

**Secondary Sexting:  
A Restorative Framework for Understanding and Addressing the Harms of  
Sexting Behaviour among Secondary School Students.**

By

Emma Patricia Wicks

A thesis submitted to the Victoria University of Wellington in fulfilment of the  
requirements for the degree of Master of Arts in Public Policy.

Victoria University of Wellington, 2017.

## **Abstract**

In New Zealand there is a growing concern over the engagement of teenagers in sexting, especially so-called 'secondary sexting', the non-consensual distribution of intimate images. This thesis aims to analyse the behaviour of sexting through a restorative lens and to outline the role of restorative responses can make in a New Zealand context. It combines a review of international literature on the subject with a pilot study of senior students at a New Zealand secondary school, a school that has deemed itself to be a "restorative school".

The empirical study employs a mixed-methods approach. The quantitative phase involved students (n=125) in Year 11 -13 completing a survey to ascertain the prevalence of sexting and their attitudes towards criminalization of different types of sexting. The qualitative phase involved focus groups with students (n=13), one-on-one interviews with staff (n=7) and parents (n=17) discussing how they would respond to a hypothetical scenario of secondary sexting. The study finds that although only a small percentage of students engaged in secondary sexting, secondary sexting is the cause of significant harm and there is need for an effective response.

This thesis argues that restorative response has the most promise at addressing these harms. It also shows that applying a restorative framework to the analysis of the practice enables us to identify and challenge victim blaming tendencies in both popular opinion and official responses. It proposes that for New Zealand to adequately respond to sexting there needs to be a shift away from viewing secondary sexting as a result of poor choices to one that focuses on respectful relationships and the obligations that go with them.

## Acknowledgements

First and foremost, I wish to thank my supervisor Professor Chris Marshall who without his support, guidance, patience and encouragement this thesis would not have been possible. I will be forever indebted to you for all the opportunities you have provided for me, and for giving me a new framework to view the world. The work you do on restorative justice is inspiring and it has been a privilege to work with you.

This research would not have been possible without the participants. To the school, thank you so much for all your support, and to the participants, thank you for giving up your time to discuss this issue with me, your input was invaluable.

Special thanks needs to go to the Religious Studies Department and the Restorative Justice Team. First, to Michael Radich not only for your encouragement to pursue this topic, but for all your help through my undergraduate and honours degree. To Philip Fountain for the conversations on the practicalities on doing a Master's thesis, and for helping me try and make sense of all my ideas. To Alik Kalliabetsos for the many conversations in your office, and on a more practical note for providing me with desk when my office was closed. To the Restorative Justice team; Tom, Josephine, Haley, Lindsey and Andrea thank you for support, especially all the conversations on restorative justice.

I am also grateful for the support from all of my office mates. In particular Bruno, Teo Sue Ann, Susan and Endah thank you for all the conversations, walks and encouragement. Special mention to the quiz team, and in particular to Jenny for your help, encouragement and guidance.

Thank you to Anna Costley for your proof-reading skills, and Lisa Woods for your help with statistics.

I would also like to acknowledge John Fenaughty whose work on New Zealand and cyberbullying inspired me to do this research. I would also like to thank Festival for the Future 2014 and Innovate Change for igniting my interest in this topic. Special thanks to Claire, Karla and Nicole for helping grow my interest in this topic.

Finally, I would like to thank my family and Andy. To Mum and Dad, I could not have done any of this without you. I cannot thank you enough for all your love and support, reading drafts, discussing ideas, countless phone calls and for encouraging me when I had little faith in myself. I am so lucky to have you as parents. To Anthony and Poppy, thank you for your support, encouragement and all your advice. To Andy thank you for all your love and support, help, patience, reading and rereading drafts, all the conversations, and your belief in me that I can do this when at times I wasn't so sure I could.

