

# 'Sexting' in schools: advice and support around self-generated images

What to do and how to handle it



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We have made every effort to take into account relevant laws and best practice in the preparation of this document. However, sexting issues have the potential to be complex and multi-faceted. As case law in this area is still relatively underdeveloped, nothing in this document should be deemed to constitute legal advice.

If you have a specific query relating to sexting in your school or organisation you should seek help from an appropriate adviser, which may include your Local Authority, Children’s Services, the Department for Education (DfE), your Local Safeguarding Children Board (LSCB), the police, the Child Exploitation and Online Protection Centre (CEOP), other child protection experts, the Internet Watch Foundation (IWF), counsellors and legal advisers.

The authors and other contributors of this document can therefore accept no liability for any damage or loss suffered or incurred whether directly, consequentially, indirectly or otherwise by anyone relying on the information in this publication or any other information referred to in it.

URLs and references given in this document were correct at the time of publication but may be subject to change over time.

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Currently Charlotte works for the Child Exploitation Online Protection (CEOP) Centre, where she is reviewing their programme for professionals and their online safety advice for the education sector. She also does online safety consultancy work for The Parent Zone, Securus Software, Talk Talk, schools and NGOs.

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Hugh Davies is a barrister at 3 Raymond Buildings, Gray's Inn. He has particular expertise in prosecuting offences involving child exploitation, either involving the internet, or by way of extra-jurisdictional contact offending against children. He is an independent member of the multi-agency ACPO child protection working group. He delivers training to judges and other professionals in relation to crimes involving indecent photographs of children.

In 2011 Hugh was awarded an OBE for services to Children and Young People, in his capacity as Legal Adviser to the Child Exploitation and Online Protection Centre (CEOP). He has advised CEOP throughout its history.

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## Introduction

This advice is in two sections:

### ★ Part 1

Offers practical advice about what to do if sexting happens in your school, highlights the steps that you need to take and offers examples of best practice through case studies.

### ★ Part 2

Gives an overview of the problem and offers an insight into the research and categorisation of sexting incidents. It highlights some activities that schools can do to highlight the issues and develop a 'whole school' approach.

Ideally this advice should be read together but it has been designed and developed to enable schools to act swiftly in the case of an incident (*Part 1*) and to be able to access background information and support (*Part 2*).

This advice supports all schools regardless of their status (Free school, Academy, Independent or Maintained school) in developing their approach to handling and preventing incidents of sexting. It should help you to develop preventative approaches and offers advice about handling incidents when they arise. It has been written in conjunction with schools, local authorities, teacher unions, the police and child protection charities. The advice is grounded in practice and offers pragmatic support and advice in a form that schools can apply to their own context.

★ Part 1

# Steps to take when dealing with an incident of sexting

## Definition of 'sexting'

There are a number of definitions of sexting but for the purposes of this advice sexting is simply defined as:

### Images or videos generated

- by children under the age of 18, or
- of children under the age of 18 that are of a sexual nature or are indecent.

These images are shared between young people and/or adults via a mobile phone, handheld device or website with people they may not even know.

There are many different types of sexting (*please see Part 2 for definitions*) and it is likely that no two cases will be the same. It is necessary to carefully consider each case on its own merit. *Annexes 1 and 2* will help you to make decisions appropriate to your context. However, it is important to apply a consistent approach when dealing with an incident to help protect yourself, the school and the student. The range of contributory factors in each case also needs to be considered in order to determine an appropriate and proportionate response. **It is therefore suggested that each school has a clear policy detailing the action to be taken. All staff should be familiar with this policy and parents and pupils should be made aware of it.**

The flowchart in *Annex 1* (adapted from 'Medway Local Authority Response Process for Professionals') will help you to make a decision about the actions you need to take.

## ★ Steps to take in the case of an incident

### Step 1 Disclosure by a student

Your school policies should outline the protocols relating to any form of disclosure from a student. Sexting disclosures should follow the normal safeguarding practices and protocols. A student is likely to be very distressed especially if the image has been circulated widely and if they don't know who has shared it, seen it or where it has ended up. They will need pastoral support during the disclosure and after the event. They may even need immediate protection or a referral to social services.

The following questions will help decide upon the best course of action:

- **Is the student disclosing about themselves receiving an image, sending an image or sharing an image?**
- **What sort of image is it? Is it potentially illegal or is it inappropriate?**
- **Are the school child protection and safeguarding policies and practices being followed?**  
For example, is a member of the child protection team on hand and is their advice and support available?
- **How widely has the image been shared and is the device in their possession?**
- **Is it a school device or a personal device?**
- **Does the student need immediate support and or protection?**
- **Are there other students and or young people involved?**
- **Do they know where the image has ended up?**

This situation will need to be handled very sensitively. Whatever the nature of the incident, ensure school safeguarding and child protection policies and practices are adhered to.

## Step 2 Searching a device – what are the rules?

In a school-based context, it is highly likely that the image will have been created and potentially shared through mobile devices. It may be that the image is not on one single device: it may be on a website or on a multitude of devices; it may be on either a school-owned or personal device. It is important to establish the location of the image but be aware that this may be distressing for the young person involved, so be conscious of the support they may need.

The revised Education Act 2011 brought to bear significant new powers and freedoms for teachers and schools. Essentially, the Act gives schools and/or teachers the power to seize and search an electronic device if they think there is good reason for doing so. The interpretation of this Act has not yet been tested and many schools ban personal devices in schools. For more information about the Act go to:

[www.legislation.gov.uk/ukpga/2011/21/section/2/enacted](http://www.legislation.gov.uk/ukpga/2011/21/section/2/enacted)

[www.education.gov.uk/aboutdfe/advice/f0076897/screening,-searching-and-confiscation/screening-searching-and-confiscation](http://www.education.gov.uk/aboutdfe/advice/f0076897/screening,-searching-and-confiscation/screening-searching-and-confiscation)

A device can be examined, confiscated and securely stored if there is reason to believe it contains indecent images or extreme pornography. When searching a mobile device the following conditions should apply:

- **The action is in accordance with the school’s child protection and safeguarding policies**
- **The search is conducted by the head teacher or a person authorised by them**
- **A member of the safeguarding team is present**
- **The search is conducted by a member of the same sex**

If any illegal images of a child are found you should consider whether to inform the police.

Taking into account the ACPO position [see Part 2 – 2 of this advice], as a general rule it will almost always be proportionate to refer any incident involving “aggravated” sharing of images to the police [see Part 2 – 6 of this advice], whereas purely “experimental” conduct may proportionately be dealt with without such referral, most particularly if it involves the child sharing images of themselves.

Any conduct involving, or possibly involving, the knowledge or participation of adults should always be referred to the police.

If an “experimental” incident is not referred to the police the reasons for this should be recorded in writing.

Always put the child first. Do not search the device if this will cause additional stress to the student/person whose image has been distributed.

### **X Never**

- **Search a mobile device even in response to an allegation or disclosure if this is likely to cause additional stress to the student/young person UNLESS there is clear evidence to suggest that there is an immediate problem**
- **Print out any material for evidence**
- **Move any material from one storage device to another**

### ✓ Always

- Inform the school child protection officer (CPO)
- Record the incident
- Act in accordance with school safeguarding and child protection policies and procedures
- Inform relevant colleagues/senior management team about the alleged incident before searching a device

If there is an indecent image of a child on a website or a social networking site then you should report the image to the site hosting it. Under normal circumstances you would follow the reporting procedures on the respective website; however, in the case of a sexting incident involving a child or young person where you feel that they may be at risk of abuse then you should report the incident directly to CEOP [www.ceop.police.uk/ceop-report](http://www.ceop.police.uk/ceop-report), so that law enforcement can make an assessment, expedite the case with the relevant provider and ensure that appropriate action is taken to safeguard the child.

### Step 3 What to do and not do with the image

If the image has been shared across a personal mobile device:

#### ✓ Always

- Confiscate and secure the device(s)

#### ✗ Never

- View the image unless there is a clear reason to do so (see *bullet 2 above*)
- Send, share or save the image anywhere
- Allow students to do any of the above

If the image has been shared across a school network, a website or a social network:

#### ✓ Always

- Block the network to all users and isolate the image

#### ✗ Never

- Send or print the image
- Move the material from one place to another
- View the image outside of the protocols in your safeguarding and child protection policies and procedures.

## Step 4 Who should deal with the incident

Often, the first port of call for a student is a class teacher. Whomever the initial disclosure is made to must act in accordance with the school safeguarding and/or child protection policy, ensuring that a member of the child protection team and a senior member of staff are involved in dealing with the incident.

The child protection officer should **always** record the incident. Senior management should also always be informed. There may be instances where the image needs to be viewed and this should be done in accordance with protocols. The best interests of the child should always come first; if viewing the image is likely to cause additional stress, professionals should make a judgement about whether or not it is appropriate to do so.

## Step 5 Deciding on a response

There may be a multitude of reasons why a student has engaged in sexting – it may be a romantic/sexual exploration scenario or it may be due to coercion.

It is important to remember that it won't always be appropriate to inform the police; this will depend on the nature of the incident (see *Part 2* for definitions). However, as a school it is important that incidents are consistently recorded. It may also be necessary to assist the young person in removing the image from a website or elsewhere.

The flowcharts in *Annexes 1 and 2* will help you to decide on your response.

### If indecent images of a child are found:

- Act in accordance with your child protection and safeguarding policy, e.g. notify SMT/pastoral team
- Store the device securely
- Carry out a risk assessment in relation to the young person (*Use Annex 1 and 2 for support*)
- Make a referral if needed
- Contact the police (if appropriate)
- Put the necessary safeguards in place for the student, e.g. they may need counselling support, immediate protection and parents must also be informed.
- Inform parents and/or carers about the incident and how it is being managed.

*(Depending on the nature of the image and the family circumstances of the young person, communication with parents will need to be carefully handled. The definitions presented in Part 2 by Finkelhor and Annexes 1 and 2 will help identify how to handle communication with parents. In addition, in Part 2, there is a useful exercise in developing approaches to managing incidents of sexting.)*

## Step 6 Contacting other agencies (making a referral)

If the nature of the incident is high-risk, consider contacting your local children's social care team. (*Annex 1: 'Sexting: Response Process for Professionals'* and the *'Risk Assessment Tool for Young People'* in *Annex 2* will help you to decide.) Depending on the nature of the incident and the response you may also consider contacting your local police or referring the incident to CEOP.

Understanding the nature of the incident will help to determine the appropriate course of action. The following case studies exemplify the varying nature of sexting incidents and appropriate levels of response.

## ★ Case study 1

A group of year 6 pupils aged between 10 and 11 were speaking to each other on instant messenger and using webcams. One girl (with mild learning difficulties) was speaking on her laptop, which was upstairs in her bedroom. She was getting ready for bed and accidentally 'flashed' on webcam. Another pupil (girl aged 10) from the group told the class teacher what had happened the next day at school, who then reported the concern to the head teacher.

### Action

The school's Designated Child Protection Coordinator (DCPC) discussed the concern with both the children and parents of the other children involved. It was discussed with a local police officer and agreed that police action was not necessary but that they would support the school in speaking to the girl's parents.

The girl's parents had not considered the impact and possible risk of locating the laptop and its webcam in her bedroom. They agreed to take the laptop to a family area and only allow webcam use when supervised. The school consulted with social services but no action was taken.

The school revisited the subject of e-safety with all pupils in school (appropriate to age and ability) and wrote a letter to all parents directing them to advice and guidance about online safety at home. Specific advice was given to key stage two pupils about the safe use of webcams and sending images. Specific advice was given to the child concerned with support from the school's Special Educational Needs officer (SENCO).

## ★ Case study 2

A 13 year-old girl was chatting to a boy she met online. He told her that he was 16 and new to the area and that he was using social networking sites to make new friends. They spoke online for a few weeks and she told her friends that she was in a relationship. She also told them that they had been speaking on the phone and she had sent him some naked photos of herself via her mobile phone. The boy then said that he wanted them to meet up in real life at his house to take the relationship further, but that she must keep him a secret. Her friends were worried and spoke to a teacher at school.

### Action

The teacher raised the concern with the school DCPC. A consultation took place with social services and the police were spoken to regarding any possible criminal implications. The police advised that they would investigate the incident and found that the 16 year-old boy was actually a 28 year-old man who had been speaking to several young girls and requesting indecent images. He has since been arrested.

The school spoke to the girl and her parents and gave them specific advice about online safety and safe behaviours. The girl was also given targeted support via the school counsellor.

Again, the school revisited e-safety for all pupils using CEOP's *ThinkUKnow* materials and explained how they could report any concerns, e.g. to the school, to Childline or to CEOP. All parents were sent information about the importance of online safety at home.

## Step 7 Containing the incident and managing student reaction

Sadly, there are cases in which victims of sexting have had to leave or change schools because of the impact the incident has had on them. The student will be anxious about who has seen the image and where it has ended up. They will seek reassurance regarding its removal from the platform on which it was shared. They are likely to need support from the school, their parents and their friends. Education programmes can reinforce to all students the impact and severe consequences that this behaviour can have. Consider engaging with your local police and asking them to talk to the students.

Other staff may need to be informed of incidents and should be prepared to act if the issue is continued or referred to by other students. The school, its students and parents should be on high alert, challenging behaviour and ensuring that the victim is well cared for and protected. The students' parents should usually be told what has happened so that they can keep a watchful eye over their child, especially when they are online at home.

Creating a supportive environment for students in relation to the incident is very important.

Preventative educational programmes on sexting can be found on CEOP's advice-giving website [www.thinkunknow.co.uk](http://www.thinkunknow.co.uk) and the South West Grid for Learning have developed advice for young people at [www.swgfl.org.uk/sextinghelp](http://www.swgfl.org.uk/sextinghelp)

## Step 8 Reviewing outcomes and procedures to prevent further incidents

As with all incidents, a review process ensures that the matter has been managed effectively and that the school has the capacity to learn and improve its handling procedures. Incidents of sexting can be daunting for a school to manage, especially if the image has been widely shared between pupils in school.

An established approach to schools managing and preventing incidents of e-safety relies on them developing effective **Policies and Practices**, a secure **Infrastructure**, robust **Education** for teachers, parents and pupils all underpinned by high quality **Standards**. This model is known as PIES.

Using PIES (see below), a preventative approach to sexting and other incidents of e-safety can help to prevent further incidents.

## ★ The PIES model

A whole school approach to safeguarding children online

### Policies and procedure

The issue of sexting should be referenced within all relevant school policies. For example:

- 'Acceptable Use' policies;
- Behaviour policies;
- Child protection and safeguarding policies;
- Anti-bullying policies; and
- Home-school agreements

Be clear that incidents of sexting will not be tolerated and that sanctions will be enforced if any member of the school community breaches any of the policies. Explain that sanctions may include involving the police if images are considered illegal and that sanctions will be enforced regardless of the use of school equipment or personal equipment, both on and off the school premises. Ensure that parents understand the legal and other consequences of sexting and the way in which the incident will be dealt with.

Sexting incidents should follow child protection procedures. Consider a proportionate level of response to each incident, taking care not to further traumatise the victim by imposing unwarranted sanctions upon them. *Annexes 1 and 2* offer guidance on appropriate courses of action and considerations when handling an incident.

In developing your policy use the exercise in *Part 2: 'Understanding the Nature of Sexting'* to raise awareness of the issues with staff.

### Infrastructure and technology

Many schools employ a variety of technical solutions to help to protect students and staff – firewalls, filtering, monitoring and so on. Most sexting incidents relate to self-generated images on personally owned devices and can generally occur outside of school. However there have been numerous occasions in which images have been shared within schools and have been uploaded onto the school network. Be aware of how you monitor the network:

- Who has access to the image?
- Where it is stored on the network?
- How it would get removed from the network?
  
