

CORRECTED VERSION

LAW REFORM COMMITTEE

Inquiry into sexting

Melbourne — 18 September 2012

Members

Mr A. Carbines
Ms J. Garrett
Mr C. Newton-Brown

Mr R. Northe
Mrs D. Petrovich

Chair: Mr C. Newton-Brown
Deputy Chair: Ms J. Garrett

Staff

Executive Officer: Dr V. Koops
Research Officer: Ms A. Gordon

Witnesses

Mr J. Dalgleish, Manager, Strategy and Research; and
Ms M. Price, Senior Researcher, BoysTown.

The CHAIR — Welcome, John and Megan.

Mr DALGLEISH — Thank you for the invite, and good morning.

The CHAIR — Before we start, the ABC has asked for permission to film today, and the footage of what you are speaking about may be used. Are you happy for that to happen?

Mr DALGLEISH — Yes, that is fine.

The CHAIR — The Law Reform Committee is one of several committees set up by the Parliament. We are a cross-party committee. We are given references by the Attorney-General to look at law reform, and this is our third inquiry. Basically we get information and we call people in to give us evidence. We ask questions in a pretty informal hearing, so we will probably cut you off and ask questions as they arise.

Mr DALGLEISH — That is fine.

The CHAIR — At the end of it all we write a report which goes to government, and then the government responds to that report. While Russell and I are members of the government, we are not representing the government; we are representing the committee as part of a bipartisan committee. We make recommendations, and then the government reports back in six months or so as to any potential changes. Anything you say in the room is covered by parliamentary privilege but not outside the room, so if our friends from the media grab you outside and ask for a comment, you should just be aware of that.

Mr DALGLEISH — Sure, that is fine.

The CHAIR — If you could start with your name and your professional address and then talk us through your report. Obviously we have had the report so there is no need to read through it, but perhaps you could highlight the issues.

Mr DALGLEISH — We have prepared a brief summary as an opening statement if that is helpful to the committee.

The CHAIR — Okay, great.

Mr DALGLEISH — Thank you for your welcome, and thank you for explaining the process. My name is John Dalgleish, and I manage the Strategy and Research Unit for BoysTown, which includes the Kids Helpline.

Ms PRICE — I am Megan Price, and I am a senior researcher at the BoysTown Kids Helpline.

The CHAIR — The address for BoysTown?

Mr DALGLEISH — Black Street, Milton, Brisbane.

The CHAIR — You have come down from Brisbane?

Mr DALGLEISH — Yes.

The CHAIR — Thank you very much for the effort.

Mr DALGLEISH — We are also involved with a research centre for online technologies for young people, so we can cross off a couple of different things.

Ms PRICE — Shall we start with the introduction?

Mr DALGLEISH — Please.

Ms PRICE — As John said, we thank the committee for the opportunity to provide further comments in relation to the inquiry. John and I are both experienced and published researchers in cyber-related issues. The evidence we are presenting today largely originates from analysis of our contacts that are made by children and young people to Kids Helpline.

Kids Helpline, as you may know, is Australia's only 24/7 confidential support and counselling service which is aimed at children and young people 5 to 25.

The CHAIR — That is run by BoysTown, is it?

Mr DALGLEISH — Yes.

Ms PRICE — Yes. It acts as a safety net for vulnerable children and young people and supports a range of problems, from very general problems — family, friends and school problems — to some of the more serious things like child abuse, bullying, mental health issues, and drug and alcohol use. It provides direct access to trained counsellors via the phone, email and real-time web; and then there are also self-directed help-seeking options that Kids Helpline provides through the website.