# Table of Contents

<b>Abstract.....</b>	<b>ii</b>
<b>Acknowledgements.....</b>	<b>iii</b>
<b>Chapter 1: Introduction.....</b>	<b>1</b>
A Personal Statement: .....	4
Research Objectives: .....	6
Methodology and Approach: .....	7
Research Participants: .....	9
<i>Students:</i> .....	9
<i>Parents:</i> .....	10
<i>Staff Members:</i> .....	10
Data Gathering and Analysis .....	10
Thesis Structure .....	12
<b>Chapter 2: What is Happening? .....</b>	<b>14</b>
Prevalence of Sexting.....	14
Sexting Typologies .....	19
<i>Wolak's Typology of Aggravated and Experimental Sexting</i> .....	19
<i>Clay Calvert's Typology Primary and Secondary Sexting</i> .....	21
The Risks of Sexting.....	22
Gender and Sexting .....	23
A New Narrative .....	26
The New Zealand Context.....	27
Summary .....	30
<b>Chapter 3: What's the Harm and Who is Accountable? .....</b>	<b>31</b>
Identifying the Harm .....	32
<i>Harm to the Victim</i> .....	32
<i>Harm to the Offender</i> .....	36
<i>Harm to the Wider Community</i> .....	37
Establishing Accountability .....	39
<i>Victim Accountability?</i> .....	39
<i>Offender and Co-offender Accountability?</i> .....	42
<i>Societal Accountability?</i> .....	44
Summary .....	46

<b>Chapter 4: How Do We Put Things Right Again?</b>	<b>47</b>
A Passive Response – Do Nothing	47
The Criminal Justice Response	49
A Restorative Response	57
Developing School Policy on Sexting	68
Summary	70
<b>Chapter 5: How Can We Stop the Harm From Happening Again?</b>	<b>72</b>
Educating Students on Sexting	73
<i>Educational Resources Overseas</i>	73
<i>Educational Resources in New Zealand</i>	78
Educating Parents on Sexting	82
Summary	83
<b>Chapter 6: Conclusion</b>	<b>84</b>
Recommendations	87
Limitations and Future Areas of Study	89
<i>Implications for future research</i>	90
<b>Appendices</b>	<b>92</b>
Appendix A: Participant Information Sheet – Parents and Caregivers	93
Appendix B: Participant Information sheet - Staff	96
Appendix C: Participant Information Sheet Students	99
Appendix D: Participant Information Sheet – Parents and Caregivers of Students under 16 years of age	102
Appendix E: Participant Consent Sheet - Students	106
Appendix F: Participant Consent Sheet – Staff and Parents	108
Appendix G: Participant Consent Sheet – Students Under 16 years of age	110
Appendix H: Interview Guide	112
Appendix I: Survey	116
<b>References</b>	<b>124</b>

# Chapter 1:

## Introduction

Throughout the world there is mounting moral panic about teenagers engaging in sexting.<sup>1</sup> The term was coined by the media in 2004 to describe the sending of sexually explicit text messages.<sup>2</sup> However, increasingly the term is used to describe the sending and receiving of sexually explicit images across a range of electronic platforms, including but not limited to cell phones, social networking sites and applications such as Snapchat.<sup>3</sup> While not restricted to children or teenagers, their engagement in the practice, and particularly teenage girls, has evoked most concern.<sup>4</sup> The behaviour has been described as a 'crisis,' an 'epidemic' and even likened to a 'drug addiction.'<sup>5</sup>

Internationally the harm allegedly caused by sexting has led policy makers to apply blanket punitive measures on all teens who sext, including in some places the controversial use of child pornography laws.<sup>6</sup> In recent years this response has been

---

<sup>1</sup> Lara Karaian, "Lolita Speaks: 'Sexting,' Teenage Girls and the Law," *Crime, Media, Culture* (2012): 60, doi: 10.1177/1741659011429868; Kimberlianne Podlas, "Media Activity and Impact," in *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, ed. Todd C. Hiestand and W. Jesse Weins (Durham, North Carolina: Carolina Academic Press, 2014), 142. Amy Adele Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, (Illinois: University of Illinois Press, 2015). <http://www.jstor.org/stable/10.5406/j.ctt13x1kx6>, 1, Accessed 29 January, 2017.

<sup>2</sup> W. Jesse Weins, "Concepts and Context," in *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, ed. Todd C. Hiestand and W. Jesse Weins (Durham, North Carolina: Carolina Academic Press, 2014), 3.

<sup>3</sup> Kaitlin Lounsbury, Kimberly J Mitchell, and David Finkelhor, *The True Prevalence of "Sexting."* (United States of America: University of New Hampshire, 2011), 1.

<sup>4</sup> Karaian, "Lolita Speaks: 'Sexting,' Teenage Girls and the Law," 58.

<sup>5</sup> Alexi Mostrous and Elizabeth Rigby, "School Hit by Sexting Epidemic," *The Times*, accessed January 29 2017, <http://www.thetimes.co.uk/tto/education/article4711540.ece>; Tom Hunt, "Sexting Like 'Drug Addiction' for Kiwi Teens, with Kids as Young as 11 Taking Part," *Stuff.co.nz*, accessed January 29, 2017, <http://www.stuff.co.nz/national/health/76672892/Sexting-like-drug-addiction-for-Kiwi-teens-with-kids-as-young-as-11-taking-part>.

