Sexting in Australia:
The Legal and Social Ramifications

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1.0 Introduction

Oasis Hunter is an organisation, which aims to educate members of the public about the dangers and legal implications of sexting. Our staff members are constantly experiencing a lack of education and awareness amongst today’s youth. We are an organisation, which strives to inform and educate our youth through sexting seminars and workshops. We also provide assistance and support to children and teenagers who are dealing with the consequences of sexting. Our first-hand experience in this field, has allowed us to experience the challenges associated with sexting, including the need for further education and awareness. We continually witness the damaging nature of sending sexually explicit messages or photos through the Internet or mobile phones.

A national survey in 2010 revealed 59% of teenagers have sent sexually suggestive emails or messages (Understanding Teenagers, 2010). This confirms our belief that sexting is becoming more prevalent amongst our youth. It also supports our argument that education in Australia is inadequate and not accurately combating this growing issue. Advances in technology are making this form of communication more accessible and the use of such technology is creating an ideology that this behaviour is acceptable. It is therefore our aim to provide information to the public to both assist and educate them on sexting and the legal and social ramifications involved.

We have prepared this submission in response to the second Term of Reference for this inquiry. Our discussion will focus on consequences associated with the current lack of education and awareness of sexting. It is our experience that children, teenagers and parents do not understand the dangerous and serious nature of sexting and they are not aware of the repercussions associated with the act.

Therefore, it is our intention in this submission to address:

- The education of primary and secondary students
- The education of parents
- The social ramifications associated with sexting, and;
- The legal ramifications associated with sexting
2.0 Background

2.1 Definition of Sexting

Sexting is the act of “creating, sharing, sending or posting of sexually explicit messages or images via the Internet, mobile phones or other electronic devices by people, especially young people,” (Parliament of Victoria, 2012).

2.2 Current Statistics

Sexting is increasingly becoming a high priority issue in Australia, particularly amongst minors with over 20% of teenagers having now participated in sexting (AASA, 2012). Our organisation is concerned this figure is on the increase and we believe the current sexting statistics in Australia will incur a dramatic influx if action is not taken by the government to prevent such involvement.

In Australia it has been reported that:

- 40% of 588 girls surveyed by a 2010 poll by Girlfriend magazine had been involved in sexting (Understanding Teenagers, 2010).

- In 2011, Queensland has the highest number of reported sexting offences at 459 (Atkin, 2011).

- Sexting offences in Western Australia almost tripled in two years between 2009 and 2011 (Atkin, 2011).

- Despite the law, more young people are being reported to police for child pornography offences than ever before (Atkin, 2011).

The current statistics show us that sexting should be regarded as a high-priority issue in Australia and there is a growing need for further education and awareness. Due to the fact that underage sexting offences are legally considered child pornography, we feel it is essential that today’s youth are aware of the consequences and dangers associated with the risk of sexting.
3.0 The Education of Sexting in Australia

3.1 Primary and Secondary School Students

Hugh Stevens, member of the Victorian Privacy Commissioner’s Youth Advisory Group, stated “Youth are now using technology to communicate and be closer to each other than ever before. Sexting is a phenomenon where this communication has significant negative consequences, often beyond the thoughts of the young people involved” (Privacy Victoria, 2011, p. 1). A key issue behind why young people still partake in sexting is due to a lack of relevant and engaging education in our schooling systems. Through an analysis of initiatives released by the Commonwealth government, the Australian Federal Police and the Australian Communication and Media Authority (ACMA), it can be seen that the education of sexting is inadequate.

In April 2011, the Commonwealth government released its $120 million Cybersmart initiative (Forde & Hardley, 2011). This initiative included new lesson plans about sexting for both middle and secondary school students. The aim of this new program was to educate Australia’s youth on the dangers associated with sexting. Our organisation believes when it comes to sexting, educating high school students is essential, however, we also feel that education is currently being left too late. We feel that students need to be aware of the risks and consequences of sexting in primary school, before having access to mobile phones.