In 2011 Kids Helpline provided counselling, information and support to approximately 513 000 direct contacts and self-directed website help-seeking activities. This included 64 442 counselling sessions and over 200 000 other conversations and contacts with counsellors. On average in 2011 Kids Helpline received about 34 000 monthly attempts to reach the service, and almost a quarter of these were from Victorians aged 5 to 25, including 16 110 which were counselling-specific contacts. Thirty per cent of Kids Helpline funding is received from government and corporate support; its major sponsor is Optus and the remainder is self-funded by BoysTown. As we are acutely aware, and this is why we are here today, information and communication technologies have pervaded modern-day life, particularly for children and young people, and it is influencing the way they receive information and interact with others.

The CHAIR — Sorry for interrupting, you may be getting to this, but on a general breakdown of those figures you gave, how many of those relate to the issue we are talking about today?

Ms PRICE — That is right, yes, so Kids Helpline sees a range of components of cyber behaviour, including mobile phone and other cyber behaviour; we see that across a wide range of primary problem areas, as we define them. Sexting behaviour sits under those cyber-related problem areas.

The CHAIR — What proportion of the calls or the contacts you have would be related to cyber-type issues?

Ms PRICE — In the first half of 2012, 1019 of the 35 000, almost 36 000, contacts received from 5 to 25-year-olds related to primary problem areas where cyber issues were a concern.

The CHAIR — That is about 3 per cent or so?

Ms PRICE — That is right.

Mr DALGLEISH — And we are hoping now that we will be able to do a trend analysis of those cyber issues going forward. But for us what we would like to put to the committee is that sexting is a cyber behaviour that is one of many other cyber behaviours. What we are finding is that because of the proliferation of mobile phones, particularly mobile phones that are internet enabled, young people now use those phones to replicate and to extend their face-to-face behaviours into the cyberworld. So if there is bullying, young people who bully will then most likely use the internet to extend that cyberbullying behaviour. It amplifies the impact of that. Young people who are exploring their sexuality with each other may then use the internet as a channel to extend that behaviour in the virtual world. So the internet is being used to extend and amplify and to increase the impact of various face-to-face behaviours.

The CHAIR — Has that 1000 or so contacts increased over time? Do you have the stats that go back?

Mr DALGLEISH — We cannot say, because we have only been — —

The CHAIR — You have only just started to release the figures?

Mr DALGLEISH — Yes.

Ms PRICE — Yes, as of January 2012. So we can see it across a range of problem types. As John mentioned, bullying is one, dating and partner abuse and sexual violence offending acts are another one. We have got partner relationships, emotional wellbeing, self-injury, suicide concerns, physical and sexual

development. Cyber-related concerns permeate throughout all of those various problem types; it is not in one area, which makes it quite challenging for us to actually determine the prevalence of sexting behaviour specifically. We do not actually think we are alone there. From what we can tell, there is no reliable or consistent prevalence data at the moment in Australia. We know from international studies the prevalence rates, but even those, the ones we have seen, range from about 1 per cent up to about 70 per cent depending on how you define 'sexting' and also what age groups you are looking at. We are yet to see consistent data in that space.

I think one of the challenges in the definitions is that some of them define it quite broadly around 'semi-nude', which some have called sexually suggestive, and then others define it as something a lot more sexually explicit where you are actually showing images of genitals and breasts and things. So how you define it affects these prevalence rates.

Mr DALGLEISH — And that is one of our recommendations. As you probably would have heard, 'sexting' is a term that was developed by Fleet Street journalists to explain the behaviour of a very famous Victorian cricketer. Kids do not necessarily use that term when they engage in this behaviour and there is very little research that has been done in Australia. Some researchers are just starting to look at it, but very little research has been done about what meaning children and young people place on this behaviour. What is their language? How do they define it?

Unless we know that in more detail it will be pretty hard to develop preventive programs. That is one of our recommendations. And we have also placed a recommendation before the Commonwealth inquiry that has been completed into cybersafety — that we need a research program in Australia that looks at young peoples' use of the internet around cyberbullying, around sexting, so that we can have a more insightful look at how we can prevent those behaviours.