<sup>6</sup> Clay Calvert, "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law," *CommLaw Conspectus* 18 (2009); Nancy E Willard, "Sexting and Youth: Achieving a Rational Response," *Journal of Social Sciences* 6, no. 4 (2010);

challenged, with academics arguing for a more nuanced approach, one that takes into account the complexities of the behaviour.<sup>7</sup> In contrast to some overseas jurisdictions, there has been little attention given by New Zealand policy makers to responses to sexting. The purpose of this thesis is to address this lack of research by exploring teenage sexting through a restorative justice lens in a New Zealand context.

Restorative justice offers a distinctive way of thinking about and responding to wrongdoing.<sup>8</sup> At its heart is the concept of humans being interconnected with one another through a complex web of relationships. These relationships create obligations, and when these obligations are not met harm is caused, both to the parties and to their relationship. In order to heal this harm, the relationship needs to be restored to a healthier condition. Ideally this involves a process of encounter that brings the victim, the offender and representatives of the wider community together to discuss what happened, what harm has been caused, what can be done to put things right, and what can be done to stop the harm from occurring again.<sup>9</sup>

---

Shaheen Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids* (New York: Cambridge University Press, 2014); 75-98. Elizabeth M Ryan, "Sexting: How the State Can Prevent a Moment of Indiscretion from Leading to a Lifetime of Unintended Consequences for Minors and Young Adults," *Iowa Law Review*, 96, no. 1 (2010).

<sup>7</sup> Anastasia Powell and Nicola Henry, "Blurred Lines? Responding to 'Sexting' and Gender-Based Violence among Young People," *Children Australia* 39, no. 02 (2014): 121. doi: 10.1017/cha.2014.9; Willard, "Sexting and Youth: Achieving a Rational Response."; Kath Albury and Kate Crawford, "Sexting, Consent and Young People's Ethics: Beyond Megan's Story," *Continuum* 26, no. 3 (2012): 470-71. doi: 10.1080/10304312.2012.665840. Thomas Crofts and Murray Lee, "Sexting, Children and Child Pornography," *Sydney Law Review* 35, no. 1 (2013); Andrew J. Harris, Judith Davidson, Elizabeth Letourneau, Carl Paternite, and Karin Tusinski Miofsky, *Building a Prevention Framework to Address Teen "Sexting" Behaviors* (United States of America: Sponsored by the Department of Justice, 2013), 86-87.

<sup>8</sup> Howard Zehr, *The Little Book of Restorative Justice: Revised and Updated* (United States of America: Good Books, 2015), 5.

<sup>9</sup> *Changing Lenses: Restorative Justice for Our Times*, 25th ed. (Harrisonburg, Virginia: Herald Press, 2015). Kindle Edition. Zehr notes that there is a shift in the restorative field to move away from using the terms 'victim' and 'offender.' The terms themselves have been questioned for their appropriateness in the school system. However as this thesis explores both the criminal and educational approaches of restorative justice these terms have been employed.



New Zealand is often seen as a pioneer in the field of restorative justice. In 1989, the youth justice system was overhauled, with the centrepiece of the new system being the use of Family Group Conferences (FGC) to address crimes committed by young offenders.<sup>10</sup> Family Group Conferences involve bringing the offender and his or her family or whānau together to discuss the incident and how things can be improved. Efforts are also made to include the victim in this conference, though that does not always happen.

During the 1990s, the use of restorative justice was extended beyond the youth court setting into the adult arena.<sup>11</sup> Following legislative changes in 2001, restorative justice conferencing became a recognised feature of the New Zealand criminal justice system.

Over the same period, restorative justice practices also began to be used in schools as an alternative to traditional punitive practices, such as suspension or exclusion.<sup>12</sup> However it soon became apparent that in order to reduce the number of serious incidents of wrongdoing in a school, a 'whole of school' approach was needed to change the wider culture or climate of the school.<sup>13</sup> Whereas restorative justice is a one-off response to incidents of rule breaking, restorative practice is also concerned with promoting respectful and inclusive relationships between all members of the school community, so that episodes of wrongdoing are less likely to occur or be repeated. When things do go wrong, restorative responses try to harness the strengths of these relationships. Authors such as Margret Thorsborne, Brenda

---

<sup>10</sup> Allan MacRae and Howard Zehr, *The Little Book of Family Group Conferences: New Zealand Style* (United States of America: Good Books, 2004), 11.

