you have to apologize to somebody, then it should be handled by law”. Further, she felt that young people “should be given the chance to prove [they’ve] changed.”

IV. FREE EXPRESSION, PRIVACY AND ANONYMITY IN AN ONLINE WORLD

A. Free Expression

The issue of free expression arose throughout our interviews. As a result, some of them are discussed in more detail in other parts of this report. Our intention in this section is to draw together in one place the over-arching free expression related issues of most relevance to the issues of online defamation and reputation.

All of our participants clearly valued free expression and believed it should be protected in online spaces, notwithstanding the deep concerns many of them expressed about the veracity of information they encounter. As Daniel put it, “opinion is like one of the most important parts of like the internet. Like, ... all of these different opinions coming together.” Michael echoed that sentiment noting, “one of those benefits about the internet [is that] ... it’s an opportunity where people can have healthy debates about hundreds and thousands of subjects....” Jeff added, “you can’t have a content cop. ... You’ve gotta give people a chance to give their opinions. You gotta tolerate each other a little bit.” Fadi went further in rejecting limits on online expression, saying “this is freedom of speech ... and without ... this we’re nothing”. From his perspective, although people will say “bad stuff”, “this is life.”

1. Need to Balance – Notwithstanding that all of our participants valued free expression, the vast majority also believed that there had to be limits on it. Ameera, for example, felt it was

important to balance free expression and protection of reputation, saying, “you can have an opinion, but not too much of an opinion.” She felt, however, that “some people, they tend to post stuff without thinking” and then later realize they should delete it. She speculated that “if they thought about it, maybe half the stuff that’s online wouldn’t be online today.” From Ashley’s perspective, the line drawn on freedom of expression online should reflect the one drawn offline, noting, “if you wouldn’t say that in person, then why ... should you say it online?” Other participants articulated more specific kinds of limits.

Limit 1: hate speech - Harper asserted:

... there should be a balance on free speech because ... a lot of times people use the term free speech to makes hate speech, ... so the balance should be ... when it would be considered hate speech in real life, I think those comments ... if they’re reported, they should be reviewed and deleted.

Further, she felt that people had a responsibility to “fact check” and noted “other people’s responsibility to hold [posters] ... accountable for whether or not it’s factual.”

Lina felt the free speech line should be drawn at expression that negatively affected a person or group of people (e.g. if it was “racist, sexist and all that”). And while she supported moderator intervention on platforms to maintain that balance, she felt that

...public opinion of moderating discussions is kind of overwhelmingly negative because people like to say whatever you want. You should be able to say whatever you want, but I think there should be an entity in that equation that ... maybe fact checks or ensures that everyone’s playing nice together, ... and no one gets personally attacked or hurt in the process.

Katherine also felt that “if you’re like insulting someone, whether it’s gender, race, origin or ... nation” those comments “shouldn’t be free speech because its affecting someone else’s life”. Marcus concurred, saying “everyone has their ... freedom of opinion as long as ... there’s no hatred shown to anyone else.”

Ameera put it slightly differently and noted an example relating to hateful content posted about members of the LGBTQ community:

I feel people should be able to state their own opinions, because we live in a democratic area, so we should state what we want to ... but if it’s biased, really, against a certain group, then no, if it’s really offensive ... like, racism, or, like those types of issues, I feel you can have an opinion, but not be too opinionated on it.

Limit 2: defamation - Targets of defamation, according to Harper, should “have the right to contest it” “whether it be in a court of law or ... just like talk to the person and be like ‘take this down, like that’s rude.’” As Michael put it, “you have the right to your opinion, but you don’t have the right to your own facts.” As such, he felt that “if you’re lying [about someone] ... and they come to harm ... there should be restitution.” Michael was more equivocal about imposing limits on true statements that led to harm, although he felt this could be dealt with on a case-by-case basis without doing undue harm to free expression.

