

SEXTING: CONSIDERATIONS FOR CANADIAN YOUTH

Until a few years ago the word “sexting” did not exist. The word is a combination of sex and texting and refers to the sending of sexually related text or images from one mobile phone to another. In most instances, sexting refers to the sending of nude or semi-nude photos that the sender has taken of themselves. Based on media coverage of the issue, it is assumed that one prominent form of sexting is the exchange of nude photos between teenagers.

Until recently, most of the media coverage of teen sexting has taken place in the United States where a number of teenagers have been charged and convicted of distributing child pornography because of their sexting activities. Media in Canada have recently begun to also pay attention to the topic of teen sexting. Headlines in Canadian newspapers and magazines include “Sexting alarms educators, police” (O’Brien, Toronto Sun, March 24, 2011), “Sexting nude photos a teen concern” (Baute, Toronto Star, January 7, 2010) and “The sexting scare” (Kingston, Macleans, March 12, 2009).

HOW COMMON IS SEXTING AMONG TEENS?

To date, there have been no published studies examining how many Canadian teens have used their cell phones to send or receive nude photos. Three studies have examined sexting among teens in the United States. In an online survey of 653 teens aged 13-19 commissioned by the National Campaign to Prevent Teen and Unplanned Pregnancy (NCPTUP) and CosmoGirl.com (2008), 22% of teen girls and 18% of teen boys reported that they had electronically sent or posted online nude or semi-nude pictures or video of themselves. An Associated Press and MTV (2009) survey of 1,247 respondents aged 14-24 found that 13% of females and 9% of males had sent a naked photo or video of themselves. Finally, using a nationally representative sample of younger teens aged 12-17, and looking specifically at cell phone text messaging, the Pew Research Center (2009) found that 4% of teens who owned cell phones reported that they had sent sexually suggestive nude or nearly nude images to another person.

WHY DO TEENS SEXT?

In the Pew Research Center (2009) study, focus groups were held with teens asking them to express their views on sexting and to describe the situations in which teens are likely to sext. They found that most cases of teen sexting fell into the following three categories:

1. Exchange of photos solely between romantic partners in a relationship.
2. Exchange of photos between two people not in a relationship but where one of the people sends a sext in the hope that it will help to start a romantic relationship between the two.
3. Exchange of photos between romantic partners or the sending of photos from one person to another with the hope of starting a relationship but the photos are then sent to additional people (Pew Research Centre, 2009).

SEXTING AND CANADIAN LAW

For adults, exchanging nude photos electronically is, under most circumstances, a legal activity. However, the creation and sending of nude photos of people under the age of 18 does, technically speaking, break Canada’s child pornography laws. The child pornography sections of the Criminal Code of Canada are intended to prevent the sexual exploitation of young people. Specifically, the Criminal Code Section 163.1 on child pornography makes clear that the creation and distribution of images depicting sexual activity or the depiction of a sexual organ of a person under the age of 18 is a criminal offense (for the actual wording of the law, see Department of Justice, 2011).

The primary objective of this law is to protect children and teens under age 18 from being exploited and harmed by adults through the creation and distribution of child pornography. In general, the intended purpose of the child pornography law does not include the prosecution of teens for the taking and sharing of nude photos as long as the photos are kept private between the original partners (Slane, 2009). Nevertheless, sending nude photos of teens under age 18 over an electronic device is, technically speaking, a criminal offense.



SEXTING: DIFFERENT SCENARIOS

Scenario A - Two teens under the age of 18 consensually (meaning they both freely agree to it) exchange nude photo's of themselves and no-one else ever sees them.

Scenario B - One teen sends a nude photo of themselves to their dating partner. Weeks, months, or years later the dating partners break up and the partner who received the photo, sends it to others.

