The Hum Podcast

Episode 13: “Naming It Sexual Assault Is One Of The Biggest Barriers”

{Theme music begins}

{Mandi’s voice begins to come in over top of music}

Mandi: It's really hard to describe the feeling of feeling betrayed by these institutions that are, in theory, to protect us, but they don't.

{Music increases in volume}

Male voice: You're listening to The Hum.

{Music decreases in volume}

Simona: This episode today is generously sponsored by the good people at Boxcar Social, a cafe and bar that offers a curated rotating menu, showcasing the world's best coffee roasters, winemakers, craft breweries, and whiskey distillers, and also one of my favorite places in Toronto to chill in. With four locations in the city, be sure to check them out in person or visit them online at www.boxcarsocial.ca.

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Gilad: We're joined today by Mandi Gray, superhero, cult hero, activist, every kind of hero you can imagine, also the subject of a film called *Slut or Nut: The Diary of a Rape Trial*, which is directed by Kelly Showker. Mandi, how are you today?

Mandi: I am nervous and also really excited to be here.

Gilad: Yeah, we're all - you know, we're all nervous. For those that can't see, I'm actually shaking.

Mandi: Yeah, I've already taken off like four layers of clothing {laughter}. I'm like gushing sweat.

Simona: Luckily, you don't have a film premiering tonight.

Gilad: Little do you know.

Mandi: Little do you know, surprise, plot twist!

Gilad: Thank you for joining us. So *Slut or Nut*, to be honest, every time I've had to say that title out loud, I've been a little bit uncomfortable. Just as like a white dude saying that out loud in public, *Slut or Nut*. Can you tell us a little bit about what the film is about?

Mandi: Primarily, we named it that to make white men uncomfortable, but the title derives from a conversation I had with a criminal lawyer and he said there are two ways the defense will go in a sexual assault trial. You'll either be depicted as the slut, promiscuous, asking for it, or you're

going to be constructed as crazy and not knowing what you're talking about. And throughout the film - the film follows me throughout reporting sexual assault to the police, to my campus, going through a sexual assault trial and the aftermath of the trial, and then there are other folks that talk about their own experiences, and we talk to a number of professionals that, kind of, shed light on just the numerous institutional barriers that are at play when someone decides to come forward with an allegation of sexual violence.

Gilad: Sim and I were talking so much about you actually before we came in with how - really how proud we are of you. We really look up to you, just how open you are in all of your activism. I also imagine there is a lot of trauma when you have to recount this and so when you're representing a film at a festival like Hot Docs, where you have to sort of recount that trauma, what's that been like for you?

Mandi: I think it's been a really interesting experience because, obviously, the seuxal assualt itself is traumatizing. The institutional responses to that disclosure of sexual assault were even more traumatizing, but the medium of film provided me with a way to tell my story on my own terms. When you testify in a trial, it is all very guided and regulated. You're not free to talk about what happened to you on your own terms. It's dictated by lawyers and being called a liar constantly, and so the film provided me with this space to really like explore it and like really think through the larger systemic issues at play. And largely just having a feminist analysis, I think, has been really useful throughout all of this, because I can look at it from a larger macro level as opposed to why me, why did this happen to me, and realize this is a larger issue. It's nothing I did wrong. It's the larger societal problem we have. And then in terms of like showing it and talking about it over and over again, I have a really great support system that includes other

activists, my parents, family members, who really support this project, and I'm in a really good place in my life that I'm able to keep doing this. I'm not going to pretend that it's easy all the time. I do take long breaks and like - before the film was premiering, I took a long break from activism, knowing that this next year or years will be quite filled with being the face of sexual assault and - which sometimes kind of overshadows that I'm a person with other interests and I do other things, but it kind of becomes the sole identity when you're talking about a particular issue.

Gilad: If you don't mind elaborating a little bit more about what it is that happened to you?

Mandi: Yeah, for sure. So in 2015 January, I was in the first year of my PhD and I got involved in student activism on campus. I joined my union, my friend really encouraged me to get involved with union organizing, so I went to my first meeting some time in early January and that's where I met the person. And then we started casually dating and very casual. And then two weeks later at another student union party afterwards, I was sexually assaulted. And then not really sure what exactly I was going to do, I was like really uncertain about myself, what happened to me, just trying to put the pieces together. Like in most cases of sexual assault, I was like intoxicated and so I had a hangover to deal with. So I just wanted to sleep and like forget about it. And then when I woke up I realized, oh I'm going to have to go to campus on Monday and it's very likely that I'm going to have to see him. I'm also worried about the safety of others on campus. What am I going to do? And so I explored my options and came up that there really wasn't anything to you know - they wouldn't tell me his schedule, for example, because that's a violation of his privacy. There was like really no mechanism on campus, and then it was a few of my friends who really encouraged me to report to police because they