<sup>11</sup> Christopher D Marshall, "Restoring What? The Practice, Promise and Perils of Restorative Justice in New Zealand," *Policy Quarterly* 10, no. 2 (2014): 5.

<sup>12</sup> Wendy Drewery and John Winslade, "Developing Restorative Practices in Schools: Some Reflections," *New Zealand Journal of Counselling* 26, no. 1 (2005): 21.

<sup>13</sup> Margaret Thorsborne and Peta Blood, *Implementing Restorative Practice in Schools: A Practical Guide to Transforming School Communities* (London: Jessica Kingsley Publishers, 2013), 42.

Morrison, Wendy Drewery, Layla Skinns and Gillian McCluskey advocate the use of the Whole-School Approach to address incidents of bullying and/or cyberbullying.<sup>14</sup>

Recently, some academics and policy makers have proposed the use of restorative justice to address incidents of sexting.<sup>15</sup> Although this is a welcome change to the more common call for more punitive legal responses, these proponents usually presuppose a limited conception of restorative justice as a one-off response rather than as a thorough relational philosophy. The aim of this thesis is not only to explore what a restorative response to sexting would look like in a New Zealand context, but also to show the power of the broader paradigm of restorative practice for understanding the complex issues involved in sexting.

## **A Personal Statement**

My interest in this topic was sparked by my longstanding interest in cyberbullying and by media coverage of a celebrity sexting incident in 2014. The American actress Jennifer Lawrence was one of many celebrities whose cloud

---

<sup>14</sup> Wendy Drewery, "Restorative Approaches in New Zealand Schools: A Developmental Approach," in *Restorative Approaches to Conflict in Schools: Interdisciplinary Perspectives on Whole School Approaches to Managing Relationships*, ed. Edward Selman, Hilary Cremin, and Gillian McCluskey (New York: Routledge, 2013); Brenda Morrison, "School Bullying and Restorative Justice: Toward a Theoretical Understanding of the Role of Respect, Pride, and Shame," *Journal of Social Issues* 62, no. 2 (2006); Layla Skinns, Mike Hough, and Natasha Du Rose, *An Evaluation of Bristol Rais* (London: Institute for Criminal Policy Research King's College, 2009). Gillian McCluskey, G. Lloyd, J. Stead, J. Kane, S. Riddell and E. Weedon, "'I Was Dead Restorative Today': From Restorative Justice to Restorative Approaches in School," *Cambridge Journal of Education* 38, no. 2 (2008), doi: 10.1080/03057640802063262; Thorsborne and Blood, *Implementing Restorative Practice in Schools: A Practical Guide to Transforming School Communities*.

<sup>15</sup> Susan Hanley Duncan, "Child Pornography Statutes and New Legislation," in *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, ed. Todd C Hiestand and W Jesse Weins (Durham, North Carolina: Carolina Academic Press, 2014), 195-199; Willard, "Sexting and Youth: Achieving a Rational Response," 560; Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids* 152; Francis Gibb, "Keep Sexting Cases out of Court, Urges Top QC," *The Times*, accessed 27 January 2017, <http://www.thetimes.co.uk/article/keep-sexting-cases-out-of-court-urges-top-qc-5mr53t7d9>; Nancy Riesterberg, "Restorative Group Conferencing and Sexting: Repairing Harm in Wright County," *Cyberbullying Research Centre*, accessed 5 January 2016, <http://cyberbullying.org/restorative-group-conferencing-and-sexting>; Sheri Bauman, "When Sexting Becomes Cyberbullying: Helping Victims," in *National Conference Against Bullying, 2016*. (Melbourne, Australia 2016).

account was hacked and intimate images of her were posted online.<sup>16</sup> Lawrence's initial instinct was to write an apology for creating the images in the first place, but this proved problematic to her. As she explains, 'every single thing that I tried to write made me cry or get angry. I started to write an apology, but I don't have anything to say I'm sorry for.'<sup>17</sup>

The idea that Lawrence was somehow responsible for the wrong is troubling. Surely the blame lay with the hacker who distributed the images? A quick Google search shows that when intimate images are distributed without consent, the women affected are often blamed for the actions of their aggressors. This victim blaming instinct in cases of sexting seems very much in tension with the moral outrage expressed towards cyberbullies. While there is a huge amount of sympathy for victims of cyberbullies, the same cannot be said about victims of sexting. As a young female, the parallel between the victim blaming in sexting and victim blaming in cases of sexual assault was not lost on me.