- What other ways could a sexting incident be identified and by whom?
- How would the incident be escalated to the correct person?
  
- Is your school system reactive or preventative, *i.e. does the school have a network monitoring solution or are you relying on students and staff to report any issues? If you rely on incidents being reported, to whom are they reported and what are the escalation procedures?*

## Education and training

As mentioned above, most sexting incidents relate to self-generated images on personally-owned devices, generally outside of school. Schools need to consider preventative education strategies for their pupils and appropriate staff training to identify and manage incidents. Consider tackling sexting issues within the curriculum using existing educational resources:

- Check the CEOP resources at [www.thinkuknow.co.uk](http://www.thinkuknow.co.uk) There is a film called *Exposed* and accompanying lesson plans for 11-16 year olds
- The children's charity Childnet [www.childnet-int.org](http://www.childnet-int.org) have developed a drama for secondary school-aged children on the issue of sexting
- Teachtoday is a source of advice for teachers on a variety of topics and does include information on the issue of sexting [www.teachtoday.eu](http://www.teachtoday.eu)
- The Southwest Grid for Learning have developed a resource for young people: 'So you got naked online' [www.swgfl.org.uk/sextinghelp](http://www.swgfl.org.uk/sextinghelp) which supports them in knowing what to do if things have gone wrong online

Staff may also need support in developing their understanding of incidents of sexting.

- CEOP conduct training for professionals in the form of an ambassador course [www.thinkuknow.co.uk/trainers](http://www.thinkuknow.co.uk/trainers)
- Schools can undertake the 360 degree safe self-evaluation online tool [www.swgfl.org.uk](http://www.swgfl.org.uk) to highlight the areas they need to develop in relation to the PIES model

Use the exercise 'Understanding Incidents of Sexting' in Part 2 to develop awareness with staff and reflect this in your policies.

Provide support to parents in understanding the issues:

- The Vodafone digital parenting magazine is an excellent resource for parents on all aspects of e-safety View it online or order it here: [www.vodafone.com/parents](http://www.vodafone.com/parents)
- Talk Talk have also developed the HomeSafe challenge which again, targets all aspects of e-safety including sexting: [www.homesafechallenge.co.uk](http://www.homesafechallenge.co.uk)

## Standards and inspection

Whilst Ofsted will be interested in the management of sexting incidents, you will also wish to ensure that your procedures are fit for purpose and to track levels of incidents. You will have your own way of reviewing and monitoring progress, ensuring that you maintain certain standards in relation to school policies, current practices, maintenance of the school infrastructure and educational opportunities. After an incident has been dealt with it is important to review the handling of the incident to ensure best practice and to update management procedures where necessary.

★ Part 2

# What is 'sexting'?

**Categorisation,  
the legal context  
and the Ofsted  
framework**

## 1 Definition of ‘sexting’

There are a number of definitions of sexting but for the purposes of this advice sexting is simply defined as:

### **Images or videos generated**

- **by children under the age of 18, or**
- **of children under the age of 18 that are of a sexual nature or are indecent.**

These images are shared between young people and/or adults via a mobile phone, handheld device or website with people they may not even know.

Often, incidents of sexting are not clear-cut or isolated; schools may encounter a variety of scenarios.

Today’s young people document their lives online. Culturally, there is a seamless connection between the online and offline worlds. However, young people often do not anticipate the implications and consequences of sharing things online as they would offline - there is a disconnect between the two. Research by the Pew centre in America in 2010 states that ‘sexting is a teen reality that’s here to stay.<sup>1</sup> ‘Kids ‘sex’ to show off, to entice someone, to show interest in someone, or to prove commitment’.

This may be true but the consequences of sexting can be devastating for young people. In extreme cases it can result in suicide or a criminal record, isolation and vulnerability. Young people can end up being criminalised for sharing an apparently innocently image which may have, in fact, been created for exploitative reasons.

The social and psychological effects on young people can be significant and it is not uncommon for the victim to be expelled, move school or to suffer paranoia and become very isolated. It is essential that schools handle these incidents as carefully as possible and offer support to all parties involved whilst abiding by the law. Schools will also want to take as many preventative measures as they can to educate young people about the risks and to support them in maintaining a healthy digital footprint.

Because of the prevalence of sexting (see below) young people are not always aware that their actions are illegal. In fact, sexting as a term is not something that is recognised by young people and the ‘cultural norms’ for adults can be somewhat different. Some celebrities have made comments which appear to endorse sexting – ‘it’s okay, as long as you hide your face’ - giving the impression that sexting is normal and acceptable. However, in the context of the law it is an illegal activity and young people must be made aware of this.

<sup>1</sup> America Pew Centre- [www.pewinternet.org/Reports/2009/Teens-and-Sexting.aspx](http://www.pewinternet.org/Reports/2009/Teens-and-Sexting.aspx)

## 2 What the law says

It is important to be aware that young people involved in sharing sexual videos and pictures may be committing a criminal offence. Specifically, crimes involving indecent photographs (including pseudo images) of a person under 18 years of age fall under Section 1 of the Protection of Children Act 1978 and Section 160 Criminal Justice Act 1988. Under this legislation it is a crime to:

- **take an indecent photograph or allow an indecent photograph to be taken;**
- **make an indecent photograph (this includes downloading or opening an image that has been sent via email);**
- **distribute or show such an image;**
- **possess with the intention of distributing images;**
- **advertise; and**
- **possess such images.**

While any decision to charge individuals for such offences is a matter for the Crown Prosecution Service, it is unlikely to be considered in the public interest to prosecute children. However, children need to be aware that they may be breaking the law. Although unlikely to be prosecuted, children and young people who send or possess images may be visited by police and on some occasions media equipment could be removed. This is more likely if they have distributed images.

The decision to criminalise children and young people for sending these kinds of images is a little unclear and it is worth discussing the issues with your local police force. However, the current Association of Chief Police Officers (ACPO) position is that:

**‘ACPO does not support the prosecution or criminalisation of children for taking indecent images of themselves and sharing them. Being prosecuted through the criminal justice system is likely to be upsetting and distressing for children especially if they are convicted and punished. The label of sex offender that would be applied to a child or young person convicted of such offences is regrettable, unjust and clearly detrimental to their future health and wellbeing.’**

[www.ceop.police.uk/Documents/ceopdocs/externaldocs/ACPO\\_Lead\\_position\\_on\\_Self\\_Taken\\_Images.pdf](http://www.ceop.police.uk/Documents/ceopdocs/externaldocs/ACPO_Lead_position_on_Self_Taken_Images.pdf)

However, there are cases in which children and young people have been convicted and sent to prison. The important thing to remember is that whilst, as a school, you will want to consider the implications of passing an incident over to the police, it is not the responsibility of a school to make decisions about the seriousness of the matter. Clearly, if it is a case that involves an adult, the process and potential outcome will be very different. What you will need to consider is how to manage the outcome and process: there may well be safeguarding procedures that your school needs to follow and issues to manage in terms of staff, pupils and the wider school community.

Essentially, though, sexting is classed as illegal as it constitutes sharing and/or possessing an indecent image of a child.

### 3 Extent of sexting

Sexting is a relatively recent phenomenon; however, with the growth of mobile phone ownership among young people (41% of 12-15 year olds have a smartphone<sup>2</sup>) there has been an increase in the number of young people sharing and receiving images.

Statistics from the children's charity Beatbullying<sup>3</sup> suggest the following:

- **Over one third (38%) had received a sexually explicit text or email – 36% of males and 39% of females**
- **Over a quarter (25%) had received an offensive sexual image**
- **85% knew the identity of the aggressor**
- **The majority were peers and only 2% indicated that it was an adult**
- **Just under a third (29%) have been chatting online when someone started to talk to them about sexual things**
- **6% had received a message or image on the subject of sex which subsequently made them feel uncomfortable or upset**
- **Over half of teachers (54%) were aware of pupils creating and sharing sexually explicit messages and images via the internet or mobile**

More recent qualitative research from the NSPCC<sup>4</sup> suggests that sexting reinforces some of the negative social stereotypes about the relationships between boys and girls. Boys gain kudos from having sexually provocative images of girls on their phones whereas the same is not true for girls:

**'We found considerable evidence of an age old double standard, where sexually active boys are admired and rated, while sexually active girls are denigrated, shamed and described as sluts'**

A recent report by the Child Exploitation and Online Protection Centre (CEOP): *'Threat Assessment of Child Sexual Exploitation and Abuse – June 2012'* highlights the increase in 'user generated indecent imagery'. They identify that they have seen a marked increase in the number of reports where young teenagers appear to have taken still or video indecent imagery of themselves and then shared this online.

They highlight the following platforms as a place where young people are likely to share these images:

- **Live one-to-one video chat on web sites**
- **Video chat via instant messaging applications**
- **Files sent by email to another person**
- **Files uploaded to public video hosting web sites**
- **Files being sent as attachments during online chat sessions**
- **Files used as profile images or posted on social networking sites**

<sup>2</sup> Ofcom 2011

<sup>3</sup> Beatbullying, *Virtual Violence – Protecting young people from Cyberbullying*, 2009; Beatbullying, *Virtual Violence II – January 2012*

<sup>4</sup> Authors: Jessica Ringrose (Institute of Education, London), Rosalind Gill (King's College, London), Sonia Livingstone (London School of Economics), Laura Harvey (Open University)

[www.nspcc.org.uk/Inform/resourcesforprofessionals/sexualabuse/sexting-research-report\\_wdf89269.pdf](http://www.nspcc.org.uk/Inform/resourcesforprofessionals/sexualabuse/sexting-research-report_wdf89269.pdf)

The list on page 17 relates to order of prevalence of reporting and CEOP contrast this to their previous report - most of these images are being shared by children **'without external influence, coercion or threats from adults or others'**.

The research highlights that sexting is something that young people engage in regardless of the adults that surround them. There is a need for schools to develop a strong educational programme that supports prevention but we cannot ignore some of the 'cultural norms' that are developing around this kind of behaviour. As with all aspects of children's safety, there is no single solution.

Though most incidents of sexting take place outside of the school on personal devices, the consequences and behaviours 'migrate' back into school. Beatbullying's research in both 2009 and 2012 highlighted that most online bullying took place between young people who knew one another in the offline world - the two are transient places for social interaction, consequently the actions of young people are brought to bear in all of their environments.

### ★ Case study 3

**A group of girls were teasing a 14 year-old boy in their class about his sexuality. They started to send him nasty text messages calling him names. He replied by sending a naked photo of himself to one of them (a 14 year-old girl). The girl then forwarded the text on to her friends and joked to the boy about posting it online for others to see. He reported his concerns about the image going onto a social networking site to a pastoral manager.**

#### Action

The pastoral manager discussed the concern with the school DCPC. A consultation was made with social services and the police were spoken to regarding any possible criminal implications. The police advised the school that they felt that criminal action was unlikely to be helpful but they would investigate the incident and support the school in speaking to all the children involved, as well as their parents, about the possible consequences of their behaviour (both legal and emotional).

It was found that the girl had not posted the image online and the image had not been shared beyond the group of girls. The children were given a warning regarding their behaviour. The boy was offered access to additional support regarding the incident as well as the bullying.

The school revisited e-safety for pupils specifically around the sending of pictures via phones. All parents were given information about the importance of online safety, specifically the use of mobile phones for sending photos and messages. The school also updated their anti-bullying policy to include homophobic bullying and cyberbullying.

## 4 The risks to young people

Sexting is a behaviour that young people often engage in without understanding the full consequences. It is essential, therefore, that they understand the legal implications and the impact on others.

The initial risk posed by sexting primarily comes from peers, friends and others in their social network rather than from strangers or adults. Once images are in the public domain, young people may then be subjected to additional risks.

It is also important to recognise that sexting does not refer to one single activity: it can have multiple facets and activities, be connected to sexual pleasure and be linked to a 'normal' part of sexual development; however, something that transpires online can quickly spiral out of control as it becomes freely available in the public domain. It can then be transferred, forwarded, downloaded, uploaded and shared.

**'Recent evidence suggests that girls are more adversely affected by the risks than boys – it is not a gender neutral practice, it's something that is shaped by pre-existing gender dynamics and reinforced through the use of the technology.'**

*NSPCC – Children, Young People and Sexting May 2012*

Young people are also essentially taking risks with their futures. Increasingly employers, universities and colleges are doing 'digital digging' – they are looking at profiles, searching for names and asking questions about the online profile of potential recruits.

Children can also be criminalised for incidents of sexting (see *What the Law Says*). Though unusual, there is a risk that sharing, possession and uploading of an indecent image can result in a young person being prosecuted under the Sexual offences Act (2003) and the Protection of Children Act (1978).

It can also significantly affect the mental health and social interactions of young people. Once the image is in the public domain, it is difficult for to control, to know who has seen it and what they have done with it. This can lead to feelings of paranoia and isolation at a time when teenagers need to build up their self-esteem during a crucial stage of their development.

The risks to victims, bystanders and perpetrators are different but all three contain a degree of risk that can leave a young person in a vulnerable state and can significantly affect their future.

## 5 Sexting and the Ofsted inspection framework

The revised inspection arrangements for schools give an increased emphasis on behaviour and safety and the engagement of students and parents.<sup>5</sup>

Inspectors are required to report on the quality of education provided in the school and must, in particular, cover:

- The achievement of pupils at the school
- The quality of teaching in the school
- The quality of leadership in and management of the school
- **The behaviour and safety of pupils at the school**

Schools are expected to focus on the needs of students and parents by '*minimising the risk to children, young people and adults by evaluating the effectiveness of schools procedures for safeguarding*'. They will be asked specific questions by the inspectorate. They will also be asked to **inform their decisions by students and parents who have significant interest in the school.**

### Behaviour and safety of pupils at the school

When evaluating the behaviour and safety of pupils at the school, inspectors consider:

- Pupils' attitudes to learning and conduct in lessons and around the school
- Pupils' behaviour towards, and respect for, other young people and adults, including freedom from bullying and harassment that may include cyber-bullying and prejudice-based bullying related to special educational need, sexual orientation, sex, race, religion and belief, gender reassignment or disability
- How well teachers manage the behaviour and expectations of pupils to ensure that all pupils have an equal and fair chance to thrive and learn in an atmosphere of respect and dignity
- Pupils' ability to assess and manage risk appropriately and to keep themselves safe
- Pupils' attendance and punctuality at school and in lessons
- How well the school ensures the systematic and consistent management of behaviour.

## **Quality of leadership in and management of the school**

When evaluating the quality of leadership and management at all levels, including, where relevant, governors, inspectors consider whether they:

- Demonstrate an ambitious vision for the school and high expectations for what every pupil and teacher can achieve, and set high standards for quality and performance
- Improve teaching and learning, including the management of pupils' behaviour
- Provide a broad and balanced curriculum that: meets the needs of all pupils; enables all pupils to achieve their full educational potential and make progress in their learning; and promotes their good behaviour and safety and their spiritual, moral, social and cultural development
- Evaluate the school's strengths and weaknesses and use their findings to promote improvement
- Improve the school and develop its capacity for sustaining improvement by developing leadership capacity and high professional standards among all staff
- Engage with parents and carers in supporting pupils' achievement, behaviour and safety and their spiritual, moral, social and cultural development
- Ensure that all pupils are safe.

*(Ofsted 2012)*

Successful handling of sexting incidents present an opportunity for schools to demonstrate quality leadership and management of their pupils' behaviour and safety.

Schools have a duty of care towards their pupils and an obligation to support them in being safe in the online world as well as the physical world. Whilst Ofsted makes no specific reference to incidents of 'sexting', it will have an effect on how safe young people feel and the consequent negative effect on their behaviour in school.