Limit 3: hurting other people or threatening to hurt them - Ashley felt that free speech shouldn’t protect:

... somebody [who is] just bashing someone and pulling their freedom of speech card. ... Freedom of speech is a good thing, but if you’re hurting people, then it’s not. ... it’s supposed

to be used to connect with people and make people feel better about themselves. ... That's what I want it to be about. That's what the goal is and it should be.

Although Jackson did not favour platform intervention on speech because "it's democracy ... [and] they shouldn't be able to tell you what you can and can't say", he still felt "there should be consequences" for uttering threats.

Limit 4: taking into account a public/private divide - Caitlyn felt that "there should be a balance." The balance she proposed in some ways mirrored some of the nuances built into defamation law. For example, she felt that:

... when it comes to public topics ... like elections ... people can have more of an opinion ... [whereas for] things that aren't ... in the public's eye, like personal relationships ... that's when harassment and being negative online should be more watched ... and where it should be stopped if it becomes ... aggressive.

In a similar vein, Kim felt that the degree of intervention might vary depending on the platform. For example, something that's more "personal one-to-one ... it'd be different than trying to reach out to everyone," because in the one-to-one situation the speaker would already have adjusted their message to be sure it didn't offend the particular listener to whom the communication was sent.

Rain also connected the limits of free expression to the public/private divide, noting that, with respect to arguing over politics, "you definitely have the right to do that, but ... talking about just a random person at your school and judging them", she felt was different. After recounting two specific examples from her school she concluded, "it's just not right. You

should not do that [unless the person you are posting about] is okay with you posting something like that”.

2. Promotes access to knowledge – Notwithstanding the challenges of misinformation and discerning truth from falsity, Jackson held to the idea that the internet is an excellent mechanism to “expose the truth”, saying:

I bet when you were my age you ... have to go to a library or something and look through books when ... like I imagine ... look through a whole book just to find something on one page that, you know? So spend like an hour doing that when I can just do it in 30 seconds. So that’s why.

B. Privacy

The issue of privacy arose in a number of ways during our interviews, often in conjunction with other kinds of issues, such as reputation, free expression and (especially) anonymity. As a result, some of them are discussed in more detail in other parts of this report. Our intention in this section is to draw together in one place the over-arching privacy related issues of most relevance to the issues of online defamation and reputation.

1. Maintaining control over the balance between privacy and publicity is central to managing online reputation - As discussed in detail in the Reputation section above, our participants were very aware of the potential impact that online content posted by them and by others could have on their reputations. Their methods for addressing that issue included consideration of the level of privacy available on any particular platform, who their audience was on each

platform, whether they were posting under their names, under a username or anonymously, and whether they understood themselves to be being monitored or tracked on any particular platform.

Lina, for example, who described herself as a “private person” and was not out about her sexuality to her family segmented her audiences and content according to platform, using Facebook for personal purposes and Tumblr for the professional purpose of selling art. Apart from Facebook, she said:

I try not to involve people I know in real life in most of my other platforms. ... Like, no one needs to know, um what I drew today. But if I’m trying to sell art to someone, I can just link them ‘look at my portfolio on Tumblr’ and that’s it. But no one on Facebook needs to know that really.

Similarly, Harper and Jackson relied on Snapchat as a platform for more private exchanges. Harper uses Snapchat for posting “funny selfies and pictures of my nose” because “people can’t follow you unless they request and they can’t see your content unless they request first,” making it more private than her public Instagram account. For Jackson, “if ... you don’t want someone to tell someone else or show that ... you told someone, you’d probably message on Snapchat.”

2. Public/private divide – As discussed in Part A above, a perceived public/private divide affected our participants’ perceptions of the appropriate limits to be drawn on speech. While they felt more comfortable with allowing greater freedom for discussion on matters of public interest, such as celebrities and politics, they felt that greater restrictions were justifiable on expression that publicized otherwise private matters, such as relationships and sexuality. This

was particularly so where the publicization of the private matter was done without consulting a person whose reputation could be harmed by it.