recognized, probably before I even did, that there really wasn't any avenue available for resolution outside of the criminal legal system unfortunately. So I did all of the things you were supposed to do when you're the good victim: reported to the police, did the sexual assault evidence kit. And then the police weren't sure what they were going to do, because what they got in it was very much - the response was shaped by rape myths: you were intoxicated, you've had sex with him before, and all these narratives that are not true but still very much ingrained in dominant society's mentality when it comes to sexual violence. So I really didn't have much hope, pretty much their response was don't go to campus, don't do anything, don't see your friends, don't tell anybody about this until we decide what we're going to do. So, in hindsight, it only took two weeks to make a decision. I've met people that have waited years, so those two weeks were so painful, I couldn't imagine having to wait longer than that, but people do all the time and they still continue, just waiting for the police to make a decision. So on February 15, 2015, I got an email that he had been charged with sexual assault and they would let me know sometime what would happen next. And so I thought, okay that's enough information to go to the university, we were both - because we were PhD students - we were both teaching assistants for undergrads, so I told the university, hey this person is in the classroom working with undergrads, his colleagues might want to know that he's been charged with sexual assault. And that's not how things went; it wasn't as seamless as I envisioned it to be. And just to like, a quick - to put it into political context as well, I was sexually assaulted just a few months after Jian Ghomeshi had been charged and if you remember that time, everyone was in the media: report we take women seriously, we believe survivors, it's not like it used to be. And I felt like I was in this parallel universe and that I was crazy, because what was being said in mainstream media, what was being said on campus by university officials was in direct contrast to what I was experiencing. So I ended up meeting up with some really great lawyers who are featured in

the film, and they've help me sue the university, survive the trial, and so that's kind of a really long-winded synopsis of what the film follows me through.

Simona: Thanks so much for sharing that. I think you mentioned when you realized that you only had a few paths of recourse, like either ignore it for your own, you know, to protect yourself, or pussied with criminal charges and then realizing that you have little to no agency in that process as it is. What was the most, I guess, surprising or like "what the fuck" moment of that whole process?

Mandi: Well I think for me, it was - I knew reporting to the police would be not fun or like a great experience, just like knowing what we know about law enforcement and like masculinity within the culture of policing. What I wasn't prepared for was the university, like I know we had films like *The Hunting Ground*, but in Canada I can't really think of any - there was some misogyny, like the chance at UBC and like the dentistry at Dalhousie, but there wasn't as much discourse about actual reports of sexual violence or rape on campus in the Canadian context. And because I went to York University and it's very much branded as a social justice approach to education, I don't know why - I feel like, now in retrospect, I was so naive, to think that they really cared about me as a student, and just going through the litigation process against the university really highlighted for me how little the university actually cares about preventing sexual violence on campus. There's some really interesting research that's being done in terms of - it's called institutional betrayal, which I really like identified with of this like, it's really hard to describe the feeling of feeling betrayed by these institutions that are, in theory, to protect us and so, but they don't. And so that institutional betrayal was probably one of the most hard things to

comprehend and like make sense of. I'd say that was probably one of the biggest surprise or difficulty I had in this experience.

Simona: And they like take all of that tuition money and you would think they would spend that time and energy coming up with like real policy to protect its people.

Mandi: Well I mean even now, the province has mandated that all universities have sexual assault policy, but what's kind of happened is now that they've written the policy, they've kind of treated it as the be-all and end-all, this solves seuxal assault.

Simona: Yeah.

Mandi: But in practice, there's very little institutional infrastructure to respond to sexual violence and even when I was sexually assaulted, it's not the same policy, but there was a policy in place. And then through the litigation process, it was like I shouldn't have to litigate these issues for systemic gender discrimination, and so it's just really highlighted to me that - like I mean they call students "income units", and that's like where their interests lies and it's very expensive to expel a student for the possible legal ramifications and so they just do nothing.

Simona: Ugh.

Gilad: Speaking of nothing and doing nothing, one term that I never even heard of until I watched the film was "unfounded". What is "unfounded"?

