

Photo Bomb: Responding to Online Transgressions

Ana Romero-Iribas and María Almudena Santaella Vallejo

Translated by Sara O'Brien

<http://justiceinschools.org>

This case takes place at a private school in Spain and concerns students in their first year of Educación Secundaria Obligatoria (ESO), secondary school for students ages 12-16. The ESO is led by the Coordinador, a role similar to a principal or head teacher. However, unlike school leaders in some countries, in Spain the Coordinador and their fellow school administrators all teach courses, so they can keep abreast of the day-to-day happenings at the school. Each grade level in the ESO is also led by a tutor—a teacher who is directed by the school administration to advise each family in order to support their child's education. Tutors help ensure that the school and the family agree on the educational goals for the child. As such, tutors maintain regular contact with families.

On Wednesday afternoon at 4:30, the teachers' lounge at Roma School was packed. As a private K-12 school in Madrid, with a committed faculty, highly engaged parent community, and strong academic record, Roma enjoyed a stellar reputation. But today worried voices filled the room as the faculty discussed the rumors that had been circulating about Clara, one of the students in 1ºESO (7th grade). That morning, everyone had received an email from Luis, *Coordinador de la ESO*, asking them to stay after school for an emergency meeting. Now Luis hurried into the room and invited his colleagues to sit as he started the meeting.

"Apologies for the urgency," Luis announced, "but we have a serious problem about Clara S., which you may have heard about already. Inés, as the tutor for the grade, can you explain what happened?"

Inés took a deep breath before she began. She had a soft spot for Clara and hated to relate what had happened to her.

"Last Saturday, Clara's classmates Andrea and Jaime were hanging out at Andrea's house, and they decided to create a Whatsapp¹ profile pretending to be Guillermo, who is apparently a popular older boy who lives in their neighborhood," Inés explained. "For a laugh, they started messaging Clara as Guillermo. The poor kid has always been an easy target—she's so sweet, but definitely immature and a bit awkward compared to her classmates. After a while, they asked Clara to strip in front of her phone's camera, and when Clara took off her bra, they took a screenshot of her, topless, and sent it to friends in the class."

A horrified gasp spread through the room.

"The photo got around, and soon all the other students in the class had seen it," Inés continued. "Some kids even sent it to friends at other schools. When Clara arrived at school on Monday, she had no idea that everyone had seen her topless photo, although she soon found out. She was devastated, and immediately called her mom to pick her up. She hasn't returned to Roma since late Monday morning. To top it all off, one of the other boys forwarded the photo to friends using a school computer. We found out about the situation because one of

¹ In Spain, users legally must be at least 14 years old to create a Whatsapp profile, though the app doesn't verify age.

Clara's classmates was worried about her and came to me to tell me what happened. It's just horrible."

"Thanks, Inés," Luis said. "As you all know, the *Comunidad de Madrid*² has a protocol we must follow when investigating bullying cases. On Monday, as soon as Inés informed the administration what happened, we met and agreed that we are facing a serious situation indeed: Andrea and Jaime both behaved badly, and Clara herself was reckless. So following the protocol, we set up an investigative committee, which Carlos and I were both a part of.³ It was important that we investigate quickly, discreetly, and impartially to determine not only whether this was a case of cyberbullying, but also whether any laws against child pornography apply here, since Clara is only twelve years old."

"Oh my God," groaned Juan, the math teacher for 1ºESO. "Those kids had no idea what a mess they were making."

"Yeah—for themselves and if we're not careful, for Roma, too," Carlos affirmed. As a "lifer" who had taught at Roma for twenty years before taking on his current administrative role as *Coordinador de Bachillerato*, or vice principal, Carlos was known for his fierce commitment to the school, and to maintaining its high status in the city.

"Yesterday we interviewed everyone involved in the incident," Luis resumed. "Clara's mother had already asked for a meeting, so we spoke to her first. While she couldn't explain why Clara stripped on camera, she was shocked and upset that her daughter's classmates could treat her so poorly at a sought-after school like this, where we place so much emphasis on moral education. She believes that the school must take action."

"Well, of course!" Laura exclaimed. As 1ºESO social studies teacher, she knew all of the students involved and looked stricken at what she had just heard. "I hope you told her that we would severely punish Andrea and Jaime, and every student involved in sharing those photos, and that we'd have a school assembly to teach all students about respect and digital citizenship."

"Whoa, let's not get ahead of ourselves!" Carlos responded. "Remember that this didn't take place at school, and that Clara's mom has options of her own."

"That's true," Luis nodded. "As a lawyer, Clara's mother is well aware that she could report Andrea and Jaime—and their parents—to the authorities and that she'd have a good case against them. But given that they are so young, and given how much Clara is already suffering, she doesn't want to drag this out. She thinks it's best for Clara to put this mess behind her as soon as possible, and resolving this matter without the courts is the best way to keep Clara from being hurt more than she already has been. So she has asked us to handle the discipline internally, at the school level."