3. *Unwanted intrusion on privacy as a harm* - Our participants discussed individual, corporate and government intrusions on privacy as harms in the online context, most of which they felt were unfair, but many of which they felt they had little choice but to accept. As Stéphanie put it, with respect to being judged in future about what she said online when she was 15, “[t]hey wouldn’t think the same things that like the people who are seeing it now cuz it’s like they’re seeing it out of context. ... It’s not fair, but it’s life.”

One of our participants’ most frequently cited examples of individual breaches of trust arose from stories about non-consensual distribution of intimate images. In addition to the violation of confidence usually involved in these scenarios, the violation of privacy involved also had significant implications for the reputations of girls targeted. As Stéphanie put it, “it’s not fair that ... a bunch of people had already seen like that part of your body”.

Corporate tracking also influenced our participants’ decisions about where and how to express themselves online. As Scott put it, “anything that doesn’t keep track of what you said, you feel more free to say stuff than Facebook.” For example, on online games, where “you can’t see if it’s kept track” of, participants’ willingness to express themselves is enhanced. Corporate monitoring also came up in the context of concerns about potential employers reviewing candidates’ social media posting as part of a job screening process. As noted above, Harper put

it, “I think my generation’s biggest concern with social media ... is that we’re all going to get fired or not hired.”

Government intrusions on privacy identified by our participants included suspected government involvement in taking down certain online content; government monitoring of prospective employees’ social media postings for national security purposes, and school tracking or monitoring of students’ social media postings (which led to punishment in Jackson’s case). Daniel felt that schools’ access to students’ cell phones should be conditional on obtaining approval from a higher authority and limited to situations “when they absolutely need to because ... at the end of the day ... we basically put our private life onto phones now.”

C. Anonymity

While many of our participants had not participated online fully anonymously, some had participated under usernames or pseudonyms (e.g. for online gaming), while others had posted anonymously when they were younger (e.g. using ASK.fm). Nevertheless, most had views about anonymity, including its upsides and downsides.

1. *Firsthand experiences with anonymity*—Harper disclosed perhaps the most extensive range of anonymous online participation, which included an anonymous “boob blog”, posting anonymous questions on Tumblr ask boxes, and two anonymous Facebook accounts (one named after a pumpkin and the other that she used to direct information about the definition

of consent and sexual violence laws to a guy after he sexually assaulted her following a party).

Marcus, Caitlyn and Ameera all reported having posted on ASK.fm because it was popular when they were younger and allowed you to “talk to someone but you didn’t have the guts to talk to them” in person (Marcus). For Caitlyn, posting on ASK.fm was “more of a free for all when it came to what I wanted to say. ... and then you got to see how a lot more people around you could be more ruthless when it became anonymous versus not.”

For Lina, anonymity created a feeling of being freer online than offline:

I feel more free offline than on Facebook. But if I was posting anonymously on Tumblr, like you could give me five bucks and I’d post anything anonymously. And I would take it a lot less seriously. But whereas online there is obviously like, you know, you can’t say something and run away. People—like you’re, you’re physically there. You can’t leave if things get bad. But I don’t think that’s necessarily a bad thing because some things don’t need to be said.

2. *Double-edged sword* – All of our participants saw anonymity as something of a double-edged sword, in that it could promote both privacy and free expression, with negative or positive results depending upon the context. Michael put it this way:

... there’s advantages as well as disadvantages. Um, like a major advantage is you can talk about certain things without worrying about it coming back to you. Um, but again at the same time ... that’s also a disadvantage because you don’t have to worry about it coming back to you. You can post whatever the hell you want. ... So I mean there’s definite pros and cons. ... It’s hard to say if one really outweighs the other.

Lina concurred that anonymity has both upsides and downsides, but overall felt “it’s more helpful than it is harmful” when people let things out that might otherwise “fester” inside of them. Further, she felt that “[n]o one takes anonymous posts very seriously a lot of the time.”

3. Upsides – Our participants identified a long list of positive aspects of online anonymity, many of which demonstrated the overlapping impacts of anonymity, privacy, equality and freedom of expression.

Can help support free speech - Lina strongly felt that anonymity was good for free speech, noting:

... if I had to make a post on Facebook about something related to the LGBTQ ... community, ... I would much rather it be anonymous because ... of the way my family and friends would react because I'm not out yet. ... [I]t's kind of like protection.