Ms PRICE — What we do know with certainty, though, is that Kids Helpline is seeing increasing interest from children, young people, and parents and carers around seeking information and support through our website for sexting-related issues and cyber issues in general, but sexting in particular. Through that self-directed help-seeking option I was referring to before we offer information sheets and tip sheets targeted to teens and also targeted at parents and carers.

The CHAIR — When somebody has sexted and it has gone viral and a kid rings up obviously upset about it, what sort of counselling do you offer them? You obviously cannot undo the harm, so how do you deal with that?

Mr DALGLEISH — We know that the impact of that type of behaviour is similar to the impact of other cyber problems like cyberbullying, so kids become anxious, depressed, angry, they often withdraw from their social networks because they feel humiliated and traumatised by what happened to them. So that is where our counsellors start. They start from looking at, from the young person's perspective — and that is the important thing, from their perspective — what happened and what is the impact of that. What strategies can we work through together in our counselling session about how to overcome these issues? What supports do they have in their local community, including family? And one of the issues that we have found and we are finding it anecdotally in our case notes here, and we certainly found it in our study around cyberbullying, is that because the young people feel humiliated and traumatised, they do not want to talk about it, so they often will not talk to parents about what occurred.

In our counselling we talk to young people about the support people in their environment, and often they are parents and carers, and then we talk about ways in which they can speak to a parent or carer about what happened. We found in our research — Megan, a segue to you — about young people that that is an effective strategy.

The CHAIR — So in general terms do kids ring Kids Helpline because they would rather not talk with an adult or is it adults saying to their kids, 'Well, give Kids Helpline a call'?

Mr DALGLEISH — It is a combination of all that. With some issues like cyberbullying children and young people find it difficult to talk to a parent or carer. They could have the best relationship in the world but because they feel so humiliated by it they want to talk to someone more distant from their parents. And also that is the advantage of online counselling too. We often find that children and young people might even find a voice on the telephone too confronting and so they often will turn to text to write their story and to talk to a counsellor

through text — they feel more anonymous and therefore they feel safer doing that. But our counselling is about working through that with a young person and getting them to the point where they can seek support in their virtual and also in their face-to-face world with family and peers.

Ms GARRETT — I would certainly agree with your point about more research needing to be done — serious research regarding how young people are engaging and what speaks to them about how to monitor their own behaviour to ensure that their life is not affected by things they are doing as young people. With the work you have done and the counselling you are engaged in with young people, is there a pattern with how these things arise? Is it mainly girls who are being impacted, and is it usually within a relationship between two people or are they encouraged by their friends to participate? What is the usual arrangement?

Mr DALGLEISH — That is a very good point. We see a variety. We also see some very serious trends emerging on that too. Megan, do you just want to profile that?

Ms PRICE — We are seeing more females than males calling Kids Helpline about sexting behaviour and cyber-related issues, but that is consistent with general help-seeking trends overall. But when we look at the females around cyber-related issues and the proportion of those versus general help-seekers, it is higher than normal. From analysing the case notes that we see on this issue we can see a number of different behaviours arising. There is request-to-send explicit material; there are explicit images just being sent on one's own volition to partners, friends or online strangers; and there is the use of peer pressure and extortion and blackmail that is going on as well to initiate sexting or to obtain additional stuff — that is, 'You have sent me some material. If you do not send me more, I will do this'. We have seen that this has involved threats of suicide as well. People are saying, 'I will kill myself if you don't send me this'.

We have seen one and two-way video chat where they are displaying parts of their body and engaging in sexual activity through video. We have been presented with instances of taking explicit photos when someone is unaware of it and then circulating those. We have also been presented with instances where adult grooming behaviour has been going on, and some people are telling us about that through sites like the Omegle site, which you may or may not choose to include in your report. But that is one site we are aware of where adult grooming is going on.

Mr DALGLEISH — That site is all about setting up people with strangers. You have children going onto that site and being matched with a stranger — it could be anywhere in the world — and then that stranger is grooming and intimidating that child to do various acts in that space.