## 6 Should all incidents of sexting be treated in the same way?

One of the challenges for schools is dealing appropriately with sexting scenarios. Recent research by the NSPCC identifies that sexting does not refer to any one particular activity; rather, it can be a variety of different activities motivated by a variety of different situations.

David Finkelhor, the American sociologist, and Janis Wolak conducted a review of over 550 sexting cases in the US from a national survey of law enforcement agencies. All of the cases which involved youth produced sexual images. These were defined in American law as *'images of minors created by minors that could qualify as child pornography under applicable criminal statutes'*.

### **Broadly, Finkelhor defined them into two categories: Aggravated and Experimental**

*Aggravated incidents of sexting* involved criminal or abusive elements beyond the creation of an image. These included further elements, adult involvement or criminal or abusive behaviour by minors such as sexual abuse, extortion, threats, malicious conduct arising from personal conflicts, or creation or sending or showing of images without the knowledge or against the will of a minor who was pictured.

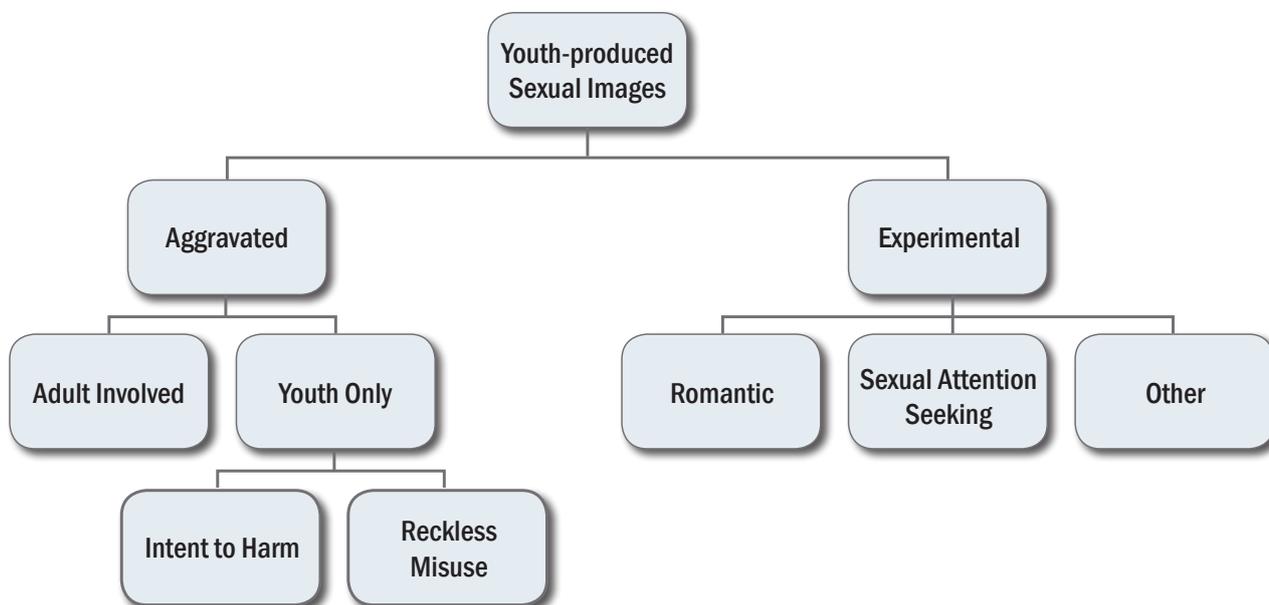
*Experimental incidents of sexting* involved youths taking pictures of themselves to share with established boy or girlfriends, to create romantic interest in other youth, or for reasons such as attention seeking. There was no criminal element (and certainly no criminal intent) beyond the creation and sending of the images and no apparent malice or lack of willing participation.

*Reprinted from Wolak and Finkelhor 'Sexting: a Typology' March 2011*

The intention of the typology is to help 'codify' some of the diversity and explain the aims and motivations behind some of the behaviours. There is recognition in Finkelhor and Womak's work in the diversity of the situations and even within the typologies. Anyone dealing with incidents of sexting, therefore, needs to understand the circumstances as this may well influence how the issue is dealt with in the context of the school, the individual and the police.

The exercise below is based on Finkelhor's typology and will help schools to identify what sort of incidents have taken place and to develop awareness amongst staff. Consult the attached instructions sheet for information about how to carry out the activity.

**Figure 1: Typology of youth-produced image cases known to law enforcement**



## Exercise: understanding the nature of sexting

Refer to the Exercise Instruction Sheet which will help you in your preparation.

Having considered a range of cases you may find that your reaction to incidents of 'sexting' is being challenged by the contributory factors that surround each case and that a 'one size fits all approach' may not work. For example, consider:

- **the age and the developmental appropriateness of their actions:** is the activity appropriate for their age group or is it extreme behaviour? Teenagers will experiment – but what about a younger child? Are you concerned that the behaviour is outside the norms?
- **their background or context:** have they suffered abuse? Are they a looked after child or a vulnerable child? Have they been involved in the criminal justice system? Could their actions have been influenced by the behaviour of influential adults?
- **whether the child was willing or coerced:** were they subjected to sexual coercion or bullying, or was the incident willingly entered into? Were adults involved?
- **the nature of image that was shared:** how provocative or explicit was it? Does it break the law, i.e. is it a child sex abuse image?
- **the level of dissemination:** how widely was the image shared and with whom? How was it passed around?
- **participant intent/motive:** was it simply a 'romantic' gesture? Or was there intent to harm another? What other motive might there be? Was there sexual attention seeking?
- **the wellbeing of those involved:** depending on the answers to some of the questions above, you should risk-assess the situation in order to work out whether you need to escalate the issue to protect those involved.
- **whether protection, education or counselling is required** related to the level of risk. Does what may be a silly juvenile incident warrant a criminal record?
- **urgency and timing:** again relevant to the level of risk - for example, an incident taking place last thing on a Friday may escalate over the weekend
- **involvement of other schools:** do you need to contact the senior management team at another school if the sexting involves, or has disseminated to, pupils there?

The purpose of these additional considerations is to identify the kind of support that may be required, such as:

- whether the young person needs protecting and if so, in what way;
- whether they, their parents and/or other children in school need educating about the risks and issues;
- whether the young person needs counselling support services or child protection input

Essentially, every incident is unique and you will want to consider each one in context.

At this point you might try the exercise at *Annex 2: 'Assessing incidents of sexting and considering an appropriate and proportionate response'*.

There are certain steps that you should always take in order to ensure that you are abiding by the law. *Annex 1* explores some of the issues you will need to consider and the section below (*Dealing with an incident*) outlines the process you will want to take.

## Conclusion

Sexting is a complicated and sensitive issue for all schools– there is no single solution and the consequences for young people, their families and schools can be devastating.

How a school handles these incidents presents specific challenges. New technologies offer great learning opportunities but the ease with which children and young people can share and upload images allow little time for consideration of the consequences of actions which may go hand in hand with adolescent development. There are preventative and reactive actions that can be taken by schools to support young people growing up in the digital world. We hope that this advice helps you to make effective decisions about the responses and actions you take in your school.

### Remember

**Always** operate within the context of your own child protection and safeguarding procedure

**Always** put the welfare of the young person first

**Raise awareness** of the issue of sexting across the school

**Make sure** that your policies, practices and procedures have been updated to reflect how you will handle and prevent incidents

**Ensure** that you create an environment in school that is supportive for young people if an incident occurs so they know where to go

*Annex 1 – Sexting: a response for professionals*

*Annex 2 – Risk assessment tool for young people engaged in potentially harmful sexting*

*Resource Sheet and Exercise Instruction Sheet: Understanding the nature of sexting, for the 'sexting' exercise.*

## Acknowledgements and Sponsors



### **Securus Software** [www.securus-software.com](http://www.securus-software.com)

Over 3,000 schools are now using Securus, which flags up potential child protection issues taking place on a network. Unlike filtering and blocking, Securus provides evidence of worrying or problematic behaviour by children or staff using its network. Securus helps schools to meet Ofsted recommendations by facilitating lasting improvements in pupil behaviour and safety, helping them to recognise unsafe situations and encouraging them to use new technologies responsibly.

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### **Profilezone**

Profilezone is a unique web based educational tool for schools to assist in the teaching of appropriate online activity, digital literacy and the education of essential skills in preparation for the workplace. The interactive features help students build a 3 dimensional personal profile using a variety of multi media that can grow with them throughout their formative years and onwards into to the next stage of their education or the world of work. Safe, secure and engaging it comes with staged lesson plans to support core curriculum, to assist in the teaching of key employability skills and to raise awareness of the effect of an individual's digital footprint on their future employability.

With enhanced versions for colleges, universities and other communities, profilezone provides the vital connection between the worlds of education and employment. For more information go to [www.profilezone.co.uk](http://www.profilezone.co.uk) or contact us at [enquiries@profilezone.co.uk](mailto:enquiries@profilezone.co.uk)

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Working to Protect Children

## **The Lucy Faithfull Foundation**

The Lucy Faithfull Foundation is the only UK-wide child protection charity dedicated solely to reducing the risk of children being sexually abused. It works with entire families that have been affected by abuse including: adult male and female sexual abusers; young people with inappropriate sexual behaviours; victims of abuse and other family members.

Drawing on expert knowledge about child sexual abuse the Foundation offers a broad range of services for professionals and members of the public. These include: assessments, intervention and treatment of known offenders, case specific advice and support, training and development courses and workshops, educational programmes for internet offenders and their families, circles of support and accountability and internet safety seminars for schools (teachers, parents and children).

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## **A Gentle Touch**

### **A Gentle Touch**

A Gentle Touch, formed by Sharon Girling OBE, works in the area of child protection, safeguarding and e-safety and consults for numerous law enforcement agencies globally.

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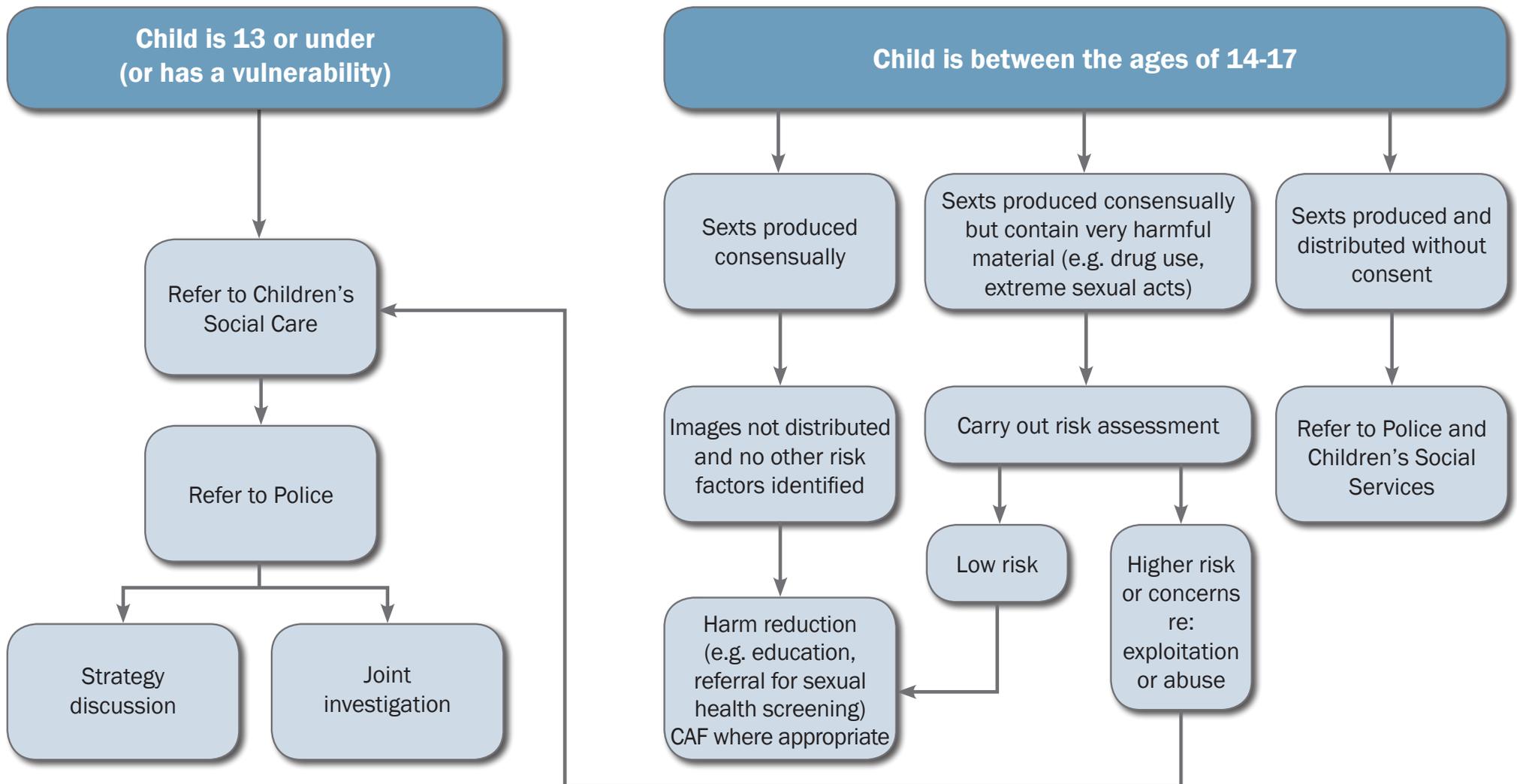
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# Sexting in schools

## Annex 1

### Sexting – Response process for professionals

This flowchart (adapted from 'Medway Local Authority Response Process for Professionals') will help you to make a decision about the actions you need to take.



# Sexting in schools

## Annex 2

### Risk assessment tool for young people engaged in potentially harmful sexting

| Indicator of risk or harm                                   | Factors to be considered   | Concern Yes/No | Comments |
|---|--|----------------|----------|
| <b>The age of the child</b>                                 | Sexual activity at a young age is a very strong indicator that there are risks to the welfare of children, whether boy or girl, and possibly others. This is particularly relevant if one of the parties is pre-pubertal. Children under 13 cannot lawfully give consent to sexual activity and there is a presumption that they will be referred to children's social services.   |                |          |
| <b>The level of maturity and understanding of the child</b> | Is the child/young person competent to consent to the sexual activity?<br>Is there a relationship of trust? A legal definition is provided at s27 Sexual Offences Act 2003.  |                |          |
| <b>The child's living circumstances or background</b>       | Has a child in need [s17] or referral of child protection concern [s47] ever been made on any party?<br>Do cultural or religious beliefs have an impact on their circumstances and/or sharing information?   |                |          |
| <b>Coercion or bribery</b>                                  | Has the child been encouraged to exchange sex for favours or other inducements such as supply of alcohol or substances? Is there evidence of persuasion, emotional blackmail, threats or use of pornography?   |                |          |
| <b>Familial Child Sex Offences</b>                          | At this stage of the assessment is any family member considered to be "a risk to children" or have convictions for sexual offences?<br>Does the sexual partner fall within any of the following categories beyond the normal family relationships? Step-parent, foster parent, step sibling who live in the same household or have been regularly involved in caring for the child; or care workers such as nannies or au pairs if they live with or regularly care for the child. |                |          |

## Sexting in schools

Annex 2 continued

| Indicator of risk or harm                                    | Factors to be considered  | Concern Yes/No | Comments |
|--|---|----------------|----------|
| <b>Behaviour of the child</b>                                | <p>Is the child withdrawn or anxious?</p> <p>Is there a pattern of 'casual' sexual relationships with different partners?</p> <p>Are there more than two other persons involved in the sexual activity?</p>   |                |          |
| <b>The misuse of substances or alcohol as a disinhibitor</b> | <p>The child or young person may be unaware or reluctant to acknowledge that alcohol or substances may be offered to facilitate sexual activity with them.</p> <p>The young person's own behaviour in misusing substances or alcohol may place the young person at increased risk of harm, as they may be unable to give informed consent.</p>                    |                |          |
| <b>Secrecy</b>   | <p>Has the sexual partner attempted to secure secrecy beyond what might be considered usual in a normal teenage relationship? Advice may need to be sought from a sexual health expert.</p>   |                |          |
| <b>Power imbalance</b>                                       | <p>Is the relationship reasonably equal and consensual? Power imbalances can occur in many different forms including threats and aggression.</p> <p>Is there an age differential greater than 3 years?</p>  |                |          |
| <b>Disability impeding choice</b>                            | <p>Disabled children and young people are more likely to be abused than non-disabled children. However, disabled children and young people have a right to a private life, which should be respected. The Sexual Offences Act provides an offence of sexual activity against persons with a mental disorder impeding choice. See Home Office/Mencap guidance.</p> |                |          |



Department  
for Education

# **Screening, searching and confiscation**

**Advice for head teachers, staff  
and governing bodies**

## About this guide

This advice is intended to explain schools' powers of screening and searching pupils so that school staff have the confidence to use them. In particular it explains the use of the power to search pupils without consent. It also explains the powers schools have to seize and then confiscate items found during a search. It includes statutory guidance which schools must have regard to.