Mandi: Yeah so, I mean researchers have been talking about unfounded, and activists as well, have been talking about unfounded for decades, and that's when you report to the police and they don't believe you and there is a checkmark where in terms of like charges are laid, for example, in my case or unfounded. And so a high percentage of cases across the country are being labelled as unfounded, higher than any other crime. So Robyn Doolittle at The Globe and Mail did a very large investigation using freedom of information legislation to get the actual statistics. And so with her investigation, it kind of brought the thing that advocates and activists were saying into the mainstream, to talk about this, and the number of people that have reached out to me with that experience, and it's not that The Globe and Mail have founded it and now it's - or founded this term and now the cops are like, okay we're going to do better now. Unfortunately, it's still happening very frequently and oftentimes what it comes down to is that they don't want to proceed because they feel that there is not enough evidence. However, in almost all sexual assault cases, the only evidence you're going to have is the testimony of the victim-witness and that is considered evidence in the trial. As you saw in my case, that was the only evidence that the Crown relied on, so it's absolutely possible that for them to lay charges. It's just most of time that they actually don't believe the people that come in and, of course, that is like shaped by so many other things, like ability, race, gender identity, and a lot of people just don't even bother reporting for that very reason.

Gilad: Yeah, we read some stats that really surprised us when it came to unfounded or unfounding or however you want to say it, but some communities had unfounded rates that are 40 to 60 percent. Nationally, police closed one out of five sexual assault cases and this is double the unfounded rate for physical assault.

Mandi: Yeah, so when I went to report to the police, my - the statistical likelihood of them laying charges, of it making it to a trial is like statiscally unheard of. So when I had that experience, that's so much of why I wanted to document it, because I think that there's this assumption that oh if only the police laid charges, if only it made it to trial, but it doesn't necessarily get any better. We need like an overhaul of the entire system, from police to the courts to the sentencing. The director in the film is American and she was shocked when she learned that the highest possible sentence for the sexual assault I endured was 18 months, so there's like also that in terms of - not that I think jail will necessarily cure or fix sexual violence, but I think it also just demonstrates how serious we take the crime when compared to the sentence length of other crimes, for example, possession of drugs.

Simona: And one interesting point is that when your case made it to trial, it wasn't considered a sex crime. It was considered a domestic crime and that was because there was a distinction between, and correct me if I'm wrong, sex crimes happen between strangers and domestic happens between known persons, and you had only had really just a casual relationship with him.

Mandi: Yeah it was shocking. I learned that the sex crimes unit in Toronto, of course, specifically, only takes and investigates reports between strangers. That is such a small percentage of sexual assaults that occur. Almost all of them are between people that are known to one another and then it did get moved to domestic violence courts because I know, we were like, casually sleeping together for like two weeks and they were like, alright this is a domestic. And the university took the same approach in terms of when I asked are you going to tell other people in his department, I'm worried that there is potential for, you know, committing further

violence. And their same response was well like it was a domestic, so really there's nobody else at risk, which I think really - just I don't know. I think it's strategic, but I think it also fails to acknowledge like dating relationships and casual sex between adults, especially on university campuses. It just like, it's - yeah it was a really odd response.

Simona: I think there was also something, the idea of like implied consent because you had already had sex once.

Mandi: Exactly, and I think that just goes to show how uneducated the cops are on sexual assault law. And I think a lot of people are shocked to learn that Canada actually has the most progressive consent laws in the world. It has to be affirmative, it has to be ongoing, you have to be fully conscious. In some countries, it's okay to have rape or sexual assaults if you are married. In Canada, that's not the law anymore, but that was only changed in the 80s. And so we have really progressive consent laws on paper. And then in practice, nobody really consults them or they're not - you don't see them in our courtrooms. The other thing is that, too, we have very very strong privacy protections, called rape shield provisions, for complainants in terms of - you can't be asked about your previous sexual relationship unless ordered by a judge and that's like in a very small subset of cases, and you can't have your medical history entered into evidence so, again, going back to that construct of the nut. Oftentimes, what defense lawyers will do is try to get your medical records into evidence to demonstrate that you have mental health issues or that you've maybe questioned sexual assault, which is totally normal. A lot of people do that in therapy, but that defense uses it strategically to discredit the woman, so those things were put into legislation, that you actually have to put in an application and the judge has to grant those things, so these are very progressive in terms of sexual assault law globally. In

practice, it's just not happening. But yeah the implied consent, that was written in 1999, at the Supreme Court of Canada and they said that implied consent is not a thing. It doesn't matter what you're wearing, how much you had to drink, your previous relationship, but still it very much hinges on these kind of rape myths when deciding whether we're going to unfound or proceed with an investigation and subsequently charge the person.

Gilad: Right, the policies are there but once it happens, we don't know what the fuck we're doing.