Ashley felt that being able to post anonymously might enable people to “express themselves because they’re shy inside and they don’t know how to say it in person.” At a broader level, Caitlyn pointed to whistleblowing and the fight against repressive governments in other countries as two important benefits of online anonymity.

Can help support freer browsing (or lurking?) - Michael occasionally participates in forums about computer science under a username, which does not necessarily identify him to strangers, but is close enough that others who know him offline will realize it is him. He sometimes uses it as a way of looking around in a forum:

... just to go in to see what people are talking about and then if it interests me I'll talk, but very rarely do I say anything. So that's actually kind of creepy now if I can put it in retrospect.

Can make it easier to stand up to bullies - Although Nicole recognized that anonymity could sometimes be used by bullies, she also felt it could help to stand up to bullies because:

... if I were to post something ... anonymously [in support of someone who is being bullied] then that leaves me out of it in a ... face-to-face situation, so I'm not bullied as well".

Can help build community – Michael felt anonymity could be positive for members of the LGBTQ community, some of whom “don't want to come out for obvious reasons”, because it allows them to interact with the LGBTQ community online (e.g. the Facebook page of the LGBTQ club at his school).

Can minimize the risk of judgment so asking for help is easier - Our participants said that anonymity made it easier to post without worrying, as Lina put it, that someone will “look at it and form an opinion of you based solely on that”. Rain felt that anonymity was particularly important in high school for the “less populars” who are “afraid that other people are going to judge them” because “less populars” tend to be the target of gossip if anyone hears that “one of [them] ... has issues”. She added, “[o]nline, it's all about being – well not all about, but a lot of it is being judged [so] it's almost like freedom that you can have when you're anonymous.”

Because anonymity could help to avoid judgment, most of our participants felt that it was easier for a young person to ask for help if they could do so anonymously. Kim noted “they don't have the fear of being judged ... so they can talk freely about themselves.” Similarly, Michael noted:

... getting help is a lot easier if you don't have to admit that it's you, you know? ...especially I know ... again this is kind of gender stereotyping, but guys especially with the guys I know, wouldn't like going for help ...—well it's a sign of weakness ... you don't want to do that. So being able to anonymously ask for help, yeah, it would be very ... beneficial.

In a similar vein, Lina said anonymity could be used to post questions without having to worry about whether someone thought they were stupid and without having to appear “weak”. In her own case, she said:

I don’t want to attach my name – my real name to anything ... LGBTQ related [because I’m not out to my family]. So if I had questions about that or if I wanted help, I would probably not seek it ... offline. ... Doing it anonymously would be a lot easier....

Caitlyn agreed that young people would be more likely to ask for help if they could do so anonymously, but was quick to point out the need for “resources to deal with it emotionally and the resources to deal with it offline as well. ... not just something as small as reporting ... anonymously.”

Similarly, Caitlyn felt that anonymity for targets in court proceedings would have a positive effect because otherwise they’d be worried “if the newspaper gets ... in there and ... they publish it, then ... everyone will know that lie. ... and it might snowball.”

Morgan felt that anonymous online reporting could be a positive step, but to ensure the legitimacy of the report, she felt that the target should have to give their name to the platform, but that the platform should keep the name confidential. Jeff concurred that “you should [not] be able to push a button and take [content] out because that can be very abused.”

While agreeing that anonymous reporting could be good in some situations, Aaron felt that once the report was drawn to the attention of the alleged defamer, “people will assume that it’s coming from the person whose been defamed”, so it might not help in many situations.

Marcus felt that anonymity boosted people’s confidence, which in turn made it easier for them to report bad behaviour against them. Otherwise he said, “you don’t want to say your name. ... like you already have someone thinking that about you. You don’t want someone else thinking that about you.”