This advice replaces "Screening and Searching of Pupils for Weapons: Guidance for School Staff".

## Expiry/review date

This advice will next be reviewed in 2013

## What legislation does this advice relate to?

Education Act 1996

Education and Inspections Act 2006

The Schools (Specification and Disposal of Articles) Regulations 2012

The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012

Health and Safety at Work etc. Act 1974

## Who is this advice for?

This advice is aimed at head teachers, school staff and governing bodies in **all schools in England**.

## Key Points

### Searching

- School staff can search a pupil for any item if the pupil agrees<sup>1</sup>.
- Head teachers and staff authorised by them have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item. Prohibited items are:
  - knives or weapons
  - alcohol
  - illegal drugs
  - stolen items
  - tobacco and cigarette papers
  - fireworks
  - pornographic images
  - any article that the member of staff reasonably suspects has been, or is likely to be, used

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<sup>1</sup> The ability to give consent may be influenced by the child's age or other factors

- i) to commit an offence,
- ii) to cause personal injury to, or damage to the property of, any person (including the pupil)
- o head teachers and authorised staff can also search for any item banned by the school rules which has been identified in the rules as an item which may be searched for<sup>2</sup>

## **Confiscation**

- School staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

## **Schools' obligations under the European Convention on Human Rights (ECHR)**

Under article 8 of the European Convention on Human Rights pupils have a right to respect for their private life. In the context of these particular powers, this means that pupils have the right to expect a reasonable level of personal privacy.

The right under Article 8 is not absolute, it can be interfered with but any interference with this right by a school (or any public body) must be justified and proportionate.

The powers to search in the Education Act 1996 are compatible with Article 8. A school exercising those powers lawfully should have no difficulty in demonstrating that it has also acted in accordance with Article 8. This advice will assist schools in deciding how to exercise the searching powers in a lawful way.

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<sup>2</sup> This provision applies to Academies through The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012.

## Screening

### 1. What the law allows:

- Schools can require pupils to undergo screening by a walk-through or hand-held metal detector (arch or wand) even if they do not suspect them of having a weapon and **without** the consent of the pupils.
- Schools' statutory power to make rules on pupil behaviour<sup>3</sup> and their duty as an employer to manage the safety of staff, pupils and visitors<sup>4</sup> enables them to impose a requirement that pupils undergo screening.
- Any member of school staff can screen pupils.

### Also note:

- 1) If a pupil refuses to be screened, the school may refuse to have the pupil on the premises. Health and safety legislation requires a school to be managed in a way which does not expose pupils or staff to risks to their health and safety and this would include making reasonable rules as a condition of admittance.
- 2) If a pupil fails to comply, and the school does not let the pupil in, the school has not excluded the pupil and the pupil's absence should be treated as unauthorised. The pupil must comply with the rules and attend.
- 3) This type of screening, without physical contact, is not subject to the same conditions as apply to the powers to search without consent.

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<sup>3</sup> Section 89 of the Education and Inspections Act 2006

<sup>4</sup> Section 3 of the Health and Safety at Work etc. Act 1974

## Searching with consent

### 2. Schools' common law powers to search:

- School staff<sup>5</sup> can search pupils **with their consent**<sup>6</sup> for any item.

#### Also note:

- 1) Schools are not required to have formal written consent from the pupil for this sort of search – it is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree.
- 2) Schools should make clear in their school behaviour policy and in communications to parents and pupils what items are banned.
- 3) If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.
- 4) A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate disciplinary penalty.

## Searching without consent

### 3. What the law says:

What can be searched for<sup>7</sup>?

- 1) Knives or weapons, alcohol, illegal drugs and stolen items; and
- 2) Tobacco and cigarette papers, fireworks and pornographic images; and
- 3) Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to property; and
- 4) Any item banned by the school rules which has been identified in the rules as an item which may be searched for.<sup>8</sup>

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<sup>5</sup> School staff here means a teacher or someone who has lawful control or charge of the child.

<sup>6</sup> The ability to give consent may be influenced by the child's age or other factors

<sup>7</sup> Section 550ZA of the Education Act 1996 and the Schools (Specification and Disposal of Articles) Regulations 2012 and referred to in the legislation as "prohibited items". The provisions in 550ZA of the 1996 Act also include a power to make regulations to add to the list of prohibited items.

<sup>8</sup> This provision will apply to Academies though the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012.

Can I search?

- 5) Yes, if you are a head teacher or a member of school staff<sup>9</sup> and authorised by the head teacher.

Under what circumstances?

- 6) You must be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the pupil being searched.
- 7) There is a limited exception to this rule. You can carry out a search of a pupil of the opposite sex to you and without a witness present, but **only** where you reasonably believe that there is a risk that **serious harm** will be caused to a person if you do not conduct the search immediately and where it is **not reasonably practicable** to summon another member of staff.

When can I search?

- 8) If you have reasonable grounds for suspecting that a pupil is in possession of a prohibited item.

**Also note:**

The law also says what must be done with prohibited items which are seized following a search.

The requirement that the searcher is the same sex as the pupil and that a witness is present will continue to apply in nearly all searches. Where it is practicable to summon a staff member of the same sex as the pupil and a witness then the teachers wishing to conduct a search must do so.

#### **4. Authorising members of staff**

- 1) Head teachers should decide who to authorise to use these powers. There is no requirement to provide authorisation in writing.
- 2) Staff, other than security staff, can refuse to undertake a search. The law states that head teachers may not require anyone other than a member of the school security staff to undertake a search.
- 3) Staff can be authorised to search for some items but not others; for example, a member of staff could be authorised to search for stolen property, but not for weapons or knives.
- 4) A head teacher can require a member of the school's security staff to undertake a search.

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<sup>9</sup> Member of school staff means any teacher who works at the school, and any other person who with the authority of the head teacher has lawful control or charge of pupils for whom education is being provided at the school.

- 5) If a security guard, who is not a member of the school staff, searches a pupil, the person witnessing the search should ideally be a permanent member of the school staff, as they are more likely to know the pupil.

## **5. Training for school staff**

- 1) When designating a member of staff to undertake searches under these powers, the head teacher should consider whether the member of staff requires any additional training to enable them to carry out their responsibilities.

## **6. Establishing grounds for a search**

- 1) Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to be suspicious.
- 2) In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases as they get older.
- 3) The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
- 4) School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item<sup>10</sup>.

## **7. Searches for items banned by the school rules**

- 1) An item banned by the school rules may only be searched for under these powers if it has been identified in the school rules as an item that can be searched for.
- 2) The school rules must be determined and publicised by the head teacher in accordance with section 89 of the Education and Inspections Act 2006. In the case of Academies, the school rules must be determined in accordance with the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012. Separate advice on school rules is available in 'Behaviour and Discipline – a guide for head teachers and school staff' via the link under Associated Resources.
- 3) Under section 89 and the School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012, the head teacher must publicise the school behaviour policy, in writing, to staff, parents and pupils at least once a year.

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<sup>10</sup> School staff must ensure they act in accordance with the Data Protection Act 1998, when doing so. Guidance on this is provided by the Information Commissioner – see the Associated Resources section for a link to this document.

## 8. Location of a search

- 1) Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on school trips in England or in training settings.
- 2) The powers only apply in England.

## During the search

## 9. Extent of the search – clothes, possessions, desks and lockers

### What the law says:

- The person conducting the search may not require the pupil to remove any clothing other than outer clothing.
- ‘Outer clothing’ means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but ‘outer clothing’ includes hats; shoes; boots; gloves and scarves.
- ‘Possessions’ means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.
- A pupil’s possessions can only be searched in the presence of the pupil and another member of staff, except where there is a risk that **serious harm** will be caused to a person if the search is not conducted immediately and where it is **not reasonably practicable** to summon another member of staff.

### Also note:

The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

## 10. Lockers and desks

- 1) Under common law powers, schools are able to search lockers and desks for any item provided the pupil agrees. Schools can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.
- 2) If a pupil does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

## 11. Use of force

- 1) Members of staff can use such force as is reasonable given the circumstances when conducting a search for knives or weapons, alcohol, illegal drugs, stolen items, tobacco and cigarette papers, fireworks, pornographic images or articles that have been or could be used to commit an offence or cause harm. Such force **cannot** be used to search for items banned under the school rules.
- 2) Separate advice is available on teachers' power to use force – see Associated Resources section below for a link to this document.

## After the search

## 12. The power to seize and confiscate items – general

### What the law allows:

- Schools' general power to discipline, as set out in Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a pupil's property as a disciplinary penalty, where reasonable to do so.

### Also note:

- 1) The member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a 'with consent' search so long as it is reasonable in the circumstances. Where any article is thought to be a weapon it must be passed to the police.
- 2) Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

## 13. Items found as a result of a 'without consent' search

### What the law says:

- A person carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item (that is the items identified in paragraph 3 (1-4) on page 4) or is evidence in relation to an offence.
- Where a person conducting a search finds **alcohol**, they may retain or dispose of it. This means that schools can dispose of alcohol as they think appropriate but this should not include returning it to the pupil.
- Where they find **controlled drugs**, these must be delivered to the police as soon as possible but may be disposed of if the person thinks there is a good reason to do so.

- Where they find **other substances** which are not believed to be controlled drugs these can be confiscated where a teacher believes them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
- Where they find **stolen items**, these must be delivered to the police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the person thinks that there is a good reason to do so.
- Where a member of staff finds **tobacco or cigarette papers** they may retain or dispose of them. As with alcohol, this means that schools can dispose of tobacco or cigarette papers as they think appropriate but this should not include returning them to the pupil.
- **Fireworks** found as a result of a search may be retained or disposed of but should not be returned to the pupil.
- If a member of staff finds a **pornographic image**, they may dispose of the image unless its possession constitutes a specified offence (i.e. it is extreme or child pornography) in which case it must be delivered to the police as soon as reasonably practicable. Images found on a mobile phone or other electronic device can be deleted unless it is necessary to pass them to the police.
- Where an **article that has been (or could be) used to commit an offence or to cause personal injury or damage to property** is found it may be delivered to the police or returned to the owner. It may also be retained or disposed of.
- Where a member of staff finds **an item which is banned under the school rules** they should take into account all relevant circumstances and use their professional judgement to decide whether to return it to its owner, retain it or dispose of it.
- Any **weapons or items which are evidence of an offence** must be passed to the police as soon as possible.

#### 14. **Statutory guidance on the disposal of controlled drugs and stolen items**

- 1) It is up to teachers to decide whether there is a good reason not to deliver stolen items or controlled drugs to the police. In determining what is a "good reason" for not delivering **controlled drugs or stolen items** to the police the member of staff must have regard to the following guidance issued by the Secretary of State<sup>11</sup>:
- 2) **In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the police, the member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.**
- 3) Where staff are unsure as to the legal status of a substance and have reason to

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<sup>11</sup> Section 550ZC (6) Education Act 1996

believe it may be a controlled drug they should treat it as such.

- 4) With regard to stolen items, it would not be reasonable or desirable to involve the police in dealing with low value items such as pencil cases. However, school staff may judge it appropriate to contact the police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

## 15. Statutory guidance for dealing with electronic devices

- 1) Where the person conducting the search finds **an electronic device** they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.
- 2) The member of staff must have regard to the following guidance issued by the Secretary of State<sup>12</sup> when determining what is a “good reason” for examining or erasing the contents of **an electronic device**:
  - **In determining a ‘good reason’ to examine or erase the data or files the staff member must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or break the school rules.**
- 3) If inappropriate material is found on the device it is up to the teacher to decide whether they should **delete** that material, **retain** it as evidence (of a criminal offence or a breach of school discipline) or whether the material is of such seriousness that it requires the involvement of the police.

### **Also note:**

Teachers should also take account of any additional guidance and procedures on the retention and disposal of items that have been put in place by the school.

## 16. Telling parents and dealing with complaints

- 1) Schools are not required to inform parents before a search takes place or to seek their consent to search their child.
- 2) There is no legal requirement to make or keep a record of a search.
- 3) Schools should inform the individual pupil’s parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.
- 4) Complaints about screening or searching should be dealt with through the normal school complaints procedure.



## Frequently Asked Questions

### **I'm a teacher; can I refuse to search a pupil without their consent?**

Yes. A head teacher cannot require a member of staff to conduct a search. In order to conduct a search without consent, a member of staff must be authorised to do so. Staff can choose whether they want to be authorised, or not.

### **Is there a risk that I could face legal challenge if I search a pupil without consent?**

Head teachers and authorised school staff have a specific statutory power to search pupils without consent for specific items – knives/weapons, alcohol, illegal drugs and stolen items. As long as the member of staff acts within the limits of this specific power they will have a robust defence against a legal challenge.

## Associated Resources

Link to Use of Reasonable Force – advice for head teachers, staff and governing bodies  
<http://www.education.gov.uk/schools/pupilsupport/behaviour/f0077153/use-of-reasonable-force-advice-for-school-leaders-staff-and-governing-bodies>

Link to Behaviour and Discipline in Schools – guidance for governing bodies  
<http://www.education.gov.uk/schools/pupilsupport/behaviour/g0076647/guidance-for-governing-bodies-on-behaviour-and-discipline>

Link to Behaviour and Discipline in Schools – advice for head teachers and school staff  
<http://www.education.gov.uk/schools/pupilsupport/behaviour/f0076803/advice-for-headteachers-and-school-staff-on-behaviour-and-discipline>

Link to Information Commissioner for advice on the Data Protection Act  
[http://www.ico.gov.uk/for\\_organisations/data\\_protection.aspx](http://www.ico.gov.uk/for_organisations/data_protection.aspx)

## Legislative links

The Education Act 1996

<http://www.legislation.gov.uk/ukpga/1996/56/contents>

Education and Inspections Act 2006

<http://www.legislation.gov.uk/ukpga/2006/40/contents>

<http://www.legislation.gov.uk/ukpga/2006/40/contents>

The Schools (Specification and Disposal of Articles) Regulations 2012

<http://www.legislation.gov.uk/>

The School Behaviour (Determination and Publicising of Measures in Academies) Regulations 2012

<http://www.legislation.gov.uk/uksi/2012/619/contents/made>

Health and Safety at Work etc Act 1974

<http://www.hse.gov.uk/legislation/hswa.htm>



Department  
for Education

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# Sexting in schools

## Exercise Instruction Sheet

### Understanding the nature of sexting

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This exercise is designed to illustrate that the nature of sexting incidents is variable and that an appropriate and proportionate response needs to be considered for each incident.