"What did Andrea and Jaime's parents say about all this?" Juan asked, curious.

"Andrea's parents are upset and very angry at their daughter," Luis answered, "although they believe she's too young to understand the significance of her actions. They both work long hours, so Andrea spends a lot of time home alone, and they don't feel they have any good ways to place limits on her screen time. But it's clear they plan to punish her in some way. In fact, I think they'll be reaching out to you for guidance, Raquel."

"I'll be happy to talk with them," Raquel, the school's counselor, responded. "Should I expect to hear from Jaime's parents, too?"

² Government of Madrid

³ Under the law, the investigative committee should consist of the principal, a teacher, and a non-teaching member of school staff.

“That’s a harder case,” Luis sighed. “Jaime’s parents assured us that their son couldn’t possibly have been involved. He doesn’t even have a cell phone, so they insist he wouldn’t know how to create a fake profile.”

“Wait, so they aren’t taking any responsibility?” Laura protested in disbelief. “No wonder Clara’s mom expects us to take action, if they won’t!”

“It’s very important to know how Andrea and Jaime reacted,” Raquel pointed out. “Do they understand what they did?”

“Andrea and Jaime are very sorry for what they did,” Luis reported. “They knew Clara would be temporarily embarrassed, but it was clear they hadn’t thought through the real harm their ‘joke’ could cause, nor what the long-term consequences might be. I think they’re ashamed this all got so out of control so quickly.”

“I’m relieved to hear they are ashamed,” Raquel commented. “What do their classmates have to say?”

“Most of them felt sorry for Clara when they received the photo; you already know that one of them reported the incident to Inés,” Luis responded. “Although of course, a few of them did forward the photo to other students who weren’t on the original list.”

“How horrible!” Laura exclaimed.

“So what were the committee’s conclusions?” Juan asked, hoping to get the full story before Laura launched into more recommendations.

“Well, we determined that the picture of Clara is not legally considered pornography: while it shows her partially naked, it’s not suggestive or titillating, and the students didn’t take it for those purposes,”⁴ Luis explained. “So we’re not required to file a criminal complaint, which is good because after all, the children involved are only twelve.”⁵

“What about cyberbullying?” Juan inquired.

“While the situation is serious, it represents an isolated incident,”⁶ Luis explained. “According to CAM,⁷ as long as it’s not a pattern of behavior, we don’t need to report anything to the authorities, though we should revise the student handbook to ensure that the situation doesn’t happen again.”

“So does the committee have recommendations about what we should do other than revising the handbook?” Juan asked.

⁴ In Spain, pornography is defined in Article 189 of the Penal Code, which lists a series of requirements, including: sexually explicit conduct, sexual suggestiveness, and the representation of sex organs. The definition also includes sexually violent and degrading scenes. The photo described in this case is not considered pornographic, and thus forwarding the photo to others would not be considered “distribution of child pornography.”

⁵ Under Spanish law, children younger than fourteen cannot be convicted of a crime. Instead, their parents would be held responsible for their children’s behavior in civil court. Under Article 1903 of the civil law, parents are legally responsible for their children’s conduct until those children turn 16.

⁶ By law, cyberbullying requires repeated behaviors, including: harassment, persistent and invasive contact with the victim, misuse of the victim’s personal information, and threatening the freedom and assets of the victim.

⁷ CAM is the acronym for *Comunidad Autónoma de Madrid*. *Comunidades* are territorial entities that, within the Spanish constitutional legal system, are endowed with autonomy. They have their own institutions and representatives, and certain legislative, executive and administrative powers, which in many respects makes them federated entities. Therefore it could be said that Spain is quasi-federal.

“Frankly, this is why we’re coming to you,” Luis explained. “Clearly we need to do *something* to help our students learn from this as the situation is serious and involves multiple students and their families. But what exactly?”

“Luis, I’m not convinced that the school needs to take any further action—the events didn’t happen here,” Carlos protested. “We need to deal with the student who forwarded the photo from the school computer, of course, but honestly I’m more concerned about how this incident will impact the culture here, and the school’s reputation in the community.”

“Wait, what?” Laura burst out in disbelief.

“Have you forgotten about the other school that had a similar incident last year?” Carlos continued. “They were all over the media, and I know their applications this year dropped as a result. It’s going to take them a while to recover their reputation. Why should the rest of us pay the price for Clara’s foolish actions in a single incident that happened at home over the weekend? The school has already done enough by talking to the students involved—and their families—about the seriousness of the situation.”