Can help support equality - For both Michael and Lina, anonymity online allowed them to maintain a degree of control over information over others’ having access to information about their sexual orientation. As Lina explained:

I like to keep [my gaming site] separate from ... Facebook and stuff ... because no one can ... look at a gaming site and look me up on Facebook. ... to my family, I’m not out. Um, gaming sites and stuff and generally online, I am.

Aaron recalled a friend who “wasn’t openly gay” who was able to use anonymous forums to post about gay marriage, so that anonymity “allowed him to talk about something he otherwise wouldn’t have been comfortable talking about.”

Harper relied on anonymity for the purpose of “raising social consciousness without people just immediately attacking you and tearing you down...” and, in the case of someone who sexually assaulted her, ensuring that he did not think “any of that was okay or that any of that didn’t piss me off”. In the latter case, she said, “I started spamming him with a lot of ...

important information that all the ... young men should understand. And young women.”

Further, she said, anonymity allows those who might be discredited due to appearance, age, race, economic status or other prejudices, to express their viewpoints. She concluded, “I just think it’s nice because that way people can’t use your identity to deny you credibility.”

Can help maintain appropriate distance - For Lina posting pseudonymously on gaming sites made it easier to ask a quick question and then move on:

... cuz no one cares about an anonymous user if you don’t like reply back and start a conversation. But when you’re using your own name and someone ... helps you out ... they expect you to continue because, you know, it’s two people, not a person and a faceless entity.

Can help youthful defamers to rehabilitate – Many of our participants felt that anonymity for young people accused of defamation would contribute positively to their rehabilitation by not unnecessarily harming their reputation through publicity. Marcus, for example, felt that maintaining confidentiality around the name of a young person accused of defamation was a good idea so as not to interfere with “future jobs”, especially if “they learn from it.”

Can help maintain privacy – For some of our participants who engaged anonymously online, privacy was often the objective – sometimes in order to work through important personal issues. Harper, for example, had had seven Tumblr blogs, on one of which she was:

... pretty ... deep into like self-harming and stuff ... so that Tumblr was kind of even more hidden because like the other [blog] – like most of my closest friends had, but then that one nobody ever followed or saw or knew about.

Daniel supported the idea that it was acceptable for users to post anonymously about personal issues in order to maintain privacy. On the lighter side, Kim said using a user name when online shopping would mean her mom “would never know”.

Can help build friendships - Kim felt that anonymous conversations online could sometimes lead to becoming “good friends” since you would not have to worry about whether the other person was going to spread gossip about you. As a result, you can be more honest, more forthright and “actually get to know each other”.

Can help protect against stalking - Ashley felt that anonymity was more likely to be used for negative purposes, but noted a positive purpose “so that ... people that don’t like you can’t find you and stalk you or bully you.”

4. Downsides – In keeping with the “double-edged sword” vision of anonymity, our participants also came up with a long list of downsides of anonymity, many of which also demonstrated the overlap between free expression, anonymity, equality and privacy.

Tool of hate speech – Many of our participants felt, and had observed, that anonymity could produce a sense of unaccountability that led some people to say “hurtful things” they otherwise would not because “you know you can get ... away with it if you’re anonymous” (Marcus). From Daniel’s perspective, anonymity could further remove the human element from online interactions because “it’s just like kind of keyboards and mouses and like you

don't know who is saying what" and so might be used to say "sex[ist], racist, ... homophobic ... Islamophobic" things. Ashley pointed to anonymous comments on YouTube as an example of these kinds of behaviours.

However, Aaron pointed out that anonymity might not work exactly the same way in the context of online gaming where there can be other incentives against behaving abusively.

For example, he said:

... in gaming platforms, ... you'll have your account with which you like bought the game you play and so now your account has value. So then, I find in those situations people are less likely to just be terrible because if they lose that account, well then the \$40 fame and all the progress they've made on it is gone too.

Can create a false sense of security – From Harper's perspective, anonymity is "mostly negative for the people who might be on the receiving end of [mean] posts." However, she felt anonymity could also lead to problems for the poster by creating a:

... false sense of security, like might have you saying things that you really do think but you might have saved for like your diary or something ... Cuz really like if [the person on the receiving end] ever finds out, they're just going to be hurt, you know?