The Australian Federal Police (AFP) set up a website for parents and teachers with information about sexting at www.thinkyouknow.org.au (Jenkinson, 2011). According to Jenkinson (2011) since its release, some academics and high-profile educators have stated the program is boring, uninteresting and unworkable. Several teachers including the headmaster of Kings College in Sydney, Dr Tim Hawkes, were reluctant to show their students the AFP material. Hawkes argued the material was dull, slow and failed to engage many viewers. He thought the content placed too much emphasis on making the protagonist female look evil, rather than looking at how the inappropriate sexting took place in the first instance (Jenkinson, 2011).

Similar sentiments have been expressed towards the Australian Communications and Media Authority. ACMA released an online professional development program called Connect.ed which aimed to educate teachers on how to protect their students from online dangers including sexting (Atkin, 2011). What each of the three aforementioned programs fail to achieve is engaging students
Our organisation believes schools should provide students with face-to-face sexting awareness and education programs. The facilitators of such programs should not be their teachers or police spokespeople, but rather trained individuals who the students can relate to. In our experience the current content and educational resources are not adequately informing young people in a way that impacts their thoughts on the issue. In our opinion the content showed to students needs to enforce that sexting can become a digital footprint, which can last forever and can damage future career or relationship prospects (New South Wales Government n.d, p. 1).

3.2 Parents

With the prevalence of sexting amongst minors on the increase, one of the role’s our organisation focuses on is educating parents on the dangers of sexting and the implications this may have on their children. As part of a broader conversation about sex and relationships, it is imperative that parents talk to their children about sexting (Tran, 2012).

As Amanda Lenhart, the author of Teens and Sexting comments, “The desire for risk-taking and sexual exploration during the teenage years combined with a constant connection via mobile devices creates a ‘perfect storm’ for sexting,” (Tran, 2012). We believe parents need to have a good understanding about the technology they’re dealing with as well as engaging in communication with their children about the risk of their online interaction and sexting (New South Wales Government, 2011).

To assist parents, the New South Wales Department of Education has produced an informational sheet entitled ‘Safe Sexting: No such thing’, which includes a number of useful tips when discussing the dangers of sexting with their children, including:

- Warn your children about the consequences of sexting.
- Remind children to think before they act.
- Tell children that sending or possessing child pornography is illegal.
- Warn them about sexual predators.
- Parents should learn about how to use and monitor their children’s mobile phones.
- Parents should check photo galleries on their children’s Facebook and MySpace accounts.
In our opinion, the education of parents is an essential part of the process to overcome the issue of sexting, “Studies show that many parents don’t always understand what their children are doing online. With the growth in smartphone technology and social networking sites like Facebook and Twitter, it’s time to get up to speed with your kids’ tech habits” (New South Wales Government, 2011). As an organisation which focuses on educating the public about sexting, we believe education for parents is extremely essential. Educating parents would enable a greater understanding of the dangers and consequences surrounding the issue, which can greatly affect their children.

3.3 Social Ramifications

Social ramifications can be the most damaging when it comes to sexting (Goodings & Everaardt, 2010). One specific example, which highlights the extent of sexting ramifications, is exemplified through cyber-bullying. In the most serious sexting case to date, a teenage girl in America committed suicide after photos she sent to her boyfriend were sent to hundreds of people. This resulted in the girl receiving harassing messages online and in person (AASA, 2012).

Our organisation has not dealt with cases as severe, but we are concerned sexting cases in Australia could escalate. We regularly experience issues surrounding sexting where our clients are unaware of any social consequences. It is from these experiences that we believe there needs to be a dramatic increase in education for young people in terms of the social ramifications of sexting. Social ramifications associated with sexting can include:

- Damage to a person’s reputation
- Damage to a person’s self esteem
- Sexually explicit photographs being spread to unintended audiences
- People involved in issues of sexting becoming depressed and/or embarrassed
- Victims losing valuable friendships or relationships with family members and partners (Goodings & Everaardt, 2010).