#### Instructions to trainer

##### Resources required:

- Resource Sheet 1 – typology definitions (1 per delegate)
- Resource Sheet 2 – case studies (1 per group)
- Resource Sheet 3 – response (1 per delegate)
- Resource Sheet 4 - Finkelhors typology (1 per delegate)
- Coloured Card – 6 colours
- Blu-tack

##### Preparation:

##### **A Prepare a set of case study cards per group**

This takes a little time but the cards can be re-used again and again

The 15 case studies (*Resource Sheet 2*) match Finkelhor's 6 categories as follows -

- Aggravated Adult (*case studies 4 & 7*)
- Aggravated Youth: Intent to Harm (*case studies 5, 6, 3 & 8*)
- Aggravated Youth: Reckless Misuse (*case studies 9 & 10*)
- Experimental Romantic (*case studies 11,12 & 2*)
- Experimental Attention Seeking (*case studies 13, 14, & 1*)
- Experimental Other (*case study 15*)

Assign a distinctive coloured card to each of the six categories above, then cut and mount each of the 15 case studies accordingly.

### **B Prepare 6 white 'header' cards for wall mounting**

Each card should display the title of one of the typologies

*Activity:*

1. Divide delegates into small groups of 3-4. Where appropriate mix delegates to include a wide range of experience/job role etc.
2. Give each group a set of case study cards (all 15 if time permits, if not then ensure that they have at least one of each colour)
3. Instruct delegates to read each study and consider as a group the following questions:
  - What level of risk do they think is attached to each case – green/red/amber
  - What should the action of the school be?

At this stage a simple outline/plan of action – no more than 3 mins per case.

4. Give each group member a copy of Resource Sheets 1 & 4 and discuss with them Finkelhor's typology.
5. Give each delegate a copy of Resource Sheet 3 and ask them as a group to decide for each case study, which typology they would assign to it. Record any comments on their sheets.
6. Whilst delegates are working, blu-tack the 6 'header' cards around the room.
7. When delegates have categorised each of their case studies, ask them to post the cards on the wall under the appropriate 'header' card around the room. (It becomes apparent quite quickly that the colours match up in groups and show where groups agree/disagree on categorisation)
8. Comment on where there has been agreement/disagreement to pull out variation in group thinking – how well have they agreed with Finkelhor?
9. Ask delegates to now consider in view of what they have learned
  - Would they now react differently as a school?
  - Would all cases be treated in the same way?
  - What are the key factors in deciding what course of action should be taken?
  - What important lessons have they learned?

# SEXTING: A TYPOLOGY

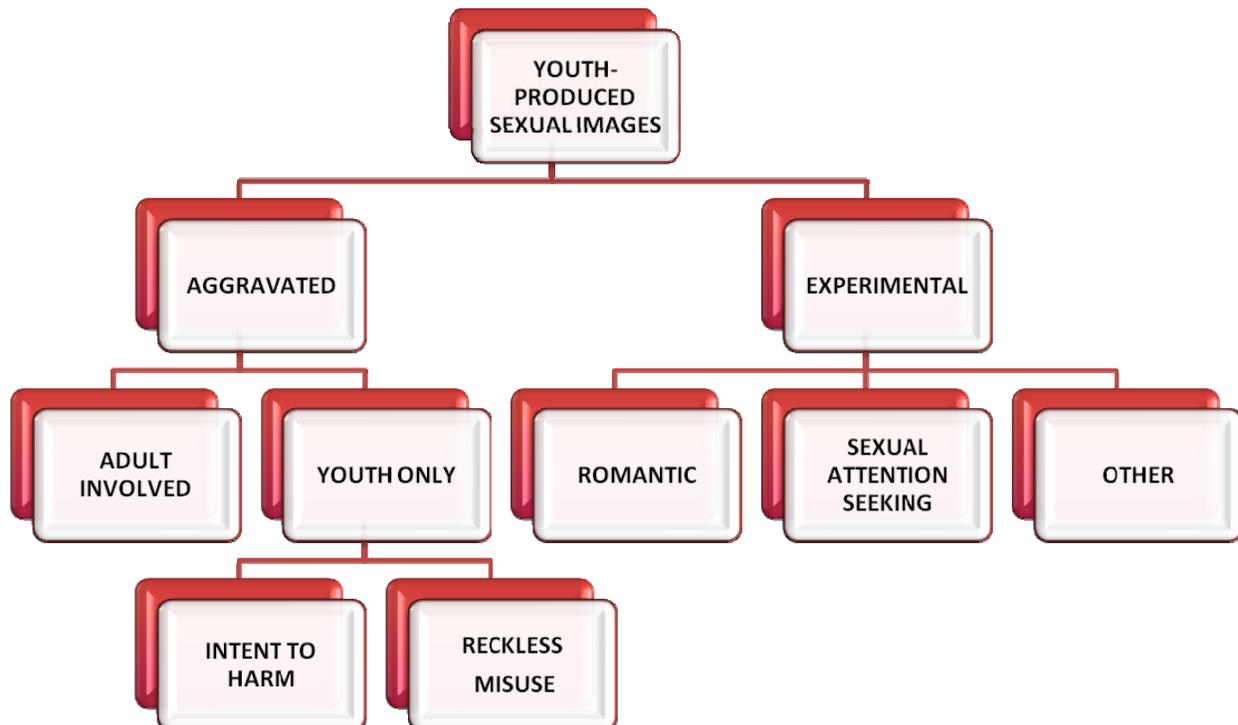
Janis Wolak & David Finkelhor

March 2011

## Summary

This bulletin presents a typology of sexting episodes based on a review of over 550 cases obtained from a national survey of law enforcement agencies. The cases all involved “youth-produced sexual images,” defined as images of minors created by minors that could qualify as child pornography under applicable criminal statutes. The episodes could be broadly divided into two categories, which we termed ‘Aggravated’ and ‘Experimental’. Aggravated incidents involved criminal or abusive elements beyond the creation, sending or possession of youth-produced sexual images. These additional elements included 1) adult involvement; or 2) criminal or abusive behavior by minors such as sexual abuse, extortion, threats; malicious conduct arising from interpersonal conflicts; or creation or sending or showing of images without the knowledge or against the will of a minor who was pictured. In Experimental incidents, by contrast, youth took pictures of themselves to send to established boy- or girlfriends, to create romantic interest in other youth, or for reasons such as attention-seeking, but there was no criminal behavior beyond the creation or sending of images, no apparent malice and no lack of willing participation by youth who were pictured.

Figure 1. Typology of youth-produced image cases known to law enforcement



## Introduction

Sexting has prompted considerable worry and controversy. There is concern that young people are adding unknowingly to the already daunting supply of illegal online child pornography; that youth may be compromising futures with images that could be permanently available to colleges, employers and child pornography traffickers; and that youth may be charged with serious sex crimes and placed on lifelong sex offender registries for impulsive teenage indiscretions.

To help promote an objective discussion of the problem and to develop strategies to minimize its dangers and harm, we have reviewed approximately 550 sexting cases that came to law enforcement attention in 2008 and 2009 to develop an evidence-based typology. The aim of the typology is to show the diversity of sexting incidents and to organize them in a way that helps law enforcement, school officials, parents and others confronted with sexting incidents to differentiate among and assess such cases.

## What is Sexting?

The term “sexting” has been used in the media and by researchers to refer to sexual communications with content that includes both pictures and text messages, sent using cell phones and other electronic media. Because the term has been used in different ways, we have chosen an alternative term, ‘youth-produced sexual images,’ with a more precise definition that focuses on the most problematic form of sexting. We define youth-produced sexual images as pictures created by minors (age 17 or younger) that depict minors and that are or could be child pornography under applicable criminal statutes. We include the sending of such images by any electronic technology (e.g., cell phone, webcam, digital camera). In addition, we include the full range of such incidents that come to the attention of law enforcement, including those involving adults and situations that do not involve romantic relationships.

We limit the definition of youth-produced sexual images to pictures that police thought could qualify as child pornography because the applicability of child pornography laws is the major source of controversy about these images, and it is often the basis for law enforcement involvement. However, child pornography is defined broadly in the U.S. Laws vary, but many are modeled after federal statutes, which define “child” as age 17 or younger, and child pornography as the “visual depiction of sexually explicit conduct”.<sup>1</sup> Sexually explicit conduct includes acts such as intercourse, oral sex,

bestiality, and masturbation, as well as “lascivious exhibition of the genitals.” The U.S. Supreme Court has defined “lascivious exhibition” broadly to include images that focus on the genitals even of clothed children.<sup>2</sup> Thus, to be considered child pornography, an image does not have to depict a child below the age of consent for sexual activity or a child being sexually abused. Suggestive pictures that focus on the genitals of minors wearing, for example, swim suits or underpants can qualify, as can pictures of 16-year-old teenagers engaged in legal sexual activity, at least under federal law. At the same time, not all pictures of naked minors constitute child pornography (e.g., children in the bath or at the beach) if no sexual conduct is implied and there is no special focus on the genitals.

## How many minors have created youth-produced sexual images?

Several studies have suggested sexting is widespread among adolescents,<sup>3-5</sup> but the proportion who actually make and send sexual images of themselves is unclear. One widely-cited, but flawed study found that 20% of teens had created sexual images of themselves.<sup>5</sup> However, this finding cannot be applied to minors nationwide because the sample included 18 and 19 year olds who were adults, and the participants were part of a convenience sample rather than a nationally representative sample.<sup>6</sup> A better designed study by the Pew Center using a nationally representative sample of youth ages 12 to 17 estimated that 4% of youth had created and sent “sexually suggestive nude or nearly nude” images.<sup>7</sup> However, based on the question asked in this study, youth could have created and sent pictures that did not qualify as child pornography. A forthcoming national study is designed to assess sexting behavior in greater detail and estimate the proportion who create and send truly explicit sexual images.<sup>8</sup> But the Pew research suggests that creating such pictures is not yet a normative behavior among adolescents.

## Typology Described

*Aggravated versus Experimental cases.* We determined that cases could be broadly divided into two categories, which we termed ‘Aggravated’ and ‘Experimental’. (Figure 1) Aggravated incidents involved additional criminal or abusive elements beyond the creation, sending or possession of youth-produced sexual images. These additional elements included 1) adults soliciting sexual images from minors, other instances of minors sending images to adults, or other illegal adult involvement; or 2) criminal or abusive behavior

by minors such as sexual abuse, extortion, deception or threats; malicious conduct arising from interpersonal conflicts; or creation or sending of images without the knowledge or against the will of minors who were pictured. In Experimental incidents, by contrast, youth created and sent sexual images without any of these additional elements. There was no criminal behavior beyond the creation or sending of images, no apparent malice and no lack of willing participation by youth who were pictured. Generally speaking, in these Experimental episodes, youth took pictures of themselves to send to established boy- or girlfriends, to create romantic interest in other youth, or for attention-seeking or other reasons that did not appear to involve elements of the Aggravated cases. We use the term 'Experimental' because, while there is no evidence that this behavior is normative, these incidents appear to grow out of typical adolescent impulses to flirt, find romantic partners, experiment with sex and get attention from peers.

*Aggravated incidents.* This category, which involved additional criminal or abusive elements beyond the creation, sending or possession of youth-produced sexual images, could be conceptually divided into two distinct sub-groups – Adult Involved cases that included sexual offending by adults and cases that involved Youth Only, no adults.

*Aggravated incidents, Adult Involved.* In most of the Adult Involved cases, adult offenders developed relationships with and seduced underage teenagers, in what were clearly criminal sex offenses even without the added element of youth-produced images. Some of these adult offenders had face-to-face relationships with victims as family friends, relatives, community members. In other cases, offenders used the Internet to meet victims. The youth-produced sexual images were generally, but not always, solicited by the adult offenders. In a minority of cases, the youth pursued relationships with adults and sometimes lied about their ages. These cases involving adults are a distinct public policy concern because they typically entail violations of criminal statutes prohibiting sex between adults and underage minors (i.e., statutory rape), in addition to child pornography charges. In the majority of cases that involved adults, the adults were considerably older than the youth victims. However, some of the involved adults were still teenagers, given that 18 is the age of majority in most of the U.S., and some of these 18 and 19 year olds were high school students. So, the younger end of the "adult" category poses dilemmas because it includes teenagers and high school

students who may not have violated age of consent laws and who may have been acknowledged members of peer groups that included younger teens.

### ADULT INVOLVED AGGRAVATED CASES

*The parents of a 14 year old girl found nude pictures of her on her computer. She admitted sending the pictures to a 37 year old man she met online. The girl was in love with the offender, who lived in another state. The victim never met him face-to-face. Police found he was communicating with numerous adolescent girls. They were able to identify 8 or 9 victims ages 12 to 16 that had sent him sexual images. He seemed to target victims who struggled with their self-image; many were over-weight and had skin problems. According to the police investigator we interviewed, two of the victims said "he made them feel good." The offender also had hundreds of photographs and videos featuring child pornography on his computer. He was charged with federal crimes and sentenced to 10 years in federal prison .*

*A 14 year old girl was drawn into a sexual relationship with her step-uncle who was 38 and lived in another state. They communicated online for about a month; then he introduced sexual topics into their conversations. He sent her sexual pictures of himself and she sent him pictures of all sorts, including sexual images. After six months, the offender visited the victim and took her to back to his home. While they were together, they both took hundreds of sexually explicit pictures of themselves and each other. The mother reported the offender to the police. The offender received two ten-year sentences.*

As these case descriptions illustrate, many youth in Adult Involved cases developed romantic or sexual attachments to adult offenders. However, some adult offenders used other ploys. Deception, for example, was not typical but did occur in some instances, as illustrated below.

*The offender, 32, claimed to run a modeling agency. Using a social networking site, he solicited girls, ages 11 through 17, to take nude pictures of themselves and send him the images. He sent them adult and child pornography to show them poses, and he paid for the pictures girls sent. He targeted vulnerable girls, for example, a 13-year-old whose father was in prison for sexually abusing her and whose family was living on welfare and behind on their rent. Police estimate he had at least 80 victims, some of whom he molested. The offender was discovered when a youth overheard one of the victims bragging about the money she made and told a parent, who called the police. The case was pending trial at the time of the interview.*

While most of these adults committed sexual offenses and were treated as such by law enforcement, there were cases where adults may not have realized they were interacting with underage youth, because youth were deceptive or furtive about their ages. For example:

*A 12 year old girl took sexual pictures of herself, some very graphic, and sent them to a 22 year old male she had been talking to on a social networking site. The girl claimed to be 19 and aggressively pursued the young man. Because of this, the police wanted to bring charges against her, but the prosecutor refused. The man was not considered a suspect by police.*

*A 16-year-old girl used the Internet to send sexually explicit photos of herself to numerous men and solicit them for sex. She was using a stolen computer because her parents had taken her computer away from her. The police talked to two of the men involved but did not charge them because the girl had portrayed herself as 18 and was physically very mature. The girl's father had asked for help in controlling her behavior with men on several occasions. Her case was handled in juvenile court and she was mandated to mental health counseling. [2140.006]*

*Aggravated incidents, Youth Only.* The other category of Aggravated cases involved "Youth Only". No adults solicited youth-produced sexual images or interacted sexually with youth, either knowingly or unknowingly. We determined there were two subgroups of these Youth Only cases. The first, which we labeled "Intent to Harm" involved criminal, malicious or other abusive behavior beyond the creation, sending or possession of youth-produced sexual images. In the second subgroup, there did not appear to be any overtly criminal, malicious or other abusive behavior, but someone who was pictured in an image did not willingly or knowingly participate in the taking or sending of a picture. We labeled this sub-group "Reckless Misuse." The key to distinguishing the Intent to Harm and Reckless Misuse groups was in the intent of at least one of the youth participants. If a youth took or used images intending to harm, harass, or embarrass someone, then the incident was classified as Intent to Harm. This would include retaliation for a relationship breakup or to sully someone's reputation. In the Reckless Misuse category, by contrast, pictures were taken or sent without the knowing or willing participation of a youth, but there was no apparent specific intent to harm. For example, in a frequent Reckless Misuse scenario, a youth who received images would show or forward them to others without permission to do so.