I guess in summary what we are trying to say is that there is a consensual level. There is peer to peer where there is a romantic relationship involved or an intimacy, but over and above that we are also starting to see, particularly through the internet, grooming behaviour, intimidation and coercion — often by adults — and we believe that is a very serious matter for this committee. We also believe that the severest penalties should be applied to that behaviour, because it is sexual violence and abuse of children that is occurring over the internet.

The CHAIR — You have suggested decriminalising consensual behaviour. Are there any parameters around that statement in terms of the ages of the participants?

Mr DALGLEISH — Yes, absolutely. We see three points in relation to that. Firstly, consensual — that is, the law of the land, with 16 years being the age of consent for sexual activity, so 16-plus. We believe that criminalisation should not occur to this sort of behaviour where it is within that consensual relationship and where both parties are over 16 years. The second point — —

The CHAIR — Sorry, before you go to the second point, if two 15-year-olds were exchanging photos, you would want that to be a criminal offence?

Mr DALGLEISH — No, we believe that is basically dealt with through community education.

Ms GARRETT — What are your thoughts on images being disseminated without consent?

Mr DALGLEISH — Yes, that is going to be my next point. That is about how the receiver uses that information. We believe that the child who produces material should not be criminalised but should be dealt

with in an educative framework. But if a child or an adult receiving that information then publicises that information or disseminates it, we believe that should be dealt with as an offence.

If it is a child that is disseminating, the *Convention on the Rights of the Child*, article 40, talks about the sentencing provisions for children, and that is about educating children about their behaviours and sentencing children to integrate them back with the community. It is also about recognising the immaturity of the child. We believe all those factors should be dealt with when the law is applied, if a child is disseminating that material. Dissemination, we believe, is an act that should be sanctioned by law.

Then the third level, as I said before, is where there is coercion, intimidation or grooming behaviour occurring, and we believe that the severest penalties should be applied to that.

Mr CARBINES — With young people, are you finding that those who find themselves as perpetrators of what we might term sexting offences, often due perhaps to a lack of education or lack of awareness of what they are getting themselves into, are then dealing with the ramifications of it?

Mr DALGLEISH — Absolutely, yes.

Mr CARBINES — Do you find that they seek any support or assistance from your organisation? Do you get any sense of how people who find themselves as perpetrators, not realising what they have got themselves into, are dealing with the consequences of their actions?

Mr DALGLEISH — Two points on that: Megan, from your analysis of the case notes, one of the things that came out very strongly was that young people see the impacts of sexting in a very short-term way. So, 'I feel anxious about what happened, I feel angry about it, I now feel embarrassed and humiliated by what happened'. I do not think one child talked about what you were just talking about: what are the long-term implications of this. We all know in this room that there are long-term implications, because once that material is put on the internet it is almost impossible to eradicate. It is there probably forever. It can impact on children when they become adults seeking employment; it can restrict their employment opportunities and so on.

So we believe that is what is important to communicate to children. We have to find the key to how we can do that most effectively, but those impacts from sexting — children need to hear those messages and need to be educated about that, and that is what is not occurring. We run our own programs, and in our report we talked about cybersafety and the Make Cyberspace a Better Place program we are running with Optus, where we developed a whole range of resources for teachers to use with children in their classrooms. We believe those sorts of campaigns can be built on so we can get that message across to young people that there are long-term implications from this. It is not just a one-off. There are long-term implications. But in doing that we also then do not want to overly stress the young people that might have already engaged in this behaviour as well. We do not want to give them a message, saying, 'Your life's over'. So we need to have a balance. But we have to get that message across that this is serious, it is high risk and there are implications that you need to think about before you do this.

To answer the Chair's question, that is the type of approach I would be looking at or suggesting the committee look at, for those under 16, those young children. They need to be dealt with in an education framework rather than a legal framework of criminalisation.

