

NAVIGATING ELECTRONIC EVIDENCE IN TITLE IX INVESTIGATIONS

APRIL 22, 2020



SEXUAL MISCONDUCT AND CIVIL RIGHTS INVESTIGATIONS

EXPERTISE

- Independent Investigations of Sexual Assault, Harassment, & Discrimination Reports
- Lookback Audits
- Policies and Procedures Reviews
- Employee & Student Trainings

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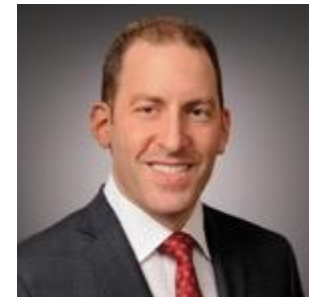


R Jason Straight is a Senior Managing Director and Chief Privacy Officer at Ankura, based in New York. Jason is a leader in the cybersecurity and privacy consulting practice and oversees Ankura's internal data privacy program. He has extensive experience managing complex cybersecurity investigations and data breach events in a wide variety of industries involving a range of threat actors including malicious insiders, organized criminal operations, and state sponsored groups.

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Dan Schorr is a Managing Director at Ankura, based in New York. A former criminal prosecutor and municipal inspector general, he has more than 20 years of legal and investigative experience. Dan manages a variety of complex assignments, from investigations into major fraud, internal issues at corporations and governmental entities, and sexual misconduct and Title IX violations to litigation support, threat management, construction quality concerns, labor-law compliance, and independent monitorships.

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Alyssa-Rae McGinn is a Senior Associate with six years of experience leading and conducting a variety of complex investigations, including monitorships of a large international bank and a governmental child welfare agency. Alyssa-Rae conducts investigations at educational institutions and corporations into allegations of sexual misconduct and gender-based harassment involving students, faculty, staff, and corporate leadership.

INTRODUCTION TO DIGITAL EVIDENCE

OBTAINING DIGITAL EVIDENCE

- In a Title IX or Civil Rights investigation, digital evidence may be provided voluntarily by parties or witnesses or obtained through organization-owned systems
- Get primary/original evidence whenever possible

TYPES OF DIGITAL EVIDENCE

- Mobile devices and laptops:
 - Active and recovered messaging content
 - SMS/MMS
 - Apps
 - Social Media Accounts
 - Operating system metadata
 - Internet history
 - Account log-ins
- Network and cloud logs:
 - Successful and unsuccessful log-in attempts
 - IP address records
 - Internal and external connection logs

DIGITAL EVIDENCE IN AN INVESTIGATION

A NEW INVESTIGATION LANDS ON YOUR DESK

- Junior Carrie Bolen reports to the Title IX Coordinator that she was in a relationship with junior Andrew Trillo from October 2019 through the end of February 2020.
- On January 10, 2020, Carrie and Andrew consensually video recorded themselves having sexual intercourse. They took the video using Andrew's phone. They agreed that they would not show the video to anyone else.
- Andrew texted a copy of the video to Carrie the following day.
- A few days after the video was taken, Carrie told her roommate, Jane Lopez, about the recording, but did not show the video to Jane.
- Carrie broke up with Andrew on February 23, 2020 and Andrew was very upset.

