

SEXTING AND YOUNG PEOPLE

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Foreword

When is a nude picture a ‘gift’?

The ‘sexting problem’ is frequently raised with me by adults and young people in my role as National Children’s Commissioner. Adults are worried about the risks associated with children’s exploitation and exposure to explicit images in the context of an unregulated digital world. Young people are concerned that what they understand to be private choices and associations are over-policed. It is clear that there is a big disconnect between adults’ and young people’s perspectives in this space.

This watershed book by Thomas Crofts, Murray Lee, Alyce McGovern and Sanja Milivojevic – *Understanding Sexting by Young People* – provides a rare window into the hearts and minds of young people and their use of technology in their relationships with each other. By conducting a series of focus groups and a survey of over 1400 young people, the authors have gathered new information about sexting behaviour and attitudes to it from both young receivers and senders of ‘sexts’. The information generously given by young people for the study is eye opening. Hearing directly from young people about their own interactions and relationships is a powerful reference point from which to gain a deeper understanding of their experiences and perspectives, and, in turn, enables us to rethink our policy and educative interventions.

The authors also set the context within which sexting acts are currently considered, through exploring: the impact of media commentary; the legal frameworks that capture ‘sexting’ as child pornography; and current educational responses to sexting which tend to perpetuate gender stereotyping and victim blaming.

In analysing the survey results, the authors conceptualise sexting between young people as part of ‘a gift economy’. Sexting, it is argued, generally constitutes a ‘gift’ and the way in which this gift is received depends on the relationship to the sender. A receiver may feel compelled to reciprocate the gift or to send the gift on as a gift to someone else. Of course, taking this latter path usually undermines the position and trust of the original sender.

Despite perceptions in the media and in the community, most sexting participants did not feel coerced or pressured into sending images. Most

young males and females in the study reported that they send images 'as a sexy present' or to be 'fun and flirtatious', and, for some participants, sexting was also experienced as a safe way to explore sexuality without physical sexual contact. That said, some participants did concede that there are situations where they might experience pressure to send or send on an image, for example, to keep a relationship, or to look popular.

The negative risks associated with sexting have been well documented. However, for the growing teen, we need to remember that taking risks is a fundamental part of their development and often experienced positively.

Further, the survey results show that sexting generally occurs within a relationship. While many young people report sexting sexual images, they also report not doing it very often, and usually with only one partner.

The authors point to the urgent need to address the criminalisation of sexting among children and young people, even if it is consensual, under a range of current child pornography and child abuse laws. They suggest that new laws covering non-consensual sexting by young people may partly be the answer. However, they warn that care must be taken to ensure that any reform does not end up being a net widening exercise that sees more young people charged with offences.

When we think about our commitment to uphold the rights of children and young people, we are obliged to consider the balance between keeping children safe and their rights to free expression, association and privacy – all so important for their healthy development and identity as active citizens. These human rights are not divisible and need to be able to coexist. While laws can play a part in regulating risky or harmful behaviour, education about the sexual ethics around sexting is more likely to be the solution.

Understanding Sexting by Young People presents a comprehensive and insightful analysis of the issues surrounding the contemporary phenomena of 'sexting' by young people, and the behaviours and perceptions of young people about their motivations in relation to sexting makes for compelling reading.

Megan Mitchell
Australian National Children's Commissioner

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Part I

Understanding Sexting by Young People

1

An Introduction to Sexting and Young People

Introduction

Young people integrate online and digital technologies into their everyday lives in increasingly complex ways. As McGrath (2009, p. 2) notes, '[y]oung people...see technologies (especially the internet) as a vital part of their social life and the building of their identity'. As mechanisms for socialising, education, relaxation, gaming, romance or communication between friends and peer groups, new technologies provide a key framework within which young people live their lives. Yet, the ways in which they incorporate romantic and sexual relationships and practices into this technology-dominated, virtual world has been relatively underexplored by researchers and, subsequently, it has become problematic for policymakers. Media and social commentators play an important role in drawing our attention to the intersections of digital technologies, sexuality and sexual practices of young people. However, such commentary has also seen these complex interconnections misunderstood and oversimplified. At the very core of contemporary debates around young people's online sexual practices, new technologies, social media, and childhood sexuality has been the phenomenon dubbed 'sexting'. While sexting has many meanings, which we critically explore in more detail below, it generally refers to the digital taking and distribution of images of a nude/semi-nude person through mobile phone or social networking sites.

There has been growing political, media and public concern about sexting in recent years, particularly sexting among children and young people. There have also been, in a range of jurisdictions, either reports of minors being prosecuted under child pornography or child abuse or child exploitation¹ laws for sexting-type behaviours. These two elements

of sexting – practices and perceptions, and regulation and legislation – form the core themes of this book. However, before we pursue these themes in depth, we need to set the scene. This introductory chapter considers how sexting is defined, discusses a number of scenarios said to constitute sexting, and introduces some of the conceptual frameworks used in this book to analyse practices of sexting by young people,² and laws and regulations which seek to govern such practices. The chapter also outlines the nature and structure of our research project, some of the key arguments we will be making in this book, and introduces the structure and content of the chapters that follow.