In one of our organisation’s own examples, a young girl approached us for help in regards to social ramifications from sexting. The teenager had changed schools three times, but could not escape the
inappropriate photographs which were circling of her. As a result, she had developed a well-known reputation across a variety of schools in the area. From our experience, it is apparent that young people are unaware of the damaging consequences associated with sexting and further education would assist in deterring or preventing these issues.

3.4 Legal Ramifications

A damaged reputation and emotional anguish are not the only repercussions of sexting (Atkin, 2011). Our organisation believes this growing trend is presenting society with complex dilemmas and our legal system is left struggling to devise an appropriate response. The legal ramifications of sexting may be severe and uncompromising. Current legislation dictates that children who participate in sexting could potentially face child pornography charges and may even be placed on the Sex Offenders Register. Regardless of the willingness of the participants, Commonwealth law, Part 10.6 of the Criminal Code Act 1995 identifies it as an offence to “access, transmit, publish, possess, control, supply, or obtain child pornography.” (FindLaw Australia n.d, par. 2). Cyber safety expert Susan McLean states “the laws make no distinction between sexting and more heinous sexual crimes such a paedophilia,” (Savage, 2009, par. 3). In our experience, it is evident young people are not aware of the laws governing sexting and they do not understand the legal ramifications they may face in light of the act.

While debate surrounds the appropriateness of the regulation of sexting there are no laws in Australia that are specific to the act itself; therefore, it must function within “an overlapping matrix of laws” (Forde, 2011, par.16) that may in some ways relate to the issue but do not sufficiently address it. Sexting may be regulated by Civil, State, Federal and Criminal laws and punishment may vary in severity. We believe it is important for people to understand that the legal ramifications of sexting may permanently affect them and can be equally damaging to children, adults, schools and other institutions alike. We believe there is a large need to educate society with a particular focus on school-aged children on the legal ramifications of sexting.
4.0 Conclusion

This submission has been prepared to address some of the issues surrounding education in regards to sexting. Through working with primary and secondary school students as well as parents, it is our experience that sexting is a prominent issue in our society that requires renewed attention. Due to various technological advances and areas of the law pertaining to child pornography, it is vital that the education of sexting becomes a fundamental part of the educational process for both parents and children. We believe that exposure to real-life consequences, both socially and legally, are essential in overcoming this issue. Our organisation would like to see a progression in efforts of educating children at school and educating parents, to better equip them with the tools to continue the process at home.
5.0 Recommendations

Recommendation 1:
Better resources are needed for educating both primary and secondary school students about the risks, dangers and consequences of sexting.
- Videos shown in classroom settings need to be as realistic as possible in order to help young people understand real life consequences.
- Students need to be better educated about the real-life consequences of sexting, including being placed on the sex offender registry and impacts to potential job opportunities in the future.
- Students also need to realise the psychological and emotional consequences of sexting including cyber-bullying.

Recommendation 2:
With regards to educating students, there needs to be an introduction of staff who specialise in the area and are relatable to students.
- Students will respond better to individuals they can relate to rather than people in positions of authority (e.g. the police). Ideally the presenters could be individuals who have dealt with the consequences of sexting.
- Educators need to be trained and paid.
- This would benefit students and schools as it would help to ensure education is consistent and useful and the issue is dealt with professionally.

Recommendation 3:
Education needs to be targeted specifically at parents.
- Information seminars could be held for parents to illustrate the various consequences sexting can have and tips on how to educate their own kids.
- Parents also need to be fully informed about the legal repercussions sexting can have on their kids, as these real-life consequences could have a huge impact on their future.
- It is crucial parents are aware of how the various technologies can be used and impose certain restrictions of their use in the home environment.
Recommendation 4:

Informing students about sexting should be a compulsory part of sexual education classes from an upper primary school level.

- Sexting education will be more effective if it starts at an upper primary age.
- Children need to be educated on the dangers of sexting before they reach an age where they own a mobile phone and operate social media sites.
- Including sexting as a part of sexual education will assist parents and the government to provide a further avenue for teaching children about the dangers and ramifications.
In - Text Sources


Other Sources


Inquiry into Sexting: Education