One way to get a better understanding of this issue and why there is concern about it is to clearly separate the implications of sexting in different scenarios. In scenario A, two teens under the age of 18 consensually (meaning they both freely agree to it) exchange nude photo's of themselves and no-one else ever sees them. While technically speaking, this exchange of photos violates Canadian child pornography laws, it is unlikely that a private exchange of this kind would come to the attention of law enforcement officials. As noted above, Canadian child pornography laws were not created to criminalize teenagers who privately exchange nude photos intended only for each other as part of a non-exploitive intimate relationship. Thus, even if these photos came to the attention of law enforcement (for example, if a phone containing private photos was lost and someone else accessed the photos and turned in the phone to police), it is unlikely that in this scenario the two teens involved would be criminally prosecuted for their sexting activity.

However, there is another scenario that teens should consider before sexting a nude photo of themselves to another person. In scenario B, one teen sends a nude photo of themselves to their dating partner. Weeks, months, or years later the dating partners break up. The partner who is in possession of his/her ex-partner's nude photo then sends the photo to one or more other people (or posts it on a blog or website) who may in turn send the photo to still more people. Once the photo has moved beyond the private exchange between the original two teens and is distributed to a wider audience (something that can happen very quickly with cell phones and cyberspace) it becomes much more likely that someone (e.g., a school principle or concerned parent) will bring it to the attention of the police. In this scenario, according to the strict definition of the law, the original dating partner who sent the photo to a third person and everyone who subsequently sent it to someone else has, legally speaking, distributed child pornography. In one case, in 2007, an 18-year-old male in Alberta was charged with the possession and distribution of child pornography because he showed to other people nude pictures of a 15 year-old female who had privately emailed the pictures to him. The male in this case was allowed to plead guilty to a less severe charge (Baute, 2010). In similar scenarios in the United States, the teens involved have been charged and convicted for distributing child pornography.

PRIVACY ISSUES

Based on the research, it is clear that, in most cases, when one teen sends a nude photo of him or herself to another teen, the sender and the receiver are already in a romantic relationship or the sender has sent the photo with hope they soon will be. In either case, we can safely assume that the sender wants the communication to be private, that the photo will not be sent to others. However, as the statistics in the box below show, this is not always the case.

In the Associated Press/MTV (2009) survey, 17% of those who had received a sext reported that they had passed it along to one or more other people.

In the NCPTUP/Cosmogirl.com (2008) survey, a quarter (25%) of teen girls and a third (33%) of teen boys reported that they had seen nude or semi-nude sexts intended for someone else.

When it comes to sexuality and relationships, most people place a very high value on some level of privacy, not wanting their personal communications and displays of affection to be exposed for others to see. While the modern world of information and communication technology offers us the ability to communicate with friends, family, and relationship partners in very fast and effective ways, it also exposes us to risks to our privacy and this is particularly the case with sexting.



WHAT'S THE TAKE HOME MESSAGE?

1. A person may feel comfortable that their privacy will be protected because they are sending a picture of themselves to a current relationship partner who they trust and feel comfortable with. But the reality, especially for teens and young adults, is that most relationships don't last forever. Will you feel the same level of trust and comfort with an ex-partner who still has the nude photos of you that you sent to him/her months or years before? It's clear that in many of the cases where nude photos have been sent to large numbers of people it was an ex-partner of the person in the photo who did the sending.
2. As the authors of the NCPTUP/Cosmogirl.com (2008) study note "There is no changing your mind in cyberspace – anything you send or post will never truly go away" (p. 2). In other words, if you send a nude photo of yourself to someone else, even a trusted partner, you lose control of it forever. There will be no way for you to delete it from cyberspace.
3. Whether it is the result of a current or ex-partner's breaking your trust or simply the result of an accident (e.g., a lost or stolen cell phone with your image on it, an intercepted e-mail etc.), sexting images that are eventually seen by family members, friends, people who don't like you, and even future employers may have unexpected consequences.
4. When it involves nude images of people under the age of 18, sexting may violate Canadian child pornography laws. This is an especially important consideration for anyone who is considering sending photos that they have received from a partner to other people.

ACKNOWLEDGEMENT:

Our thanks to Professor Andrea Slane, Legal Studies Program, University of Ontario Institute of Technology for her helpful comments and suggestions on a draft of this article.

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