*Aggravated incidents, Youth Only: Intent to Harm.* These cases were diverse and fell into three sub-types, 1) cases that arose from interpersonal conflict such as break-ups and fights among friends, 2) cases that involved criminal or abusive conduct such as blackmail, threats or deception and 3) criminal sexual abuse or exploitation by juvenile offenders. This is an example of an interpersonal conflict case.

*A girl, 13, sent a topless photo of herself to her boyfriend, who was 14. When they broke up, the boy sent the photo to numerous teens via cell phone and many recipients forwarded the image to others. The police found out when one recipient told a parent. By then over 200 students had received the picture. The police seized over 150 cell phones from students. The police and prosecutor did not charge any of the parties to the incident because so many youth were involved and police did not want to "mark kids for life".*

Many of the cases that arose from interpersonal conflict involved highly malicious behavior, but some were relatively mild.

*Two high school girls (A & B) got mad at each other. They had been friends and had access to nude photos of each other. Girl A showed a nude photo of Girl B to another girl. Girl B thought the photo had been shown to many people. To get even, she sent a picture of Girl A's breasts to several boys. Several days later, both girls went to principal's office, crying and upset. They felt bad about what they had done.*

Other cases involved criminal behavior, such as extortion or abusive behavior such as deception:

*The parents of a 16 year old contacted police because a boy was extorting their daughter. The victim said she had accidentally uploaded a nude picture of herself to a social networking site. When she realized this, she deleted the image, but a boy from her school had already downloaded it. He threatened to distribute it if she did not send him more nude pictures. When the girl refused, the boy sent the picture to about 100 people. The boy, who was a straight A student, was charged with a felony. He pleaded guilty and was put on probation.*

*A 15 year old girl and 16 year old girl had been friends and schoolmates but had a falling out. The 15 year old created a fake online profile of a boy who appeared to be interested in the 16 year old. Under this deception, the fake boy asked for a naked picture of the 16 year old, which she sent. The 15 year old distributed this image to her friends, eventually 50-100 other youth saw it. The victim and her mother went to the School Resource Officer, who investigated and found the source of the picture. The 15 year old offender was arrested and charged originally with felony distribution of child pornography, but pleaded guilty to a misdemeanor with community service and counseling.*

Finally, some of the Intent to Harm cases involved youth who committed acts of sexual abuse that included production of images.

*A 13 year old girl took sexual pictures of her 3 younger sisters (ages 5, 6 & 8) and touched them sexually. Police determined that she herself had been molested by her step-father. A child protective services agency had been involved with the family for some time. The girl was removed from the home; the agency was taking steps to remove her younger sisters also.*

*Aggravated incidents, Youth Only: Reckless Misuse.* The Youth Only Reckless Misuse cases did not appear to involve any intent to harm but images were taken or sent without the knowing or willing participation of a youth who was pictured. In these cases, pictures were taken or sent thoughtlessly or recklessly and a victim may have been harmed as a result, but the culpability appears somewhat less than in the malicious episodes. Here are 2 examples:

*At a party where there was heavy drinking, three boys in the shallow end of a pool pulled down their swim trunks and had a "swordfight". A girl, 17, filmed this and sent the video via cell phone to six other people. The three boys did not know she had taken the video or sent it. The girl was charged in juvenile court.*

*A boy, 16, who had been bullied in school and teased about his "male anatomy" took a picture of his penis and sent it a female classmate. The classmate, in turn, but without permission, sent it to four other girls. The incident was disclosed when a teacher confiscated the boy's cell phone and found he was using the picture as a screensaver on his phone. Police investigated and deleted the images. No one was charged.*

*Experimental incidents.* In the typology, the cases that were not deemed to be "Aggravated" were categorized as "Experimental". This means they involved the creation and sending of youth-produced sexual images, with no adult involvement, no apparent intent to harm or reckless misuse. Among the cases that came to police attention, it was possible to distinguish three sub-categories of these Experimental episodes that had some important differences. First, there were "Romantic" episodes in which juveniles in ongoing relationships made images for themselves or each other, and images were not intended to be distributed beyond the pair. Second, there were episodes we termed "Sexual Attention Seeking" in which images were made and

sent between or among youth who were not known to be romantic partners, or one youth took pictures and sent them to multiple other youth or posted them online, presumably to draw sexual attention. Finally, there was a small subset of miscellaneous episodes, which we termed "Other." In these incidents, youth created and often sent or posted youth-produced images for motives that seemed to involve some other intent that was often hard to assess.

*Experimental incidents, Romantic.* These incidents included couples in ongoing romantic and sexual relationships who made images for each other. Of course, parents were often not pleased to discover such pictures, and sometimes wanted police to take action.

*A 14 year old boy and a 12 year old girl who were boyfriend/girlfriend for a couple of weeks sent sexual pictures and videos to one another, including pictures showing masturbation. The girl's mother found the pictures of the boy on her daughter's cell phone and told the School Resource Officer that she wanted the boy prosecuted to the full extent of the law. When she found out that her daughter had sent images, too, she wanted the girl prosecuted as well. Both went to juvenile court and were assigned 20 hours of community service.*

One wrinkle of sexting incidents is that pictures do not always end up where they are intended to go, as illustrated by the case below.

*A 13 year old girl received a picture of a penis on her cell phone. Police traced it to a 16 year old boy. He meant to send it to his girlfriend, whose telephone number was one digit off. The boy was embarrassed and apologetic. He had never taken such a picture before; neither had his girlfriend. The 13 year old girl was not upset by the incident, and her parents did not want to press charges after they heard what had happened.*

Most of these romantic relationships were heterosexual, but some were homosexual as in the following:

*Parents called the police when they discovered their son, 16, had received a video of a 17 year old boy masturbating. Their son was gay and in a relationship with the other boy. His parents were upset about his sexual orientation. The 17-year-old was put on probation and required to write an essay about what he had done.*

*Experimental incident, Sexual Attention Seeking.* In these cases, images were made and sent but not within an ongoing relationship. Often, it appeared the intent was to interest someone in a relationship.

*A father checked his 13-year-old daughter's cell phone and found that a boy, 14, had sent her a picture of his penis. The father contacted the school and the School Resource Officer interviewed the boy and girl. They were friends and had been texting late at night. The boy sent the picture "out of nowhere." The girl was not particularly offended. The boy told the police he did it to be funny, but the police believed he had feelings for the girl. The teens' parents had spoken with each other about the incident and were very cooperative. The police took no action.*

*An 'unpopular' girl, 15, had a crush on a classmate. She sent him videos of herself doing a striptease and playing with her breasts. He talked about these in school but there was no evidence he showed them to other kids or that the videos were sent to others or posted. However, the girl was taunted and cyber-bullied as a result. The police talked to the teens and their parents. The girl received counseling. No one was arrested in this case.*

In some cases, as in the one just described, youth were offended by receiving sexual images. However, this reaction did not by itself put the episode in the Aggravated category unless there was evidence that the sender intended to offend or shock. If the sending of images was repeated when interest was not reciprocated, it could, however, become harassing and thus, malicious and classified as Aggravated. That scenario was rare however. Most cases that involved malicious or harassing behavior arose from interpersonal conflicts which were not apparent in the cases we categorized as Experimental.

Here are some other cases that appeared to involve sexual attention seeking:

*A girl, 15, sent unsolicited naked pictures of herself to 3 different boys in her school using her cell phone, including to one boy who was 18. Then she and a friend went to the School Resource Officer because they were concerned the images would be sent around the school. However, none of the pictures were ever found and the case was dropped.*

*A school resource officer investigating a charge of harassment found some very graphic images on a 17 year old boys' cell phone. They showed a 17 year old girl from the school masturbating in her bedroom and bathroom. She had apparently taken these pictures and sent them to a number of boys unsolicited. Both the boy and the girl were arrested on charges of production and possession, and while the cases are being handled by juvenile court, both youth may be required to register as sex offenders.*

*A girl, 17, posted nude pictures of herself on a social networking site. The website identified the images as possible child pornography, removed them and reported the incident to the National Center for Missing & Exploited Children, which forwarded the report to the local police department. The police talked with the girl, but she was not charged.*

*Experimental incident, Other.* There were a small number of cases that did not appear to have aggravating elements, like adult involvement, malicious motives or reckless misuse, but also did not fit into the Romantic or Attention Seeking sub-types. These tended to involve either youth who took pictures of themselves for themselves (no evidence of any sending or sharing or intent to do so) or pre-adolescent children (age 9 or younger) who did not appear to have sexual motives.

*An 11 year old girl took naked pictures of her breasts with her cell phone. Her grandparents discovered the images, did not realize they were of the girl and brought the phone to the police. The girl, when interviewed, admitted she took the pictures of herself but said she had not sent them to anyone, and there was no evidence otherwise.*

## Implications

This bulletin has presented a typology of "sexting" cases, or what we prefer to call youth-produced sexual images. The typology is based on an analysis of more than 550 cases that came to law enforcement attention in 2008 and 2009. The typology is intended to help codify some of the diversity in such episodes. In particular, the analysis suggests a useful distinction between what we have labeled as "Aggravated" and "Experimental" cases, in which the Aggravated category includes Adult Involved incidents or Youth Only incidents with criminal or abusive behavior beyond the creation or sending of youth-produced images or lack of willing participation of a minor pictured in an image. The Experimental cases do not involve such elements but include Romantic or Sexual Attention Seeking incidents between minors and a few Other cases. The Other incidents largely involved youth who took pictures of themselves with no sharing or apparent intent to share and pre-adolescent children who did not seem to have sexual intentions and may have acted largely on impulse.

Diversity of Circumstances. The most important implication of this analysis is the recognition that youth-produced images are made and disseminated under a wide range of

circumstances. It is crucial that no single stereotype about these cases be allowed to predominate in popular thinking or influence public policy. Youth-produced sexual images are not all just “impulsive” acts or “romantic exchanges.” Some Aggravated Youth Only cases entailed a considerable amount of malice, such as youth who blackmailed other youth into providing more pictures or engaging in sexual acts.

*Adult Involved cases were also diverse.* Some featured exploitative adults who tricked or seduced teens into sending graphic pictures, while others involved adolescents, often troubled, who initiated sexual interactions with adults. These were largely non-forcible crimes by adults who had illegal sexual contact with underage youth or what is generally called statutory rape. Statutory rape is a relatively prevalent crime although there is no information about how often it includes youth-produced sexual images. In 2000 (most recent figures), about 25% of the sex crimes committed against minors and reported to police involved statutory rape.<sup>9</sup> Certain characteristics – histories of physical or sexual abuse, delinquency, depression, conflict with parents – appear to increase the risk that youth will be drawn into such relationships.<sup>10</sup> It is important to keep in mind that crimes charged as statutory rape are diverse in their dynamics.<sup>9,11</sup> The participation of underage youth, while generally deemed voluntary, is voluntary to varying degrees. Young adolescents have little experience of intimate relationships.<sup>12</sup> They often do not know how to negotiate with older partners about sexual activity. Some youth are pressured or coerced into sexual activity and some are intimidated.<sup>13-15</sup> Nonetheless, many youth in these situations believe they are in love, are resistant to viewing a relationship as criminal, and feel considerable loyalty to the adult offender.<sup>10,16</sup> While some youth lie about their ages and knowingly solicit adults, the laws of most states hold adults responsible for ascertaining that their sexual partners are not minors.

Further, statutory rape cases that begin with youth initiative are not necessarily less serious or less criminal than other sexual abuse cases. In fact, adolescents that initiate such relationships are often troubled and vulnerable. But the true dynamics of these incidents need to be recognized in order to deal with them effectively. Victims in these cases often have romantic attachments to offenders that complicate investigation and prosecution or strong distrust of authorities such as parents and police.

Moreover, prevention programs need to recognize that adults are not always the initiators in such sexting incidents, and they should try to dissuade youth from making such overtures.<sup>10, 17</sup>

*Even cases with only juveniles can be serious.* But in addition to cases involving adults, our typology demonstrates that there are cases featuring minors alone as producers and recipients of images that have very abusive and exploitative dimensions. Some youth used images to blackmail other youth. Some youth sexually abused and photographed younger or vulnerable youth. Some used images to tarnish reputations. Not all episodes among minors are benign. Some entail criminal behavior that would land youth in the juvenile justice system even in the absence of images potentially classifiable as child pornography.

*Some cases appear quite minor.* However, in addition to these sexting episodes that involve clear-cut criminal elements, there were also a considerable portion of episodes coming to police attention that appeared to be rather minor in nature, and were more rightly viewed as adolescent sexual experimentation than as criminal violations. They included teens who took pictures of themselves with cell phones without disseminating or intending to disseminate them; teens in relationships who only shared pictures with each other; images that might not actually qualify as child pornography (for example, pictures of naked breasts with no sexual activity, and no “lascivious display of genitals”). There also were images of teens who were almost 18 and engaging in legal sexual activity. Nonetheless, such images can be alarming when they come to the attention of parents or school officials, and it appears they are often forwarded to the police. Moreover, because this is a sample collected from law enforcement, it probably under-represents the number of the less serious episodes that either never come to adult attention or that parents discover and handle without the involvement of authorities.

*Consider developmental context.* In evaluating the seriousness of episodes, it is also important to consider the behavior of young people in the context of child development. Sexting is not simply kids acting “stupid”. Learning about romantic and sexual relationships is a key task of adolescence in our culture, which provides very mixed messages about appropriate sexual behavior. A large part of sexual development involves negotiating behaviors that are heavily freighted with moral, interpersonal and life course implications. How much intimacy do I want or should I allow?

What kinds of activities will create bonds and trust? What is the meaning of various forms of sexual contact? It is not just photographs, but most kinds of sexual interactions that have reputational consequences for teens, who have to balance those concerns against the kinds of trust and specialness that romantic attachments can create. The sharing of sexual images, while risqué in one cultural dimension, may also be a form of sexual sharing that has some comparative safety to it in contrast to face-to-face sexual intimacy, since it can be engaged in outside the presence of the other person.<sup>18</sup> Thus the feelings of immediate embarrassment may be more manageable, a youth can control how she or he appears to another, and the pressure for additional sexual intimacy is not so intense and immediate, as it might be in a face-to-face sexual encounter.

Complicating matters, it is likely that many youth, just like many adults, are not aware of the legal issues regarding sexual images of minors. Under many current criminal statutes, making, sending, or even possessing youth-produced sexual images may be subject to more severe punishment than other forms of voluntary sexual behavior, even full sexual intercourse between teens. On the other hand, some of the images described by police in our study would not qualify as child pornography in many jurisdictions. It seems that law enforcement concerns about the conduct of and impact on the youth involved in these incidents went beyond simple distinctions of whether or not the images constituted child pornography. But even when teens are aware of its illegality, some of the interpersonal utility of image sharing may seem worth the risk to them. This suggests that while teaching young people about the potential legal and reputational consequences of youth-produced images might deter some of this behavior, the problem may be best handled as part of education and mentoring that allows young people to think in a complex way about their romantic and sexual relationships.

Key elements to aggravated sexting. Hopefully, this bulletin and its typology are useful in furthering the discussion about what elements of sexting episodes make them more serious, or “Aggravated” to use our terminology. Our primary suggestion is that aggravating circumstances are created by behavior that goes beyond the making, possessing or sending of images, and includes elements like adults involved with underage minors; attempts to extort, embarrass, bully or sexually exploit; or the taking or sending of images without the knowledge or willing participation of a youth who is pictured.