The CHAIR — So in that case, then, you would not want any criminal offences for anybody in terms of looking at it as far as children go, then? You initially put an age limit on it of 16.

Mr DALGLEISH — Yes, that being their sexual age of consent.

The CHAIR — Yes, but from what I understand, you are saying that at under 16 it should not be criminal either.

Mr DALGLEISH — Unless the party disseminates that in the public arena. Then I think if it is a child doing that, there should be some sanction; however, again that should be in an educative framework. Also if it is a legal sanction, it should be dealt with using the principles of juvenile justice.

The CHAIR — What about two children who exchange images, and then some years down the track one of the participants, as an adult, has the image of essentially child pornography on their phone? Is there a point at

which you think it should become illegal that they possess that image despite it being created consensually when they were children?

Mr DALGLEISH — It is a good question. Absolutely; I mean, the responsible act would be for that person to have deleted that many years previously, and if they still have material, then that needs to be investigated and an assessment needs to be made in terms of why they have material and how they are using it. If that involves a criminal activity, they need to be dealt with.

Mr NORTHE — Just on the education campaign — and I think most people would support the notion of having an education and awareness campaign associated with this — in a practical sense, how do you see that operating? Who would operate it? What is the intent? Are there any examples that you are aware of, of it operating in other jurisdictions that tackle this particular matter?

Ms PRICE — I would not see it as operating too differently at the moment to some of the cybersafety campaigns that have been rolled out in recent years. It is something that is filtered through schools and websites that are commonly used by children and young people. It basically outlines in a non-authoritative and fairly engaging and interactive way with children and young people — we know they are the sites that they go to and they prefer the informal tone — a campaign that basically defines to them what the behaviour is in their language, so they know what we are talking about when we are talking about this behaviour, and outlines the potential impacts of the behaviour, particularly those long-term impacts that John was talking about.

If it was integrated through the current channels — through schools, through education forums, through that way, similar to — we have got the Make Cyberspace a Better Place, which was an education package that was delivered to schools throughout Australia. Teachers could use it as a teaching resource and provide it with a number of lessons and education plans around how to be safe on the internet. It touched on things like sexting. But I think something a little bit more involved and explicit on sexting is needed.

Mr DALGLEISH — I think the other thing is that Andrew Campbell, an academic from Sydney University, has researched the help-seeking behaviour of children and young people. Children and young people seek information and assistance from three levels, if you like: family, peers and the internet. So any public awareness campaign needs to involve parents and carers. They need to be empowered with information so they can answer their child's questions about sexting behaviour and possible implications, because that is where the kids go to ask. They will ask family about it. It needs to be peer-orientated, and we need to look at programs that try to seek to change the normative values in peer networks. So there needs to be a value created in peer networks that says, 'This behaviour is not okay', for it to stop.

The third area is the internet. When kids go onto the internet to seek information, they are just swamped; we all know that. If you go to Google and type in 'sexting', you would get millions and millions of hits. If you go to the internet and type in 'suicide', when I last looked at it, you would get about 56 million hits, and they range from websites that encourage you to commit suicide to websites that try to prevent it. That is the problem for children. They go on the internet to seek information about this and they get swamped, so we also need to educate young people about what are authoritative and legitimate sources of information that they can access on the internet and that will help them legitimately. That is also a key part of an education program.

But like all programs, they need to be funded, and in our view that is a responsibility of the Commonwealth and state governments around Australia. There is no way around that. They also need to be integrated into the school curriculum, because that is where the kids are at. I know that that creates problems for schools; I have had those debates with teachers about, 'Our curriculum is already overcrowded; where are we going to get the space for this?'. My response back is, 'Well, you can't afford not to because the reality is that if a child is in your classroom and they have been the victim of outing in terms of sexting behaviour, or if they have been a victim of cyberbullying, because sexting leads to that sort of behaviour, they are not going to be learning in that classroom anyway'. They are going to be there, they are going to be anxious, they are going to be withdrawn and they are not going to be taking in the learning. It is really just something that has to happen.