A NEW INVESTIGATION LANDS ON YOUR DESK

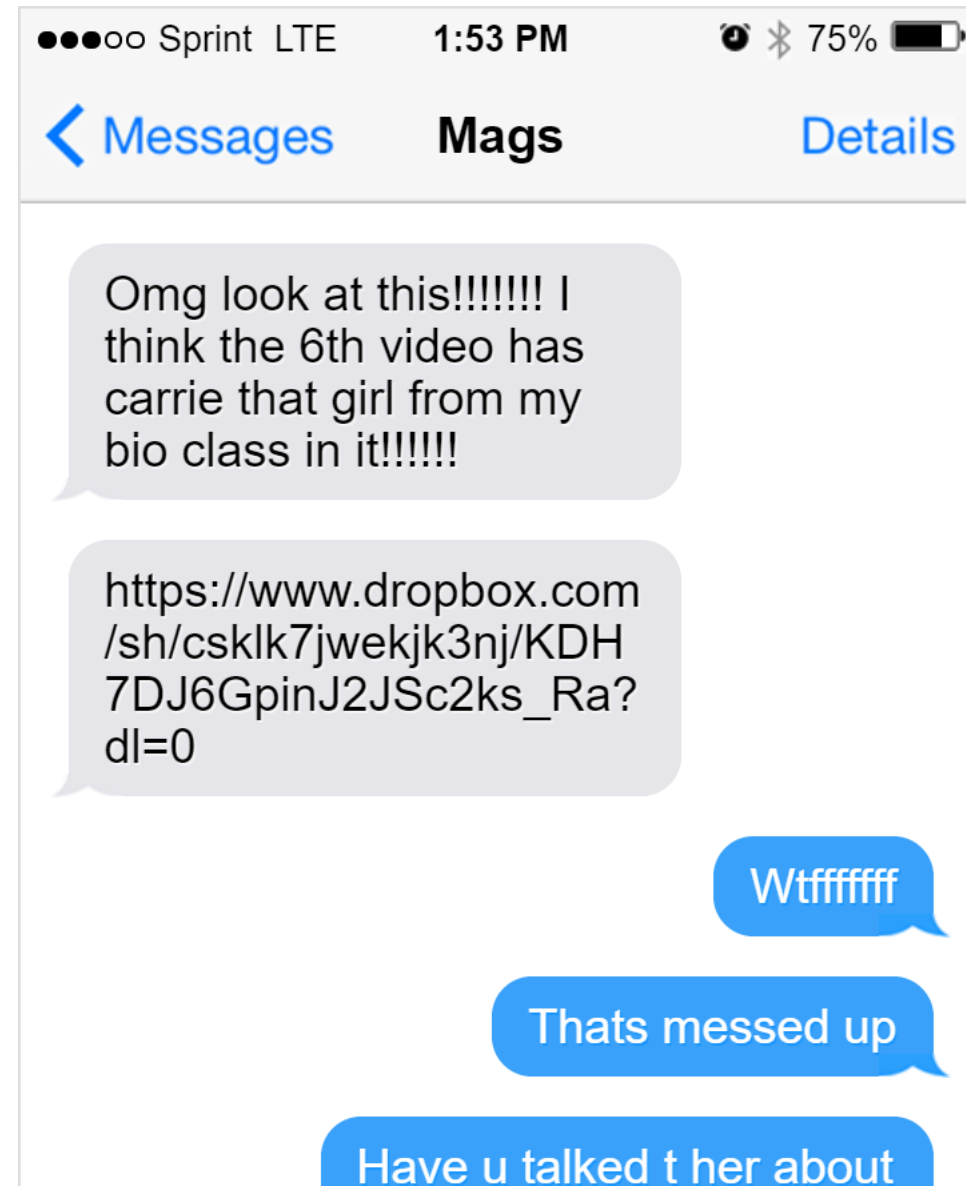
- Earlier this week, on Monday, April 20, Jane called Carrie and told her that Jane's friend, Mike Bell, had just sent Jane an Instagram message with a link to an Instagram post containing the video of Carrie and Andrew having sexual intercourse.
- The post was removed later that day because it violated Instagram's Community Guidelines, but Carrie took a screenshot of it. The screenshot shows that it was posted by user sexycollegevidsxxx on April 20 and it was publicly visible. This account is still active and visible, but it has no other posts, and no photo or bio.
- Carrie is very upset and says that she thinks Andrew posted the video because he was angry with her for ending their relationship.

INTERVIEWING THE RESPONDENT

- Andrew denies that he posted the video.
- He tells you that he told his friends, Jessie King and Alan Warner, about the video but he never showed it to them or sent it to anyone else.
- He tells you that he thinks that a few weeks ago, his phone was hacked, because he clicked on a suspicious link in an email on his phone. Andrew says that he believes someone must have taken the video from his phone and posted it.

THE INVESTIGATION CONTINUES...

- You are approached by a student, Louis Toulson, who tells you that his friend, Maggie Vega, sent him a link to a university-managed Dropbox account, which had the video of Carrie and Andrew.
- When you view this link, you find that it is an account used generally by the men's swim team, and you can see dozens of unidentified video files, including one with a title that matches the video of Carrie and Andrew.



Q&A

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