### Additional considerations when assessing youth-produced images

It should be kept in mind that there is still considerable variability even within the categories we created. The Aggravated category included some incidents where the Intent to Hurt resulted in only limited distribution of an image. For example, a boy who was angry at his ex-girlfriend sent her picture to his mother who reported the incident to the police. Similarly, some of the Reckless Misuse incidents involved limited distribution of images and sometimes images were shown to other youth but not actually sent. In addition, while many of the Experimental incidents were relatively mild, some were quite concerning, especially when they involved young adolescents.

*Other dimensions need to be considered.* This highlights that, in addition to the typological categories outlined here, a variety of other dimensions should be considered when evaluating incidents. These dimensions include 1) the ages of the minors involved and the developmental appropriateness of their actions, 2) their backgrounds, including factors such as history of sexual abuse and prior involvement with the criminal justice system, 3) whether there was a sexual or social relationship that was coercive, 4) the nature of the images, and 5) the extent of any dissemination that occurred. The point of assessing these factors should be to determine whether the youth involved need protection, education or mental health services as much as to evaluate the degree of criminality involved.

*Limitations to Typology.* It is also important to recognize that any attempt to create a typology has inherent limitations. One obvious problem is that information to allow a good classification of a case may not be available or may be the subject of disagreement. One youth may believe the dissemination of her image was an attempt to destroy her reputation, but the disseminator may say that he was just sharing an item of interest with a friend. Moreover, episodes can change their categorization over time. What started out as an experimental episode between boyfriend and girlfriend, can turn ugly and malicious when the relationship breaks up, or even years later in the course of a divorce. Also, our classifications of cases are based on information from law enforcement investigators and may not reflect the actual motives and intentions of the youth involved.

## Law Enforcement Implications

There is currently much discussion about how to deal with sexting episodes that come to the attention of law enforcement. Many legal and journalistic writers are critical of using child pornography laws to criminalize the behavior of young people.<sup>19,20</sup> Citing examples of what we have categorized as “Experimental” sexting, they have made arguments that it was not this kind of activity, but rather adults exploiting children that legislators had in mind in drafting child pornography statutes. Some have pointed to the Supreme Court decision in *Ashcroft v. Free Speech Coalition* that justified the child pornography exception to 1st amendment rights based on the argument that these sexual images (as opposed to animations, for example) were products of sexual abuse, a characterization that is hard to apply to experimental forms of sexting and even to many Aggravated incidents. Many writers simply are opposed to using the serious penalties associated with child pornography violations, including sex offender registration, against young people, who in many cases might be better described as victims or naïve experimenters, than criminals. In some instances, young couples for whom full sexual intercourse is not criminal, can be prosecuted for exchanging images with each other. Our data suggest that many prosecutors appear sympathetic to these arguments to the extent that they have declined to prosecute.

On the other hand, some agencies in our sample did prosecute sexting, even the experimental cases involving romantic partners. Those arguing for a more punitive approach that continues to associate these episodes with criminal sexting make several points.<sup>21,22</sup> First, they believe such statutes and the prosecution of youth under them are important to send a message to young people about the dangers involved, even if the dangers are primarily to the youth themselves. They also tend to be concerned that the production and circulation of these images will abet sex criminality if they get into the wrong hands and undermine efforts to combat the widespread availability of and trafficking in child pornography.

*Reform proposals.* A variety of reforms have been proposed and in some cases passed to deal with concerns about sexting.<sup>22,23</sup> Some states have made the self-production of sexual images by youth a misdemeanor, instead of a felony. Some have established diversion programs so that youthful offenders can have charges dropped and criminal histories expunged. Connecticut and Nebraska created affirmative defenses for youth sexting (e.g., for those possessing a

limited number of depictions; those who did not request the images, did not forward them or destroyed the images; or a minor who had depictions only of himself or herself). Connecticut, Missouri and Vermont laws exempt minors’ with sexting offenses from sex offender registration requirements. In Illinois, minors who distribute indecent images may be ordered to obtain counseling or perform community service. Connecticut and Utah laws provide misdemeanor penalties for minors who possess or distribute pornographic materials. Arizona created new petty and misdemeanor offenses for sexting by minors, but those who do not solicit the material and take steps to destroy or report it are exempt from the law. Louisiana’s law created a lesser offense for sexting by minors; penalties increase with second or subsequent offenses.<sup>24</sup>

Perhaps the most sweeping reform is in Vermont, which in 2009 decriminalized some sexting behavior by adding a “Romeo and Juliet provision” to the state child pornography laws, exempting minors from prosecution for child pornography provided that the sender voluntarily transmitted an image of him or herself.

What our data suggest, however, is that sexting episodes are very diverse and complex and cannot be categorized or generalized very easily. In some cases a youth takes pictures and sends them to an adult in what is an exploitative sexual relationship. In other cases, the taking and sending appears to be a feature of a developmentally appropriate adolescent romantic relationship. In still others, it may be hard to determine whether youth who exchange images are agreed about to what use the images may be put.

Our own typological approach suggests that some forms of sexting might well be decriminalized in a *de jure* or *de facto* fashion, but that various aggravating conditions might be taken into account in deciding how it is handled.<sup>22</sup> Legislation proposed in South Dakota, Senate bill 179, takes something of this approach breaking sexting down into two levels: juvenile sexting and aggravated juvenile sexting. The charge would be elevated to aggravated juvenile sexting under these kinds of conditions: if the offending minor committed the offense for commercial or financial gain; the visual depiction was created or produced without the knowledge and consent of any depicted minor; the visual depiction was subsequently distributed, presented, transmitted or posted by the offending minor to more than five other persons, adult or minor; and if the offending minor has been previously referred for juvenile sexting.

## Conclusion

Youth produced sexual images or sexting is a complicated phenomenon that social policy will be trying to respond to for some time to come. The complexities stem both from the legal issues that the problem raises, but also from the variety of behavior and activities that are embodied in the problem, as this typology illustrates. It is important to assemble as much social scientific information as possible to assure that these policy responses are not based simply on fear and stereotype.

## References

1. 18 USC Section 2256 - Child pornography defined, in *Criminal Code: United States of America*.
2. *U.S. v. Knox*, 32 F. 3d 733. 1994.
3. Associated Press & MTV (2009) *AP-MTV Digital Abuse Study: Executive summary*.
4. Cox Communications (2009) *Teen online & wireless safety survey: Cyberbullying, sexting, and parental controls*.
5. The National Campaign to Prevent Teen and Unplanned Pregnancy, *Sex and tech: Results from a nationally representative survey of teens and young adults*. 2008, Author: Washington, DC.
6. Lounsbury, K., *Sexting Factsheet*. 2010, University of New Hampshire, Crimes against Children Research Center: Durham, NH.
7. Lenhart, A., *Teens and sexting: How and why minor teens are sending sexually suggestive nude or nearly nude images via text messaging*. 2009, Millennials: A Portrait of Generation Next, PEW Internet & American Life Project, PEW Research Center: Washington, DC.
8. Mitchell, K.J., M. Wells, J. Wolak, and D. Finkelhor, 2011.
9. Troup-Leasure, K. and H. Snyder, *Statutory rape known to law enforcement*. 2005, Office of Juvenile Justice & Delinquency Prevention: Washington DC. p. 1-4.
10. Wolak, J., D. Finkelhor, K.J. Mitchell, and M. Ybarra, *Online 'predators' & their victims: Myths, realities, & implications for prevention & treatment*. *American Psychologist*, 2008. **63**(2): p. 111-128.
11. Hines, D. and D. Finkelhor, *Statutory sex crime relationships between juveniles and adults: A review of social scientific research*. *Aggression and Violent Behavior*, 2007. **12**: p. 300-314.
12. Weinstein, E. and E. Rosenshaft, *The development of adolescent sexual intimacy: Implications for counseling*. *Adolescence*, 1991. **26**(102): p. 331.
13. Cheit, R.E. and L. Braslow, *Statutory rape: An empirical examination of claims of "overreaction"*, in *Handbook of children, culture, and violence*, N. Dowd, D.G. Singer, and R.F. Wilson, Editors. 2005, Sage Publications: Thousand Oaks, CA.
14. Darroch, J.E., D.J. Landry, and S. Oslak, *Age differences between sexual partners in the United States*. *Family Planning Perspectives*, 1999. **31**: p. 160-167.
15. Manlove, J., K. Moore, J. Liechty, E. Ikramullah, and S. Cottingham, *Sex between young teens and older individuals: A demographic portrait*. 2005, Child Trends: Washington, DC.
16. Lanning, K.V., *Compliant child victims: Confronting an uncomfortable reality*. *APSAC Advisor*, 2002. **14**(2).
17. Wolak, J., D. Finkelhor, and K.J. Mitchell, *Trends in arrests of "Online predators"*. 2009, Crimes against Children Research Center - University of New Hampshire: Durham, NH. p. 1-10.
18. Goodman, E., *It's not about sex: Sexting is really about trust, and the violation thereof*, in *Pittsburgh Post-Gazette*. 2009: Pittsburgh, PA.
19. Ryan, E., *Sexting: How the state can prevent a moment of indiscretion from leading to a lifetime of unintended consequences for minors and young adults*. *Iowa Law Review*, 2010. **96**: p. 357-383.
20. Wood, R.H., *The failure of sexting criminalization: A plea for the exercise of prosecutorial restraint*. *Michigan Communications and Technical Law Review*, 2009. **16**: p. 151-178.
21. Leary, M.G., *Self-produced child pornography: The appropriate societal response to juvenile self-sexual exploitation*. *Virginia Journal of Social Policy and the Law*, 2007. **15**(1): p. 1-51.
22. Sacco, D.T., R. Argudin, J. Maguire, and K. Tallon, *Sexting: Youth practices and legal implications*. 2010, Youth and Media Policy Working Group Initiative, Berkman Center for Internet & Society - Harvard University: Cambridge, MA.
23. Willard, N., *Sexting & youth: Achieving a rational response*. 2010, Center for Safe and Responsible Internet Use: Eugene, OR.
24. Calvert, C., *Sex, cell phones, privacy, and the first amendment: When children become child pornographers and the Lolita Effect undermines the law*. *Community Law Conspectus*, 2009. **18**(1): p. 1-65.

### DATA SOURCE FOR TYPOLOGY

This typology of sexting is based on cases handled during 2008 and 2009 by a national sample of law enforcement agencies participating in the 3rd National Juvenile Online Victimization Study (NJOV3). We reviewed narrative case summaries and preliminary data for approximately 550 cases with interviews that were completed as of December 17, 2010. (The field period of the study ended on March 16, 2011).

*Procedures and sample.* Starting in March 2010, we surveyed a sample of 2,721 law enforcement agencies by mail asking if they had handled cases of youth-produced sexual images during 2008 or 2009. When agencies reported handling such cases, we asked for contact information for the investigators. Interviewers then contacted investigators and conducted telephone interviews that gathered details of the incident. Interviewers also prepared narrative summaries of each case. Study procedures were approved by the University of New Hampshire Human Subjects Review Board.

The cases were collected from a stratified sample of law enforcement agencies that was designed to yield a nationally representative sample of Internet-related child sexual exploitation cases. The agency sample was divided into 3 sampling frames. The first frame included agencies mandated to investigate Internet-related child sexual exploitation crimes (i.e., federal agencies, Internet Crimes against Children Task Forces). We included all first frame agencies in the sample. The second frame included agencies with staff that had received specialized training, identified through lists provided by training agencies. About half of second frame agencies were randomly selected for the sample (n=815). The third frame included all other local and state law enforcement agencies in the U.S. About 12% of third frame agencies were randomly selected for the sample (n=1,662). The response rate to the mail survey was 80%.

*Definitions and measures.* The mail survey included the following question: "During 2008 or 2009, did your agency handle any cases that involved sexual images created by minors (age 17 or younger) AND these images were or could have been child pornography under the statutes of your jurisdiction? Please include cases where minors took pictures of themselves OR other minors, including 'sexting,' such cases that may have been crimes, but were not prosecuted for various reasons, [and] cases handled as juvenile offenses." Interviewers conducted telephone interviews with investigators who reported cases, using a computer-assisted telephone interview system. The interviewers gathered details about the reported cases, including the characteristics of the youth and any adults involved, circumstances in which images were created, nature of images, whether and to what extent images were distributed, how the incident came to the attention of police and the outcome. The case narratives prepared by interviewers included many of these details and also described the dynamics of the incident.

To create the typology, the authors, with the help of research assistants, reviewed the narrative summaries to identify the themes that were used to categorize case types and subtypes. The information about cases was gathered from law enforcement rather than from the youth involved, so the typology necessarily reflects the perspective of law enforcement. This bulletin does not include quantitative information about numbers and characteristics of incidents because it was done before the final data set was available. Additional bulletins will report on quantitative findings.

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### Adapted from Wolak and Finkelhor *'Sexting: a Typology'* March 2011

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**Aggravated incidents** involve criminal or abusive elements beyond the creation, sending or possession of youth-produced sexual images

**Adult offenders** develop relationships with and seduce underage teenagers, in criminal sex offenses even without the added element of youth-produced images. Victims may be family friends, relatives, community members or contacted via the Internet. The youth produced sexual images generally, but not always, are solicited by the adult offenders.

**Youth Only: Intent to Harm** cases that:

- arise from interpersonal conflict such as break-ups and fights among friends
- involve criminal or abusive conduct such as blackmail, threats or deception
- involve criminal sexual abuse or exploitation by juvenile offenders.

**Youth Only: Reckless Misuse**

no intent to harm but images are taken or sent without the knowing or willing participation of the young person who is pictured. In these cases, pictures are taken or sent thoughtlessly or recklessly and a victim may have been harmed as a result, but the culpability appears somewhat less than in the malicious episodes.

**Experimental incidents** involve the creation and sending of youth-produced sexual images, with no adult involvement, no apparent intent to harm or reckless misuse.

**Romantic** episodes in which young people in ongoing relationships make images for themselves or each other, and images were not intended to be distributed beyond the pair.

**Sexual Attention Seeking** in which images are made and sent between or among young people who were not known to be romantic partners, or where one youngster takes pictures and sends them to many others or posts them online, presumably to draw sexual attention.

**Other:** cases that do not appear to have aggravating elements, like adult involvement, malicious motives or reckless misuse, but also do not fit into the Romantic or Attention Seeking sub-types. These involve either young people who take pictures of themselves for themselves (no evidence of any sending or sharing or intent to do so) or pre-adolescent children (age 9 or younger) who did not appear to have sexual motives.

# Sexting in schools

## Resource Sheet 2

### Case Studies (adapted from Wolak and Finkelhor)

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#### Case Study 1

Involved a group of pupils aged between 9 and 10. One girl (aged 9 with mild learning difficulties) was speaking to a group of friends from school via MSN using her webcam. Her laptop was upstairs in her bedroom. She was getting ready for bed and was sat in a towel and “flashed” on webcam. Another pupil (girl aged 10) from the group told the class teacher what had happened the next day at school, who then reported the concern to the head teacher.

#### Case Study 2

A Year 6 girl (aged 11) texted a photo of herself, topless but covered, to her 12 year old boyfriend (an ex pupil). No physical sexual activity took place between them prior to this event on or offline. The image was discovered on the boy’s mobile phone by his mother who deleted the image and then contacted the girl’s parents. The girls’ parents approached the school for advice.

#### Case Study 3

A girl, 13, sent a topless photo of herself to her boyfriend, who was 14. When they broke up, the boy sent the photo to numerous friends via his mobile phone and many recipients forwarded the image to others. The school found out when one recipient told a parent. By then over 200 students had received the picture.

