



What is Sexting?

Sexting is the act of sending or receiving sexually suggestive or explicit messages or images (video/photo) via:

- Any electronic communication including text messages, email, instant messages, and online posts;
- Devices such as mobile phones and computers, camera or wireless devices;
- Online and Internet services including social networking sites and other social media spaces and tools such as photo and video-sharing sites, blogs, virtual worlds, and illegal or legal pornography trading sites.

Depending upon the circumstances and context, sexting might include:

- Legal and/or an illegal activities;
- Consensual flirtations (e.g. via text or online dating services) and/or nonconsensual situations;
- One or more acts where a person takes or distributes images or messages in order to do harm, harass, threaten, abuse, intimidate, coerce, stalk, or bully;
- A person grooming or coercing a victim into taking and/or sharing messages or images;
- Solicited, coerced or surreptitious recording or picture-taking by individuals who have the goal of producing child pornography or nonconsensual adult pornography;
- Online posts, images, or messages shared by someone in order to impersonate the victim.

Why is Sexting Relevant to Agencies, Partnerships, and Communities?

- When perpetrators misuse sexually suggestive or explicit messages or images to coerce or abuse, it can have an immediate and significant impact on a victim's life. Many sexting victims are revictimized in their school, workplace or community and some victims have attempted or committed suicide, after perpetrators took and/or distributed images of the victim.
- Sexting can affect people of all ages. Competent and age-specific intervention and prevention activities can educate about the risks of sexting, promote healthy sexuality, and work to minimize and prevent future victimization from nonconsensual sexting.
- Not all laws and policies adequately address the context of sexting and its' impact on victims.
- Given the speed with which sexts get shared, agencies working with victims of abusive or nonconsensual sexting need to be prepared to respond quickly, to understand options and limitations for trying to remove sexts posted online, and to have a basic understanding of shorthand text lingo that might be used in sexting, such as: *S2R = Send to Receive (pictures)*, and *GNOC = Get Naked On the (web) Cam*.

How Will You Know That Technology is Involved?

Sexting by definition involves the use of technology to send or receive sexually suggestive or explicit messages or images. The critical challenge will be to determine how many individuals, devices, service providers and online spaces are involved in a particular sexting victimization. There may be many different types of technology used in sexting victimization.

What Can Agencies and Partnerships Do?

- Help victims to do ongoing safety and privacy planning about the perpetrators' behaviors and the impact of the sexting.
- Help victims to document what is happening. The victim might write down how the sexting is impacting his/her life or make a report to law enforcement. If possible, the victim should keep the original messages in the electronic accounts and save copies of the digital images. in addition to printing copies. People can also take screenshots of sexts sent to phone devices or posted online in case they disappear quickly.

- Help victims work with phone and Internet service providers to ensure speedy evidence collection and responses to the sexting situation. In particular, police can ensure proper preservation and evidence collection of time-sensitive pieces such as texts, emails, and posts on social networking or other websites.
- Work together to identify relevant criminal and civil remedies in their jurisdiction that might be effective in responding to sexting cases.
- Help personnel in schools or workplaces update their policies to appropriately educate students and employees about sexting and how to best address and respond to nonconsensual or illegal sexting.
- Review laws, policies, practices and cases to determine whether they appropriately address a range of sexting situations. Points to consider in a review include ensuring that:
 - Victims are not being penalized or revictimized;
 - Victims' opinions are considered when determining responses and penalties;
 - People are held accountable who use sexting to harm, harass, threaten, intimidate, impersonate, coerce, stalk, bully, abuse or perpetrate sexual, dating and domestic violence.
 - Juvenile offenders have age-appropriate penalties that consider likelihood of positive behavioral change and recidivism;
 - Authority figures responsible for the investigating and responding to sexting incidents ensure practices that protect the privacy and dignity of any victims; this includes restricting access to files and images of victims to the minimum personnel necessary to sensitively address the situation.

Things to Consider:

- Are there victims? If so, who are they?
- What harms have occurred? What are the concerns and goals of the victim(s)?
- Identify the perpetrator(s)? What are the problematic, abusive or criminal behaviors?
- Did any perpetrator impersonate a victim or attempt to create "faked" evidence (e.g., by sending texts from "text spoofing" websites that enable the perpetrator to type in fake caller information.)
- What are the concerns, goals and obligations of the parent(s), school or employer, prosecutor, police, or community?
- What are the individual contexts of the person(s) who: took a photo or video, were in the photo/video, received or possessed a sext, forwarded or distributed a sext, or, intercepted a sext and reported it?
- Which sites or providers are involved in the sexting incidents? What recourse do their policies provide for victims?
- Who owns copyright to sexted messages or images of the victim? If the victim does not own the images that s/he is in, can a lawyer or prosecutor work to get ownership transferred over to the victim?
- What laws might apply? Examples include: child pornography, cyberbullying, stalking, electronic transmission of harmful information to a minor, voyeurism, identity theft, unauthorized recording, libel, slander, economic or reputational harms, and, violations of protection orders. Given the law's intent, what discretion does the prosecutor have in determining who is charged with what?
- Is your law or policy adequate to address the situation in ways that hold offenders accountable without revictimizing any victims? If not, how might it be changed to more appropriately address sexting situations in the future? For example, could you treat young people who engage in sexting differently and offer lower penalties and diversions depending upon the context so that consensual sexting is not penalized, but teen and adult perpetrators are still held accountable for coercive or abusive sexting. Some state laws have created an affirmative defense for minors of certain ages if all the conduct is consensual.

See also, the National Conference of State Legislatures (www.ncsl.org) information on state sexting legislation, NNEDV's piece on *Finding Laws To Charge Perpetrators Who Misuse Technology* and other NNEDV Technology Safety Resources at: www.nnedv.org/safetynetdocs