

Sexting Investigation and Intervention Protocol

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Multidisciplinary Team Investigation Protocol

- Develop a protocol for investigation and intervention of sexting incidents, under the oversight of the regional Multidisciplinary Team (MDT). (Note: This is a recommended protocol that can serve as a model.)
 - Within the school, establish a multidisciplinary investigation team includes the principal, counselor/psychologist and school resource officer - with back-up from district legal and risk prevention services.
 - Make sure all district personnel know who they should report situations to and how images should be handled. Make sure all principals have a clear understanding of the circumstances under which they have the authority to view images on a student's cell phone. The fact that a cell phone is visible at school does not give legal authority to search the contents of that phone.
 - Once reported, do everything possible to stop further dissemination of the images. Make sure students know that if they are found to have distributed, this will result in suspension. Promise confidentiality for student reports about such distribution.
- Everyone on the MDT must commit to keep these incidents out of the news, if possible. If news coverage does occur, ensure statements made will minimize the emotional harm to the teens depicted. Talk with media about concerns related to such harm.
 - News of these situations will expand news of the incident and lead to further dissemination of the images. This will increase the emotional harm to the students depicted and the sexual harassment they will receive on campus - for which school officials can be held liable.
- Establish parameters for how and when incidents should be reported to the MDT and investigated by the school team. Recommendations for an approach are as follows:
 - Most incidents should likely be initially investigated by the school team - because school staff members have greater insight into the participants. Initial discussion with student depicted should be by someone with whom student has good rapport.
 - In consultation with the MDT, determine how and when to contact parents.
 - As names of participants are identified, immediately transmit these to the MDT to determine whether there are any prior records.
 - Discuss findings within school team. Propose plan of action for intervention or outline need for further investigation.
 - Transmit report of investigation and proposed plan of action to MDT for review, approval, or MDT identification of concerns requiring further investigation by law enforcement or child protective services.
- Routinely evaluate the reports to determine effectiveness of the protocol and develop better prevention.

Common Kinds of Situations

Developmentally Normative Activities

Not intended to cause harm, but possible non-malicious act leading to distribution.

- Exchange within a romantic partnership or a desired romantic partnership where neither partner pressured for the image or distributed the image beyond each other.
- Exchange within a romantic partnership where neither partner pressured for the image, followed by a small private distribution of image by one partner to some friends to "show off." This is done with no intent for the image to be distributed further or to cause harm, but sometimes the image is disseminated by a third party recipient.
- The digital media enhanced version of "show me yours and I'll show you mine," "spin the bottle," or a "truth or dare" game. There is no initial intent to distribute further or to cause harm, but sometimes things get out of hand and the images are disseminated.
- Creation and dissemination of image or materials for entertainment, attention-getting purposes, or to "gross others out" - e.g. a "bawdy" video created at a party.

Malicious Activities

Intended to cause harm to person depicted.

- Peer pressure or peer trickery - with malicious intent to distribute. Bullying kinds of activities by a group, often an "in-crowd group," or an individual bully.
- An image taken under circumstances where privacy is expected, like in a locker room.

- An image that was being retained privately, such as an image created and never disseminated or image that was shared only with a partner, that is maliciously released by someone else who gained access to device on which the images were stored.
- Fake image created by merging a photo of a teen on a nude body image found elsewhere.

At-Risk Behavior

Teen depicted is engaging in at risk behavior.

- Intentional dissemination of an image by the teen depicted as attention-getting behavior or to advertise sexual availability with like-age peers.
- The teen depicted is engaging in solicitation of sexual "hook-ups" with older teens or adults or is engaged in teen prostitution.

Significantly Harmful Behavior

Intended to cause harm to person depicted that is egregious.

- Demand for an image by partner in an abusive, controlling relationship.
- Revengeful distribution by a partner after a break-up.
- Blackmail threat by recipient of image to disclose the image to others unless the person depicted engages in some other action. Frequently, this is an abusive partner and with a demand to engage in sexual activity.
- Sexual solicitation of a younger teen by an older teen.
- Abusive or coercive acquisition of image, with intent to widely distribute.

Investigation Questions

Initial Questions

- Who are participants? What is the difference in ages? Who is depicted? Who created or facilitated the creation of the image and how? Did person depicted know the image was created and approve? Who sent image? Where and how was it sent, to whom, to how many people? How did it spread after initial distribution? Was the image distributed at school? Is there evidence of a faked image or abuse?