Defining sexting: complexities, discourses and terminology

The term sexting is a portmanteau first created by the media that derives from a conflation of the phrase ‘sexy texts’. It was first used to describe the sending or receiving of sexually explicit text messages (Rosenberg 2011). However, the term has now expanded to include the digital recording of naked, semi-naked, sexually suggestive or explicit images and their distribution via mobile phone messaging, email, or through the internet on social network sites, such as Facebook, Instagram and YouTube (see, e.g., Joint Select Committee on Cyber-Safety 2011, [4.47]). As the Law Reform Committee of Victoria notes, the term sexting is evolving and ‘encompasses a wide range of practices, motivations and behaviours’ (2013, p. 15).

Thus, as Ostrager (2010, p. 713) notes, while sexting could be loosely described as a ‘more technological approach to sending a flirtatious note’ (see also Lenhart 2009), this scenario is only part of much bigger picture. The term sexting is now commonly attributed to the making and distributing of nude or sexual ‘pics’ within a wide range of quite different scenarios: from taking a picture of oneself and consensually sharing that image with a friend or intimate partner, to the non-consensual resending of an originally consensually made image to a third party or the non-consensual taking and distributing of the image, to simply uploading an explicit image of oneself onto a hard drive. Other scenarios include the recording of a sexual assault, or adults sending an explicit text to ‘groom’ a child (Law Reform Committee of Victoria 2013, p. 19). ‘Sexts’ may also be used as tools to harass, bully, threaten or even coerce a person to behave in a certain way. Depending on jurisdiction and the age of participants, these behaviours may or may not constitute

criminal offences. Thus, the complexities of sexting require a thorough investigation of the practices it encompasses as well as the motivations, relationships, and perceptions of the actors involved.

Sexting as a term has been particularly salient in popular media and political discourse. It has, in a sense, discursively captured the public imagination. Indeed, sexting among young people has become a significant cultural phenomenon, a topic of major media discussion and the target of concern by law and policymakers. Over the past few years, news media in Australia, North America, Europe and other Western countries have reported numerous cases of sexting where minors have used digital technology to manufacture and distribute sexual images of themselves and/or other minors, in some cases falling foul of child pornography laws. Populist responses to this behaviour have ranged from liberal commentators calling for the decriminalisation of sexting, to conservatives insisting that sexting should be considered a form of child pornography (see Weins and Hiest 2009, p. 2). Media reports and public discourse about sexting tend to gravitate between moralising statements about the inappropriateness of such behaviour by young people, and the emotional and physical harms engaging in sexting potentially cause for young people, to concern that the current legal frameworks in some jurisdictions wrongly allow for the prosecution of young people under child pornography laws. There are reported cases across jurisdictions internationally that have seen young people added to sex offender registries or facing other extreme punishments; outcomes that well may have a significant negative impact later in their lives (see Chapter 4). To an extent, the broad range of activities that fall under the definition of the term sexting means that there is a lack of clarity over the need for a legal response to it (Moran-Ellis 2012, p. 116).

Before we outline the research and data covered in this book, we need to discuss the use of terminology. The term sexting is not commonly used by young people, even young people who engage in the practice, as discussed in Chapter 9 in this book. Rather, young people refer to forms of technologically mediated sexual communication as 'nudes', 'dirty pics', 'nude selfies' amongst other terms. Sexting, to them, is a term used by 'out of touch' adults (Weins 2014, pp. 3–8). Largely, we agree that the term is problematic because, as we will argue in this book, sexting fails to distinguish the full range of behaviours, scenarios, motivations and emotions that characterise technologically mediated sexual communications. Despite this, we have decided to use the term sexting throughout this book as it is the term commonly used in academic and public discourse.

About this book

This book investigates the phenomenon of sexting by young people. We examined this under-researched but emergent contemporary legal and social issue using an inter-disciplinary and multi-methods framework asking the question: Are current legal and policy responses to sexting appropriate and are they reflective of young peoples' perceptions and practices of sexting? As such, the research that informs this book had three specific aims: to document young people's perceptions and practices of sexting; to analyse public and media discourse around sexting; and to examine existing legal frameworks and sanctions around sexting and develop recommendations for appropriate and effective legislative policy responses to the practice. The research consisted of a three-stage research project: quantitative surveys and qualitative focus groups with young people, recording their views and experiences of sexting; a media discourse analysis aimed at capturing the tenure of public discussion about sexting; and an analysis of existing laws and sanctions that apply to sexting. Importantly, this research sought to give voice to young people on this topic – a voice that has long been absent from such discussion (Karaian 2012). In doing so we are not suggesting that laws must slavishly respond to the voices of young people. However, their voices can help us to understand their various motivations for, and practices and experiences of, sexting. This in turn can assist in evaluating the effectiveness and appropriateness of existing laws and how laws and policies might best develop to address sexting.

Structure of this book

This book has four parts. The first part, which includes this introduction, explores how we might understand sexting. To begin we provide an overview of key conceptual frameworks we use in the book to explain and theorise sexting practices, as well as to frame existing research and literature on the topic.

Part II discusses what we currently know about sexting. It examines media, law and policy, and educational responses to sexting as well as assessing the already available research into sexting by young people. Chapter 3 begins with an exploration of media representations of sexting. Our analysis focuses on Australian and New Zealand media reports since 2002, and explains the emergence of sexting in the media discourse. We ask how sexting rose to be such a newsworthy topic and outline some of the key themes that have emerged from the media coverage on sexting.