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### Teenage Sexting and the Law

Up to one in four teenagers has admitted to exchanging nude photos with other teenagers, usually by digital means (Alseth). In an article called “Why Kids Sext” for the November 2014 issue of *The Atlantic* magazine, Hanna Rosin tells readers that the majority of these explicit images are sent consensually between boyfriends and girlfriends. For many teens, like those at the Virginia high school in Rosin’s article, this ritual, commonly referred to as *sexting*, is a part of their adolescent existence. However, this act can have huge unforeseen consequence because sexting between minors is currently considered a violation of child pornography laws. Thus, a female student who sends her partner a sexually explicit image and the intended recipient can both be persecuted as felons. As such, they may be subject to jail time, fines, and lifelong sex offender status (Alseth). One juvenile action has the potential to severely limit the potential of young people. To more adequately deal with the issue of teen sexting without turning thousands of young people into automatic felons, society and the law must separate the definitions of sexting and child pornography.

Currently, most laws define child pornography as “a depiction of a nude minor,” and the creation, circulation, and possession of such images are felonies (Levick and Moon 1037). According to Marsha Levick and Kristina Moon in “Prosecuting Sexting as Child Pornography,” the breadth of this definition is meant to protect minors from sexual exploitation. They write, “Preventing the sexual abuse of children is at the heart of laws proscribing the making or

**Commented [A1]:** In this definition essay, the writer presents a thesis statement that is actually directly related to defining the term “sexting.”

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distribution of child pornography. In Pennsylvania, for example, the relevant child pornography statute is titled ‘Sexual Abuse of Children’ (1042). The unanticipated consequence of this definition is that it now turns children into criminals when it is applied to their use of sexting. Sexting, by Rosin’s common definition, references “the transmission of provocative selfies you wouldn’t want your mother to see—not words, but pictures.” This definition does little to differentiate between images that are taken and distributed to another teen according to a subject’s wishes and images that are misused by the recipient, taken without the subject’s knowledge, or produced in response to coercion. Levick and Moon note that out of the twenty percent of teens who admit to sexting, sixty-seven to seventy-one percent of the images are exchanged between couples (1040), many of whom are probably old enough to consent to sexual intercourse. Yet, the law categorizes the participants in these instances as felonious pornographers right along with egregious sex offenders and teens who have done something much more malicious.

Despite this conflation of definitions, most sexting between teenagers is not the same as child pornography because these actions represent sexual exploration that is not noticeably different than other adolescent encounters. In her research, Rosin spoke to teenagers who were distanced from their boyfriends and girlfriends by a slew of extracurricular activities and the physical scale of rural living. For these teens, sexting allows intimacy despite restrictions. One teen said, “Our only way of being alone was to do it over the phone. It was a way of kind of dating without getting in trouble” (qtd. in Rosin). In these cases, which constitute that sixtyseven to seventy-one percent (Levick and Moon 1040), teenagers are simply navigating their sexual experience through the means that they have. Levick and Moon agree that sexting is often a means of expression and exploration that feels comfortable to teens. According to these authors,

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**Commented [A5]:** The writer provides the possibility of a new way of looking at texting amongst teens, pointing out that “sexting” can be a normal expression of sexuality by teens.

the actions of today's teenagers are inseparable from technology. Minors sext because phone and computer communication is the manner in which they can interact.

Consensual teen sexting, then, is not a crime, like child pornography, where one party is abused or victimized. Levick and Moon argue that more nuanced definitions of child pornography demonstrate this separation. They assert, “[t]he Court has stated the reason possession of child pornography is prohibited is to ‘protect the *victims* of child pornography [and] . . . to destroy [the] market for the *exploitative* use of children’” (1043). In these cases of teenagers sexting other teenagers, participation is usually voluntary; thus, no one is exploited or victimized (1042). Furthermore, persecuting teens who sext under child pornography laws creates victims because the teens are ostracized and punished as sex offenders. Society publicly shames and “assault[s]” these teens for a natural exploration process (1050). The only reason for this public shaming is that the exploration is in digital form. If the exploration had been done on a teenager’s couch, as is perhaps more traditional, laws could not be used to victimize teenagers, even though the players and the actions are essentially the same.

Of course, the consequences for sexting should be different if the images are procured and distributed in a form that violates one party’s rights or safety. According to Rosin, these cases where “an adult was involved, one teen had blackmailed or sexually abused another, or had ‘recklessly circulated’ the image without the person’s consent” are a serious minority. These cases are different because one or more of the players is indeed a victim. For example, she notes that twelve percent of teenage girls who sext feel excessive pressure to engage in an activity they would otherwise avoid. These teens are at risk for engaging in “substance abuse and high-risk sexual behavior” (Rosin). Some teens whose sexts have been widely circulated without their consent have committed suicide. Clearly, these cases have victims who have been exploited, and

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**Commented [A7]:** Here, the writer qualifies her claims by pointing that there must be exceptions, that not all teen “sexting” can be defined as normal or healthy.

thus they fall closer to the definition of child pornography. Perpetrators should be held accountable for their actions. Still, assuming all the players in these cases are teens or within the bounds of legal consent, punishing inappropriate photo sharing on the same scale as rape creates more problems than it solves.

Some individuals want teenagers to be punished as pornographers despite the potential damage to the minors' development. Rosin acknowledges this attitude in her article when she tells of one Virginian who felt that "[sexting is] child porn, and you ought to lock those people up for a long time." However, "those people" are teenagers, and even the ones who illicitly published the pictures of their peers have the chance to learn from their actions. According to Levick and Moon, "child offenders were less culpable and more capable of reform than adults who committed similar crimes" if the subsequent consequences are appropriate (1038). Charging a minor who angrily circulates a picture of his nude ex-girlfriend with a felony is not appropriate because it creates "serious and long-lasting consequences" that inhibit integration with healthy society (1050). Adolescents who behave in malicious ways should face consequences that are contextual to their mistakes and implemented by professionals who deal specifically with juveniles rather than district attorneys who should be busy prosecuting dangerous criminals. Authorities should discipline teenagers in careful, age-specific ways if something injurious or cruel has been done. However, treating young people who sext as sex offenders is preposterous and could result in lasting psychological and social issues. Sexual exploration between teens is normal, and merging the definitions of sexting and child pornography creates unhealthy situations that victimize rather than protect minors. Child pornography is a serious social issue, and teenagers are not the true predators that deserve the attention of the law.

**Commented [A8]:** The writer concludes her essay by calling for a different way of defining "sexting," though she is careful to qualify her claim to ensure the physical and emotional safety of teens.

Works Cited

- Alseth, Brian. "Sexting and the Law—Press Send to Turn Teenagers into Registered Sex Offenders." *American Civil Liberties Union of Washington State*. ACLU of Washington, 24 Sep. 2010. Web. 8 Nov. 2014.
- Levick, Marsha, and Kristina Moon. "Prosecuting Sexting as Child Pornography." *Valparaiso University Law Review* 44.4 (2010): 1035-1054. Web. 8 Nov. 2014.
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