Self-Initiation or Pressure

Creation Initiated by Person Depicted

(May have been facilitated by someone else.)

- Was the image also disseminated by the person depicted? If so, who was the image initially sent to and for what apparent purpose?
 - Romantic partner? Desired romantic partner? What are the actual circumstances? For attention-getting? Peer group "game"? To shock or "gross people out"? Solicitation? Sexual hook-up interest? Equivalent age peers? Solicitation of younger teens? Prostitution? Was recipient known in person or only online?

Creation Initiated in Response to "Pressure"

- What kind and degree of "pressure?" Request, sweet-talking, manipulation, false promise, coercion, threat, invasion of privacy? By someone known or only online?

- Non-malicious pressure from a romantic partner, with no intent to share? Non-malicious pressure in a group "game" that got out of control? Malicious pressure in a group with a malicious leader, "in-crowd" students seeking images of "wannabes," or an individual bully ~ all with plans to disseminate? Person used coercion, threats, false promises to trick or convince person into creating or allowing creation of image? Was this an abusive partner? Invasion of privacy (locker room) to create image?

Dissemination

- If image has been disseminated, how widely has it been distributed, who was most actively distributing, and what was the apparent intent of all participants in the dissemination?
 - Self-sharing or non-malicious sharing with small number of friends, not thinking that anyone would further disseminate? Maliciously shared after a break-up of a relationship? Image was not disseminated by person depicted or his/her friend who possessed the image, but was found by someone who gained access to the digital device and disseminated maliciously. Intentional and malicious wide distribution by someone who obtained either from person depicted or from someone else who had obtained it? Disseminated by person depicted for attention-getting or sexual solicitation purposes?
- If image has not been widely disseminated, is image being used for blackmail?

Incident Intervention

Developmentally Normative Activities

- Handle primarily through educational and counseling.
- Implement mild level restorative justice school discipline for any students who violated trust - if there has been a substantial disruption at school or creation of a hostile environment for any student(s) depicted.
- In some situations, consider juvenile court review leading to informal disposition, deferred prosecution, or diversion for anyone violated trust and distributed image outside of relationship or group.

Malicious Activities

- Impose significant restorative justice school discipline for any students who engaged in malicious activities - substantial disruption at school or a hostile environment is probable.
- Implement juvenile court review of circumstances - which could lead to informal disposition, deferred prosecution, diversion, or jurisdiction - depending on egregiousness of situation.
 - Possible charges include: Harassment. Invasion of privacy. Disorderly conduct. Malicious acquisition or distribution. False light.
 - The reason for juvenile jurisdiction is to ensure a disciplinary consequence, as well as supervision and rehabilitation.

At-Risk Behavior

- School discipline only appropriate if at-risk behavior constituted sexual harassment of other students, creating a hostile environment for those students.
- Implement juvenile court review of circumstances - which could lead to informal disposition, diversion, status offense, or detention - depending on degree/manner of risky behavior.
 - Possible charges include: Harassment. Indecent exposure. Solicitation. Prostitution.

- The reason for juvenile jurisdiction is to ensure counseling, supervision, and rehabilitation.

Significantly Harmful Behavior

- Implement juvenile court review of circumstances - which could lead to informal disposition, diversion, status offense, or detention, depending on degree/manner of harmful behavior.
 - Possible charges include: Harassment. Malicious acquisition or distribution. Stalking. Blackmail. Solicitation or exploitation. Child pornography.
 - The reason for juvenile jurisdiction is to ensure a disciplinary consequence, as well as counseling, supervision, and rehabilitation.

Young Adult Students

- How law enforcement will handle situations of over-18 students is out of the hands of the MDT.
 - Hopefully, the MDT will advise against an overreaction. Most often, these are teens in a peer environment who simply do not understand the implications.
 - Given the degree of normality of these incidents among youth, encourage use of lowest level of criminal charges and avoidance of any charges that could result in required registration as a sex offender.

Prevent Sexual Harassment

- Articulate a plan to stop anticipated sexual harassment of the student(s) depicted.
 - Schools have a legal obligation to prevent sexual harassment of students - regardless of whether the student has engaged in behavior that contributed to this.
- Implement a plan to provide emotional support.
 - The student depicted is likely at risk for severe emotional distress and may need to be on "suicide watch."