Mandi: Yeah, there's no uniform response, it very much relies on the individual. So for example, Jennifer Lofft, the prosecutor in my case who was in some of the reenactments in the film, she had such an amazing analysis of sexual violence. She was able to challenge the defense lawyer when they brought in these like rape tropes into the courtroom, but that's like - and that's why I think, although I was upset to be called a domestic, it really did have some benefits. For example, getting a Crown prosecutor who had a really excellent analysis of sexual violence, and also being in a smaller courtroom with a judge that had a background in domestic violence and sexual violence, but yeah it was - the education just isn't there.

Simona: And you didn't just kind of speak to male police officers. You also spoke to female police officers who you still had the same hesitation to move forward with.

Mandi: Oh yeah absolutely, and I think it's so important to say that the perpetuation of rape myths and discriminatory attitudes about women who experience sexual violence are not just the white male kind of - that we like to maybe believe it is sometimes. A lot of what has

happened in like the response to my disclosure has been very much by women also who kind of minimize or, you know, just like move on. And the women police officers kind of had the same sort of response to me in terms of why were you drinking, what were you doing out at two in the morning, you're in a PhD program, if you were so smart, why would you get yourself into this situation.

Simona: That was something we were talking about because like, not only you know - I think we had a statistic about women of color, Indigenous women, women with disabilities. They face these crimes at higher rates and they go unreported because they already understand the confines of their marginalizations, that they have to prove not only that they're a victim, but they're a worthy victim. Did you encounter stories with women who, you know, through the research or just talking about the support that you realize like the numbers we have on paper about what's happening in Canada are wrong, that there's so much not in the data?

Mandi: I mean I think in terms of - we do have some pretty solid data in terms of like self-reported. The numbers are horrifying and, like you said, especially for Indigenous, racialized, and women with disabilities are sexually assaulted at significantly higher rates than someone like myself, and queer women as well are in that statistically more likely to experience sexual violence. So I would say yes and no. There is a lot of data to support that it's happening very frequently. I think what's been interesting for me and, this is also comes out in the research, if I straight-up asked someone, have you been sexually assaulted, a lot of times they will say no. If I say, have you ever felt pressured into having sex that you didn't want to have, oh yeah that's happened to me. Has anyone ever used force to have sex with you, oh yeah that's happened to me too. So it's almost like this naming it is one of the biggest barriers, and I've had

a number of young women who watched the film come up to me and say, I had an experience similar to you but I never knew that was sexual assault, and I always knew I like felt weird about it and I didn't feel quite right about it, but I didn't know that was rape, I didn't think that's what rape looked like. So I think just in terms of being able to call it sexual assault, call it rape, I think that might almost be a piece of this like bigger puzzle and, like you said, it really also depends on geographical location and identity and who the perpetrator is. I mean if you - if it's a man in a position of power sexually assaulting, for example, if he has a housekeeper who is here on a temporary visa for example. We see and hear a lot about of that because women are worried about being deported and there's a lot of intersecting reasons why people don't report and why we don't have numbers that accurately represent it, but yeah absolutely. I'd say all the estimates we have are very conservative.

Gilad: We started the interview by introducing you as a superhero, which I'm still holding on to and I will forever.

Mandi: Thank you.

Gilad: And part of that comes from the advocacy that you do. You're out there raising awareness of this seems like all the time. We know you wrote an article for NOW, titled "Six Lessons I Learned from My Rape Case". We're talking about progressive laws or being progressive, Toronto's very progressive, I'm curious to know what was the reaction like from this community or from communities around us to that article.

Mandi: Yeah, I think it's such a mixed bag. I mean there were - and the reactions were on all ends of the spectrum in terms of - there's a very active group of men's right activists, who I will add are not all men either. Some of the ones that have been the most outspoken towards me have been women, so of course - it all comes down to my credibility really. In that part, it's that I can't be talking about this because I'm not actually a victim. But on the other hand, I think that article and the other articles I've written, NOW's been so good to me, giving me a lot of space to write about these things, which I appreciate because there's not really any other publications tackling these issues in this way. It's been really supportive. I often send that to people who reach out to me asking, hey I'm going through a sexual assault trial, what should I know. And that's like also why we really wanted to make the film, we wanted to make something tangible to send over to people, to maybe provide some answers just because there isn't. But yeah, I think the reactions are almost always so predictable. There's going to be the campus people that call me a liar and there's the other side of the spectrum that have just supported me throughout it all, and continue to support me throughout the last three years, which is incredible really.

Simona: That's fantastic. Your mum plays a big part in not only, I guess, in the documentary, but like actually giving you an outlet to talk about it. Was there any hesitation to kind of telling her or did you already have a relationship that was really open and fluid where you could share these things?