“Well, given that our mission is to educate, I think we should take some action here,” Juan countered, “since it’s important that Andrea and Jaime experience consequences for what they have done—and it’s not clear that Jaime’s parents are going to impose any consequences on their own. But I agree with you, Carlos, that we should resolve this matter privately with the students and their families, without drawing any more attention in the school or the community. Andrea and Jaime clearly didn’t understand the full implications of their actions, given their age, and it’s in Clara’s and the other students’ interests also to stop people talking about it so it doesn’t get more attention. I’ve heard chatter in my math class; now that I know what it’s about, I can put a stop to it before it gets further out of hand.”

“Are we just going to pretend that nothing happened?” Laura exclaimed in disbelief. “Everyone knows about this. Is it fair that one student gets publicly humiliated and we just cover it up? We do the students a disservice if we put their comfort above the reality that actions have consequences. It’s a crucial lesson in life, accepting responsibility for what we do.”

“Yes, but why make it public?” Juan stressed. “These are twelve year-olds we’re talking about!”

“Let’s not forget that this incident *is* public already,” Laura responded, “so the consequences should be public as well. We must set an example for all the students: those who took the photo, those who sent the photo, and those who just witnessed the whole thing. Besides, public consequences could help restore Clara’s reputation.”

“Look,” Inés interjected, “I’ve been talking to Clara—she hasn’t stopped crying since Monday. She feels so embarrassed about her actions, and humiliated and betrayed by her friends. I don’t know how much time will pass before she feels up to seeing her classmates again. She’s shattered, thinking that the entire city is talking about her. I think we need to respect that Clara just wants to forget this ever happened. All the kids are already talking about it; she doesn’t want the teachers all discussing it, too.”

“We should clearly listen to Clara and her parents—ultimately, she’s the victim here,” Raquel agreed.

“We can’t just let it go!” Laura objected again. “Clara is going through a difficult time, but let’s not forget that she brought it on herself, and now she’s learning her lesson. The punishment needs to fit the crime, as an example for all students. Andrea and Jaime should clearly be expelled. If we want Roma to remain respected for our moral community, we need to be clear that we will not tolerate this kind of behavior – even if it doesn’t meet the legal standards of

cyberbullying. The students who stood by and did nothing should be punished, too. And the student who sounded the alarm should be rewarded.”

“That student simply did the right thing by stepping forward; knowing they did the right thing is reward enough,” Raquel replied. “But I agree that we need a clear plan at least for the other students who forwarded the photo, and for their parents. At the end of the day, they are responsible for the actions of their children until they turn sixteen. And I’m not sure those parents even know what happened here!”

“That’s true,” Luis responded glumly. “We haven’t reached out to them yet, since we wanted to talk things out with you all first. How do we contact them without refocusing the spotlight on Clara? And are we just informing them, or threatening consequences, or what?”

“Don’t forget that some of the parents may turn the charges back on us by claiming that 1^oESO students couldn’t have used school computers to forward the photos if we had been properly supervising them,” Carlos added. “It’s a delicate situation.”

“Wow, I hadn’t thought about our own legal liability,” Raquel breathed. “This is hard.”

“Exactly why we don’t need to pull Roma further into it!” Carlos nodded.

“But as a counselor,” Raquel continued, “I do feel we’re doing something wrong here at school if twelve-year-old kids think they can treat a classmate this way. Like you, Carlos, I’ve always taken pride in our work fostering values and character. Shouldn’t we be thinking about our own role in this situation—and helping students and parents think about it, too?”

“More than thinking,” Laura responded. “Doing. Facing consequences.”

“Let’s not dwell on this—it happens everywhere,” Juan argued. “I still think it’s best to just resolve this matter quickly and in private: the students who hurt Clara, and their families, should apologize to her and her mother. And when Clara comes back to class, her classmates will support her. I know that there are caring kids in her class who will help her put this whole situation behind her. You’ll help them with that, Raquel, and I can make sure she feels welcomed in math class, too. And, of course, we’re going to need to do some lessons about cyberbullying and the other issues raised here. That’s the action you could take, Laura—work digital citizenship into your social studies lessons. But no need to draw this out further.”

“So instead we’ll sweep it under the rug,” Laura countered. “Clara suffers, while everyone else conveniently pretends nothing happened.”

“OK, let’s not keep circling around the same questions,” Luis pleaded. “We need to start making some decisions. How do we balance what is best for Clara, for the other students, and for the school as a whole? Is it up to us to impose consequences on Andrea, Jaime, the other students, or their parents—and if so, what should those be? What do we do about parents like Jaime’s, who disavow responsibility, or about parents who might be inclined to hold us responsible instead? And how can we turn this situation into a learning opportunity for the whole class and even the school so we avoid anything like this in the future—but without further traumatizing Clara?”