The CHAIR — Donna has a question and then we have got about 7 minutes, so if you could conclude with anything you have not covered that you might like to talk about.

Mr DALGLEISH — Thank you.

Mrs PETROVICH — Thank you very much, and I apologise for not being here for your full presentation, although I have read it. You made a good distinction between consensual behaviour by young people and grooming behaviour by paedophiles. I think the crux of the issue for us is about the charges and about the threat of young people ending up on the sex offenders register. From what I can determine you have two distinct charges around paedophilic behaviour. I think we need to articulate very clearly that while it may not be appropriate for young people to end up on the sex offenders register that it is very important that those who do — —

Mr DALGLEISH — The adults who are doing the grooming certainly should be.

Mrs PETROVICH — They certainly have no slack cut to them.

Mr DALGLEISH — That is right.

Mrs PETROVICH — Also charges around stalking and threatening behaviour. How can we articulate the difference between those two issues and the consensual exchange of photos and the need for education? My fear is that we are not actually getting a lot of reporting at the moment because of the threat of the sex offenders register. Can you articulate how we can demonstrate that to the community as a least charge and the differentiation between paedophilic behaviour and those other activities?

Mr DALGLEISH — I think the community would know instinctively and intuitively that if an adult is going on the internet for the purpose of recruiting children and young people to be groomed for sexual activities that it is extremely serious and should have a severe sanction in law. I think that behaviour would be well understood by the community.

I think the other thing that would help the debate would be if there was a publicly recognised campaign by government talking about the development of children and the fact that children will experiment in terms of their sexuality and the fact that that behaviour between child and child, although not condoned, is being dealt with in an educative way by saying, ‘Young people, do you know this could have serious risks for you in your life?’. That would make that distinction between paedophile behaviour and the normal expression and experimentation with sexuality that children will do, whether or not there is an internet. But the fact that there is an internet now gives another channel for that information. I think those issues will need to be dealt with in a public awareness campaign.

Ms GARRETT — I have just one question. All of us are dealing in our electorates with the cyberbullying issues and concerned parents and distressed children. Certainly where I am from in the northern and western parts of the city there is also a very significant issue around culturally and linguistically diverse communities and the internet generally but cyberbullying particularly. We have had some terrible tragedies with young people taking their lives after cyberbullying. It seems to me in the work I am doing that there is a very strong concern, particularly in those communities, about needing information and education for families generally about the nature of the internet. Has that been something you have experienced?

Mr DALGLEISH — Absolutely. As Megan said, one of the information sheets on our Kids Helpline website that is most accessed by adults is the information sheet on cyberbullying and sexting. I would encourage people in your electorate to go to our website, which is www.kidshelp.com.au, where they will find a whole range of very practical information which is written from the perspective of, ‘Here’s the problem. This is how it impacts on kids. This is how you as a parent or carer can support your child through this issue’. That material is there, and people in your electorate can use it already. The young people in your electorate can ring Kids Helpline through a free contact as well.

Ms GARRETT — Do you have it in different languages?

Mr DALGLEISH — Not at this stage.

Ms GARRETT — Right, so that is an area where we need to — —

Mr DALGLEISH — Yes, that is true, and I think it is a fair comment. Only about one-third of our funding comes from government; we are 70 per cent self-funded, so there is a limit to what we can do.

Ms GARRETT — Maybe it is a broader part of the research that needs to be — —

Mr DALGLEISH — Absolutely, but that material is there now for parents. We know it has been well used, and we would encourage it to be used further. As I said, that material might be there, but it also needs to be backed up through messages given at a local community level — through schools to children and parents — about this issue.

The CHAIR — All right. Thank you very much for your report and for coming down today to give evidence. It has been very helpful to us.

Mr DALGLEISH — Thank you for the invitation, and good luck with your deliberations.

Witnesses withdrew.