Mandi: Yeah, my mum's always been probably like my biggest support system. I think I was hesitant. I didn't tell her immediately, I waited a few days, and then when I got on the phone and actually said the words, I just broke down because then it - it made it real. But I think both my mum and my best friend, who you meet in the film Eileen, are like the ideal people you want to

tell. It was just - it was never “well like, can you tell me what happened” or like “do you think that maybe this happened because you were drinking” or - it was never like that. My mum has been awesome. There was like, of course, a little bit of embarrassment. There’s still like that shame and like, who wants to talk about their sexual encounters with their parents, like I know I don’t. I don’t love it, I still don’t, but …

Simona: I tried. It just never works out properly because I do it at the wrong time.

Mandi: Yeah.

Simona: Dinner, church.

Mandi: {Laughs} Yeah.

Gilad: 75 percent of the conversations I have with my mum are uncomfortable {Simona and Mandi laugh}, so I think I might get part of what you’re saying.

Mandi: Yeah so I think just having, and again going back to research, like it has been demonstrated that the first person you tell and their reaction is how you’re going to internalize that event. And as I’ve talked to more people, I’m beginning to find that more and more true in terms of like their own misconceptions or ideas about who was sexually assaulted, what does sexual assault look like. But I’m very very fortunate that I have, yeah, a mum that had a non-judgmental response and in addition my best friend also had the exact same response, so

it's like yeah, I was sexually assaulted, okay this is real, this is something that actually happened to me, and encouraged me to move forward.

Gilad: That's such a profound thing and I feel like you need to repeat that again. 75 percent or how you internalize it, can you please go back again and say that because that's so powerful.

Mandi: Yeah, so the first person you tell that you've been sexually assaulted or disclose to, their reaction to your disclosure will dictate how they feel about their own sexual assault and how they plan to move forward. If it's oh just get over it, or oh big deal, that will become internalized and that's pretty - it's been shown in research about sexual violence that very first disclosure and how important that first disclosure is. So I also hope the film highlights seeing people like my mum, seeing people like Eileen, or even like a guy, like my friend Carl was in the film, and just their reactions and how supportive they were, that can really make or break someone in terms of their experience and how they decide to proceed.

Simona: Because when you're proceeding, what you're going - like you are essentially going to be entering a very public forum where court is never easy and to then like, when you look at the numbers, I think you were questioned for four to five days in total and he was only questioned one to two days …

Mandi: One to two hours.

Simona: One to two - oh my god! {Mandi laughs} One to two hours! I mean it just seems like, again, you are having to prove the validity of your victim, you being a victim, as opposed to

what's really on trial is his actions. And have you encountered people who are like, I'm going into this process and I just can't do it, like I just can't and would you have advice - what advice would you have for them?

Mandi: I mean it really depends on the individual circumstances. Like I said, there needs to be, and I'm not just talking about monetary resources, but also that like support piece is so fundamental and access to counselling is - like I mean, there's very little resources available for people, so it really depends on the circumstances and doing a cost-benefit analysis of is this going to serve you. And knowing going in the likelihood of a conviction is very unlikely, but that's not to say that everyone goes into it with the objective of a conviction. So one thing, one of the, I guess we'll call it like, the benefits I found from going through this awful ordeal was, I'm like most people, I got to say on the stand for four days and he has to sit there and listen to everything. He can't leave. And so again and again, when they would say, "And I'm going to suggest you had consensual sex with the accused." No, he sexually assaulted me. No, he raped me. And again and again and again, he had to sit there and listen to it, so - and then when he testified, I didn't have to be there. I could come and go as I wanted to, right, so I guess that was kind of validating in that I - he had to listen to what I had to say and he had no choice but to listen to it, which a lot of people will never get that opportunity or their day in court to tell the abuser or the person that perpetrated violence against them over and over again what they did.

Simona: Like the reality of it, like the real words around it as opposed to what they've conceptualized in their head about what happened.

Mandi: Yeah absolutely, so I guess I consider that like - I'm like if you don't get anything else, you know, a lot of people will never get that opportunity. But yeah, it's hard to encourage people to go forward, knowing how bad it is, but at the same time, I've also seen a lot of people feel that it's a way of taking their power back and pretty much saying like "fuck you" to that person and previous abusers and kind of that breaking point.

{Theme music fades in}

Gilad: My name's Gilad Cohen.

Simona: And I'm Simona Ramkisson**.**

Gilad: This podcast was edited by Brandon Fragomeni and Alex Castellani.

Simona: The Hum is an initiative of JAYU, a charity that shares human rights stories through the arts.

{Theme music fades out}

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