As a result, she said, anonymity could be negative for the poster as well because if their identity gets disclosed, "people know that you're mean" and it's going to "damage your relationship".

Can let a defamer escape their due – In contrast with those who felt that those accused of defamation should be able to maintain anonymity (or at least protect their names against being released to the public), several participants, such as Michael, were concerned that this

would mean the defamer wouldn't have to pay their "penance" for a slander that "ruined your life". He felt the target should determine whether the defamer's name was released. In a similar vein, Stéphanie felt that defamers' names should be made public because, "if you have the confidence to go online and say something about someone else then you're going to have the confidence for everyone to know what you said about that other person."

Can make it more difficult to judge the veracity of information and for the poster to be

taken seriously – Katherine felt that anonymity impeded her ability to judge whether information was true or false, noting:

... like if you know who it's coming from and you know the other person then you kind of have a generalization of if it's true or not. ... But when it's anonymous it could be just being like 'oh, this person has a red car.' It's like 'okay how do you know?'

For this reason, Katherine said she'd take an anonymous post less seriously than a non-anonymous one "because I don't know who it's coming from. ... It could be anything."

Caitlyn was similarly concerned that "people might not take you seriously [when you post anonymously] because you're not willing to put that credibility ... of your name." In contrast, in Kim's experience, anonymous content can sometimes more accurately reflect the actual person because it "might be what they actually think or like how they actually are versus how they portray themselves at school."

Can be used to spy on people - Michael recalled a situation where a friend of his suspected that his mother was having an affair, so he created a fake email account and "sen[t] an e-

mail to the guy pretending to be his mom with one of these links to capture [the suspected lover's] IP stuff so that he could then find out who he was and confront the guy."

Can make it harder to identify your attacker - Kim noted that anonymity can make it difficult to "know who is actually bullying you, so you can think ... the worst of who they are or you can even like sometimes assume it's like one of your friends and you would never know."

Can make it difficult to help people - Based on what she'd seen in movies, Rain was concerned that "if a person is in a really dark place" and threatening "to kill themselves", "if you don't know the person's identity, then you're afraid and like it could happen." Nicole concurred, noting "if you feel really depressed and suicidal that would be a downside because then nobody would know who you are to get help."

CONCLUSION

Although qualitative research cannot be generalized to a population, it provides a rich window into the ways in which the young people in our sample perceive and experience online defamation, reputation, free expression, anonymity, privacy and the various available responses for dealing with online reputational attacks. It also assists in exploring the question of whether, from their perspective, defamation law requires reform in order to remain relevant. Our participants also point to a number of other considerations beyond defamation law that are relevant to determining whether, and if so how, law can support them as they seek to maintain and protect their reputations.

Reputational protection is especially important in light of the lasting effects of the digital footprint created as a product of the increasingly technologically networked society in which young people, in particular, are immersed. Our participants' report that:

1. The seamless online/offline integration of their lives means that online content not only affects online reputation, but offline reputation as well.
2. They are keenly aware of the reputational impacts of what they post and what others post about them and strive to maintain control over information and audience as part of creating, maintaining and protecting their reputations. For this reason, legal protections for privacy may be a critical component of protecting reputation.

3. Untruths, in the form of misinformation and alternative facts, proliferate online, affecting their reputations and influencing their views of others, even as they recognize the limitations on the veracity of online information. Improved and accessible mechanisms for fact checking could support them in developing better-informed views of others.
4. Truths, in the form of non-consensual distribution of intimate images and personal information, can be equally damaging to their reputations, and carry with them added harms flowing from breach of confidence, privacy and trust. Defamation law, by definition, does not address these reputational harms. This is another reason why legal protections for privacy (and remedies for its violation) may be a critical component of protecting reputation and addressing harms associated with reputational attacks.
5. Group-based hate against vulnerable communities proliferates online, with negative implications for the reputations and well-being of individual members of those communities. Defamation law, by focusing on harm to *individual* reputations may not adequately address these reputational harms. For this reason, legal protections against harassment, as well as responses aimed at addressing root causes of hate should also be understood as central, not only to protecting equality, but to protecting reputation as well.
6. They preferred responses to reputational attacks that minimized escalation of the situation and, as much as possible, protected the target of the attack from further publicity and scrutiny. From this perspective, legal reforms should aim, insofar as

possible, to support rather than interfere with individual or small community-based mechanisms for responding to reputational attacks, except in the most serious cases.