#### Case Study 4

The parents of a 14-year-old girl found nude pictures of her on her computer and approached her school for advice. She admitted sending the pictures to a 37-year-old man she met online. The girl was in love with the offender, who lived in another part of the country. The victim never met him face-to-face.

#### Case Study 5

Two Year 9 girls (A & B) got mad at each other. They had been friends and had access to nude photos of each other. Girl A showed a nude photo of Girl B to another girl. Girl B thought the photo had been shown to many people. To get even, she sent a picture of Girl A’s breasts to several boys. Several days later, both girls went to the headteacher’s office, crying and upset. They felt bad about what they had done.

#### Case Study 6

The parents of a 16-year-old contacted the school because a boy was blackmailing their daughter. The victim said she had accidentally uploaded a nude picture of herself to a social networking site. When she realised this, she deleted the image, but a boy from another school had already downloaded it. He threatened to distribute it if she did not send him more nude pictures. When the girl refused, the boy sent the picture to about 100 people.

#### Case Study 7

A 16-year-old girl used the Internet to send sexually explicit photos of herself to numerous men and solicit them for sex. She was using a stolen computer because her parents had taken her computer away from her. The parents discovered the online conversations and approached her school for advice.

## Sexting in schools

### Resource Sheet 2 continued

#### Case Study 8

A 13-year-old girl took sexual pictures of her three younger sisters (ages 5, 6 & 8) and touched them sexually. A classmate disclosed this information to their class teacher. A child protection agency had been involved with the family for some time.

#### Case Study 9

At a party where there was heavy drinking, three boys in the shallow end of a pool pulled down their swim trunks and had a "swordfight". A girl, 17, filmed this and sent the video via her mobile to six other people. The three boys did not know she had taken the video or sent it. The video became a hot topic within the school and came to the attention of the teaching staff.

#### Case Study 10

A boy, 16, who had been bullied in school and teased about his "male anatomy" took a picture of his penis and sent it a female classmate. The classmate, in turn, but without permission, sent it to four other girls. The incident was disclosed when a teacher confiscated the boy's mobile phone and found he was using the picture as a screensaver on his phone.

#### Case Study 11

A 14-year-old boy and a 12-year-old girl who were boyfriend/girlfriend for a couple of weeks sent sexual pictures and videos to one another, including pictures showing masturbation. The girl's mother found the pictures of the boy on her daughter's mobile phone and told their Headteacher that she wanted the boy prosecuted to the full extent of the law. When she found out that her daughter had sent images too, she wanted the girl prosecuted as well.

#### Case Study 12

Parents approached the school when they discovered their son, 16, had received a video of a 17-year-old boy masturbating. Their son was gay and in a relationship with the other boy. His parents were upset about his sexual orientation.

#### Case Study 13

A girl, 15, sent unsolicited naked pictures of herself to three different boys in her school using her mobile phone, including to one boy who was 18. Then she and a friend went to their class teacher because they were concerned the images would be sent around the school.

#### Case Study 14

A girl, 17, posted nude pictures of herself on a social networking site. The website identified the images as possible child pornography, removed them and reported the incident to CEOP, which forwarded the report to the local police force. The police approached the school and talked with the girl, but she was not charged.

#### Case Study 15

An 11-year-old girl took naked pictures of her breasts with her mobile phone. Her grandparents discovered the images, did not realise they were of the girl and brought the phone to school. The girl, when interviewed, admitted she took the pictures of herself but said she had not sent them to anyone.

# Sexting in schools

## Resource Sheet 3

### Response

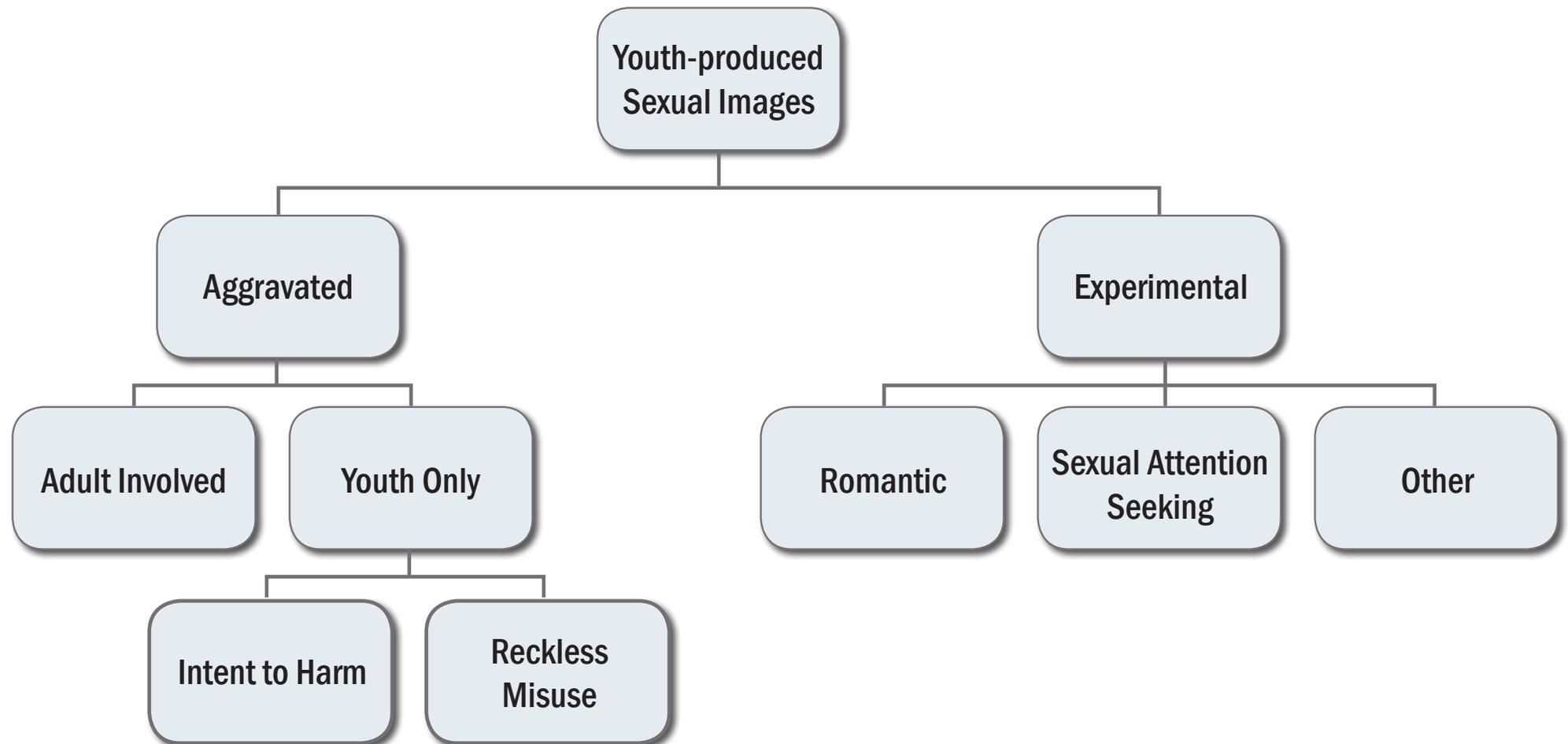
| Case Study<br>- Typology | Comments | Response |
|--------------------------|----------|----------|
| 1                        |          |          |
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# Sexting in schools

Resource Sheet 4

## Typology of youth-produced image cases known to law enforcement

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### Case Studies (adapted from Wolak and Finkelhor)

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- 1 Aggravated Adult** (4 & 7)
- 2 Aggravated Youth: Intent to Harm** (5, 6, 3 & 8)
- 3 Aggravated Youth: Reckless Misuse** (9 & 10)
- 4 Experimental Romantic** (11,12 & 2)
- 5 Experimental Attention Seeking** (13, 14, & 1)
- 6 Experimental Other** (15)

#### **1 Aggravated Adult**

In most of the Adult Involved cases, adult offenders developed relationships with and seduced underage teenagers, in what were clearly criminal sex offenses even without the added element of youth-produced images. Some of these adult offenders had face-to-face relationships with victims as family friends, relatives, community members. In other cases, offenders used the Internet to meet victims. The youth-produced sexual images were generally, but not always, solicited by the adult offenders.

##### **Case Study 4 (Adult aggravated)**

The parents of a 14 year old girl found nude pictures of her on her computer and approached her school for advice. She admitted sending the pictures to a 37 year old man she met online. The girl was in love with the offender, who lived in another part of the country. The victim never met him face-to-face. Police found he was communicating with numerous adolescent girls. They were able to identify 8 or 9 victims aged 12 to 16 that had sent him sexual images. He seemed to target victims who struggled with their self image; many were over-weight and had skin problems. According to the police, two of the victims said "he made them feel good." The offender also had hundreds of photographs and videos featuring child pornography on his computer. He was charged and sentenced to 10 years in prison .

##### **Case Study 7 (Adult involved)**

A 16-year-old girl used the Internet to send sexually explicit photos of herself to numerous men and solicit them for sex. She was using a stolen computer because her parents had taken her computer away from her. The parents discovered the online conversations and approached her school for advice. Police talked to two of the men involved but did not charge them because the girl had portrayed herself as 18 and was physically very mature. The girl's father had asked for help in controlling her behaviour with men on several occasions. Her case was handled in court and she was provided with mental health counselling.

### 2 Aggravated Youth: Intent to Harm

These cases were diverse and fell into three sub-types;

- 1) cases that arose from interpersonal conflict such as break-ups and fights among friends,
- 2) cases that involved criminal or abusive conduct such as blackmail, threats or deception and
- 3) criminal sexual abuse or exploitation by juvenile offenders.

#### Case Study 5 Youth: intent to harm; interpersonal conflict

Two Year 9 girls (A & B) got mad at each other. They had been friends and had access to nude photos of each other. Girl A showed a nude photo of Girl B to another girl. Girl B thought the photo had been shown to many people. To get even, she sent a picture of Girl A's breasts to several boys. Several days later, both girls went to the headteacher's office, crying and upset. They felt bad about what they had done.

#### Case Study 6 Youth: intent to harm; blackmail, threats and deception

The parents of a 16-year-old contacted the school because a boy was blackmailing their daughter. The victim said she had accidentally uploaded a nude picture of herself to a social networking site. When she realised this, she deleted the image, but a boy from another school had already downloaded it. He threatened to distribute it if she did not send him more nude pictures. When the girl refused, the boy sent the picture to about 100 people. The boy, who was a top set student, was charged with a criminal offence. He pleaded guilty and was put on probation.

#### Case Study 3 Youth only: intent to harm; interpersonal conflict

A girl, 13, sent a topless photo of herself to her boyfriend, who was 14. When they broke up, the boy sent the photo to numerous friends via his mobile phone and many recipients forwarded the image to others. The school found out when one recipient told a parent. By then over 200 students had received the picture. The police seized over 150 mobiles from students. The police did not charge any of the parties to the incident because so many young people were involved and police did not want to "mark kids for life".

#### Case study 8 Youth: intent to harm; criminal sexual abuse or exploitation by juvenile offenders

A 13-year-old girl took sexual pictures of her three younger sisters (ages 5, 6 & 8) and touched them sexually. A classmate disclosed this information to their class teacher. Subsequently, the police determined that she herself had been molested by her stepfather. A child protection agency had been involved with the family for some time. The girl was removed from the home; the agency was taking steps to remove her younger sisters also.

### 3 Aggravated Youth: Reckless Misuse

These cases did not appear to involve any intent to harm but images were taken or sent without the knowing or willing participation of the young person who was pictured. In these cases, pictures were taken or sent thoughtlessly or recklessly and a victim may have been harmed as a result, but the culpability appears somewhat less than in the malicious episodes.

#### Case Study 9 Youth only: reckless misuse

At a party where there was heavy drinking, three boys in the shallow end of a pool pulled down their swim trunks and had a "swordfight". A girl, 17, filmed this and sent the video via her mobile to six other people. The three boys did not know she had taken the video or sent it. The video became a hot topic within the school and came to the attention of the teaching staff. The girl was charged in court.

#### **Case Study 10 Youth only: reckless misuse**

A boy, 16, who had been bullied in school and teased about his “male anatomy” took a picture of his penis and sent it a female classmate. The classmate, in turn, but without permission, sent it to four other girls. The incident was disclosed when a teacher confiscated the boy’s mobile phone and found he was using the picture as a screensaver on his phone. Police investigated and deleted the images. No one was charged.

### **Experimental**

This means they involved the creation and sending of youth-produced sexual images, with no adult involvement, no apparent intent to harm or reckless misuse. It subdivides into three further subcategories:

#### **4 Experimental Romantic**

Episodes in which young people in ongoing relationships made images for themselves or each other, and images were not intended to be distributed beyond the pair.

##### **Case Study 11 Experimental Romantic**

A 14-year-old boy and a 12-year-old girl who were boyfriend/girlfriend for a couple of weeks sent sexual pictures and videos to one another, including pictures showing masturbation. The girl’s mother found the pictures of the boy on her daughter’s mobile phone and told their Headteacher that she wanted the boy prosecuted to the full extent of the law. When she found out that her daughter had sent images too, she wanted the girl prosecuted as well. Both went to court and were assigned 20 hours of community service.

##### **Case Study 12 Experimental Romantic**

Parents approached the school when they discovered their son, 16, had received a video of a 17-year-old boy masturbating. Their son was gay and in a relationship with the other boy. His parents were upset about his sexual orientation. The 17-year-old was put on police probation and required to write an essay about what he had done.

##### **Case Study 2 Experimental Romantic**

A Year 6 girl (aged 11) texted a photo of herself, topless but covered, to her 12-year-old boyfriend (an ex-pupil). No physical sexual activity took place between them prior to this event on or offline. The image was discovered on the boy’s mobile phone by his mother who deleted the image and then contacted the girl’s parents. The girl’s parents approached the school for advice.

#### **5 Experimental Sexual Attention Seeking**

Cases in which images were made and sent between or among young people who were not known to be romantic partners, or one youngster took pictures and sent them to many others or posted them online, presumably to draw sexual attention.

##### **Case Study 13 Experimental Sexual Attention Seeking**

A girl, 15, sent unsolicited naked pictures of herself to three different boys in her school using her mobile phone, including to one boy who was 18. Then she and a friend went to their class teacher because they were concerned the images would be sent around the school. However, none of the pictures were ever found and the case was dropped.

### **Case Study 14 Experimental Sexual Attention Seeking**

A girl, 17, posted nude pictures of herself on a social networking site. The website identified the images as possible child pornography, removed them and reported the incident to CEOP, which forwarded the report to the local police force. The police approached the school and talked with the girl, but she was not charged.

### **Case Study 1 [Primary/Primary] Experimental Attention Seeking**

Involved a group of pupils aged between 9 and 10. One girl (aged 9 with mild learning difficulties) was speaking to a group of friends from school via MSN using her webcam. Her laptop was upstairs in her bedroom. She was getting ready for bed and was sat in a towel and “flashed” on webcam. Another pupil (girl aged 10) from the group told the class teacher what had happened the next day at school, who then reported the concern to the head teacher.

## **6 Experimental Other**

There were a small number of cases that did not appear to have aggravating elements, like adult involvement, malicious motives or reckless misuse, but also did not fit into the Romantic or Attention Seeking sub-types. These tended to involve either young people who took pictures of themselves for themselves (no evidence of any sending or sharing or intent to do so) or pre-adolescent children (age 9 or younger) who did not appear to have sexual motives.

### **Case Study 15 Experimental incident: Other**

An 11 year old girl took naked pictures of her breasts with her mobile phone. Her grandparents discovered the images, did not realise they were of the girl and brought the phone to school. The girl, when interviewed, admitted she took the pictures of herself but said she had not sent them to anyone, and there was no evidence otherwise