7. In general, our participants preferred reporting reputationally harmful content to social media platforms instead of resorting to legal responses like defamation. However, their experiences with reporting reputational attacks to social media platforms raise concerns about responsiveness, machine decision-making and freedom of expression. This suggests that legal reforms aimed at improving the transparency and accountability of platform decision-making could improve this mechanism for responding to reputational attacks.
8. In general, our participants preferred reporting reputationally harmful content that involved fellow students to their schools, rather than resorting to legal responses like defamation. However, their experiences with school-based responses raise concerns about unnecessary escalation, over-emphasis on punishment rather than resolving underlying social, emotional and societal issues and, in some cases, a lack of empathy for targets. This suggests that legal reforms aimed at encouraging curricular and environmental change in schools to proactively address reputational harm before it happens could improve this mechanism for maintaining and protecting reputations.
9. Overall, our participants saw legal responses as a last resort that should be reserved for the most serious cases of reputational harm. For those situations where legal recourse was seen as appropriate or necessary, they pointed to a number of access to justice barriers such as cost, delay, loss of control and inability to address social and emotional issues were identified as barriers. From their perspective, law reform initiatives aimed at

addressing these barriers could smooth the path for the rare situations where legal recourse is seen as necessary.

10. Free expression was an important concern for our participants, but they readily recognized the need to reconcile that right with other rights to privacy, equality, dignity and bodily integrity. Further, some felt that traditional media should be held to a higher standard than ordinary citizens when it came to ensuring the truth of the content they post. This suggests that law reform initiatives that resist the temptation to over-emphasize freedom of expression at the expense of other rights and commitments may be more in keeping with their concerns.
11. Our participants saw anonymity as a double-edged sword – capable of encouraging both negative and positive outcomes. Because our participants felt that anonymity and pseudonymity made it easier for them and/or others to: (i) access information about socially marginalized topics such as sexual and gender identity; and (ii) seek help, they felt anonymity and pseudonymity can work to promote equality and access to justice. However, our participants felt that when anonymity and pseudonymity are used as mechanisms for escaping the consequences of group-based hate speech, they work against these values. From a legal process perspective, however, anonymity or pseudonymity in litigation are important tools for encouraging young people to seek remedies for reputational harm.

APPENDIX A - METHODOLOGY

This report is based on interviews that were conducted with 20 young people aged 15-21 in Ontario in February and March of 2017. The purpose of the interviews was to explore young people's attitudes toward and experiences with online defamation, reputation, anonymity, and the benefits and drawbacks of existing mechanisms for addressing online defamation. The interview discussion guide, consent documents, recruitment text and method of analysis were approved by the University of Ottawa Research Ethics Board.

A. Recruitment

After receiving ethics approval, participants were recruited through Research House, a research firm located in Toronto. Research House has an established panel of people who have consented to be contacted about participating in research projects. We provided Research House with the number, age, gender and city or community of residence of the participants we wished to recruit and specified that the participants must be users of online social media.⁹ Research House identified participants in the panel who qualified and contacted them to see if they would like to participate in an interview for this research project. Consent forms were signed by all those who agreed to participate. Consent forms were also signed by the parents of all participants under the age of 18.

B. Sample

The sample consisted of 20 participants in total, 12 (6 aged 15-17 and 6 aged 18-21) from an urban centre and eight (4 aged 15-17 and 4 aged 18-21) from three rural areas near to that urban centre. Ten of the participants self-identified as female and ten participants self-identified as male. Ten of the participants identified as Caucasian and seven identified as German-Canadian, Korean-Canadian, Lebanese/African-Canadian, Black Canadian, Haitian-Canadian, Turkish-Canadian and First Nations, respectively. The remaining three did not specify a race and/or ethnicity with which they identified. Two of the participants identified as being French/English bilingual. Two participants identified as queer, one identified as pansexual, one indicated having no specific sexual orientation, twelve participants identified as straight, and four did not specify their sexual orientation. Two participants identified as Muslim, one identified as Christian, and seventeen participants did not specify their religion.

Table 1: Participants by region, pseudonym, age, gender, race/ethnicity, sexual orientation and religion

Pseudonym	Age, Gender, Race/Ethnicity, Sexual Orientation, Religion
<u>Urban Participants</u>	
Michael	16, Male, Caucasian, Pansexual, Not Specified
Lina	16, Female, Caucasian (German Canadian), Queer, Not Specified
Jackson	17, Male, Black, Not Specified, Not Specified
Sarah	17, Female, Not Specified, Not Specified, Not Specified

Caitlyn	20, Female, Caucasian, Straight, Not Specified
Kim	18, Female, Korean, Straight, Not Specified
Daniel	18, Male, Caucasian, Straight, Not Specified
Harper	21, Female, Caucasian, Queer, Not Specified
Fadi	21, Male, Lebanese/African, Straight, Muslim
Marcus	17, Male, Black, Straight, Christian
Stéphanie	15, Female, Black/Haitian, No Specific Sexual Orientation, , Not Specified
Ameera	20, Female, Turkish/Muslim, Straight, Not Specified
<u>Rural Participants</u>	
Rain	16, Female, First Nations, Straight, Not Specified
Ashley	15, Female, Caucasian, Straight, Not Specified
Morgan	15, Female, Not Specified, Not Specified, Not Specified
Jeff	17, Male, Caucasian, Straight, Not Specified
Scott	21, Male, Caucasian, Straight, Not Specified
Aaron	21, Male, Caucasian, Straight, Not Specified
Katherine	20, Female, Caucasian, Straight, Not Specified
Nicole	18, Female, Not Specified, Not Specified, Not Specified

C. Administration of the Interviews

Each participant attended a 60- to 90-minute individual interview. Prior to commencing each interview, the researcher(s) collected the signed consent document or documents¹⁰ from each participant. During the interview, the researcher(s) and participants discussed, among other things, the various online activities that they engaged in, their experiences with and understandings of reputation, anonymity and free speech in the online context, and their experiences and understandings of various responses to online defamation, including legal, school-based and social media platform-based responses. With participant permission, the interviews were audiotaped and transcribed for analysis. Identifying information was removed from the transcripts and pseudonyms have been used to identify participants in this report.

¹ Professor, University of Ottawa Faculty of Law (Common Law).

² Professor, University of Ottawa Department of Criminology.

³ For a more thorough explanation of the process see Appendix A – Methodology.

⁴ Law Commission of Ontario, *Defamation Law in the Internet Age*. Online: <http://www.lco-cdo.org/en/our-current-projects/defamation-law-in-the-internet-age/> (last accessed: 3 May 2017).

⁵ Law Commission of Ontario, note 1.

⁶ Law Commission of Ontario, note 1.

⁷ Valerie Steeves, “Young Canadians in a Wired World, Phase III: Life Online”, (Ottawa: MediaSmarts, 2014). Online: <http://mediasmarts.ca/ycww/life-online>.

⁸ Jane Bailey, “A Perfect Storm: How the Online Environment, Social Norms and Law Constrain Girls’ Online Lives” in Jane Bailey and Valerie Steeves (eds), *eGirls, eCitizens* (Ottawa: University of Ottawa Press, 2015) Online: <https://press.uottawa.ca/egirls-ecitizens.html>.

⁹ In order to ensure racial and religious diversity after having conducted 16 interviews, we asked Research House to recruit persons who satisfied the requirements and were non-white and/or members of a religious minority. The final four urban participants were recruited on this basis.

¹⁰ Participants under 18 provided two consent forms: one signed by them and one signed by their parent or guardian.