At the end of 2014, I was fortunate to receive a summer scholarship from Victoria University to look at the use of restorative justice to address episodes of family violence. It struck me that a similar approach may be useful for addressing cyber aggression. As a growing number of New Zealand schools employ restorative practices to address a range of behavioural and learning issues, focusing on how schools could use restorative practices seemed like a good place to start.

In undertaking this research, I have had the opportunity to talk with schools and advocacy groups about sexting, cyberbullying and restorative responses. From these conversations, it quickly became apparent that while parents, educators and policy makers were generally in agreement in their understanding of cyberbullying, there are significant differences in how they think about sexting. For this reason, I

---

<sup>16</sup> Sam Kashner, "Both Huntress and Prey," *Vanity Fair*, accessed December 14, 2016, <http://www.vanityfair.com/hollywood/2014/10/jennifer-lawrence-photo-hacking-privacy>.

<sup>17</sup> Ibid.

decided to narrow the focus of my research to sexting and to challenge policy makers to move away from the traditional victim blaming approach.

## **Research Objectives**

My overall objective is twofold: to analyse the phenomenon of sexting through a restorative lens, and to outline the role of restorative responses to sexting in a school context.

There is a small but growing body of research literature available on the phenomenon of sexting and how best to address its sometimes abusive consequences. New legislation has also been passed in several jurisdictions to deal with cyber aggression and other harmful online communications, including the non-consensual distribution of sexts.<sup>18</sup> In New Zealand the Harmful Digital Communications Act came into force in July 2015.<sup>19</sup> The purpose of the Act is to 'deter, prevent and mitigate harm caused to individuals by digital communications; and to provide victims of harmful digital communications with a quick and efficient means of redress.' The Act has several implications for the non-consensual distribution of images, which are explored in this thesis.

My intention in this thesis is to provide an up-to-date review of existing literature on sexting and to supplement the limited research data available on the issue in New Zealand by undertaking an analysis of its incidence amongst Year 11-13 students at one New Zealand high school. The rationale for studying this age group is that they are near or at the age of consent, and for those 16 and over, their engagement in sexting is technically legal. I chose a co-educational secondary school in the Wellington district that is consciously aspiring to be a 'restorative school,' that is a school that both employs restorative tools for dealing with student misconduct

---

<sup>18</sup> "Sexting," *Victoria Government*, accessed November 14, 2016, <http://www.vic.gov.au/news/sexting.html>. # *Cybermisogyny: Using and Strengthening Canadian Legal Responses to Gendered Hate and Harassment Online* (Canada West Coast, LEAF, 2014), 40-42. Sameer Hinduja and Justin Patchin, "Sexting Laws Across America," Cyberbullying Research Centre, accessed 4 December 2016, <http://cyberbullying.org/sexting-laws>.

<sup>19</sup> Harmful Digital Communications Act 2015, s 3.

and strives proactively to cultivate a positive relational climate throughout the school.

The school is decile 8, with approximately 1200 students and a strong commitment to restorative practice. It implemented a restorative approach in 2009 and has had a key role in promoting restorative practices in schools throughout New Zealand. I was given access to relevant documents on the schools' restorative policies, reports on the impact of its restorative programme and the school's handbook on restorative practice.

In order to understand the many issues involved in sexting for teenagers, I decided it was important to include the views of the wider school community since there could be major differences in how sexting is viewed by adults and by teenagers.<sup>20</sup> Hence, the empirical component of this research is based on data collected from parents and staff as well as students. Because students are at the centre of these issues, particular attention was paid to their perspective.

## **Methodology and Approach**

This research focuses on differing perceptions towards sexting and assumes a constructivist paradigm. One of the central tenets of constructivism is that people make sense of the world through their own experiences and observations, and as such the meaning they ascribe to things and events is socially 'constructed.'<sup>21</sup> This approach coheres well with the restorative framework, as a central premise of both is that different people make sense of experiences in different ways. An assumption

---

<sup>20</sup> Karaian, "Lolita Speaks: 'Sexting,' Teenage Girls and the Law," 67-68; *Sexualisation of Children and Young People* (Report 2/56), (New South Wales, Australia: Parliament of New South Wales 2016), 48-51; Harris et al., *Building a Prevention Framework to Address Teen "Sexting" Behaviors*, 31; Kath Albury, Kate Crawford, Paul Byron, and Ben Mathews., *Young People and Sexting in Australia Ethics, Representation, and the Law*. (New South Wales, Australia: University of New South Wales, 2013), 9-11.

<sup>21</sup> Michael Crotty, *The Foundations of Social Research: Meaning and Perspective in the Research Process* (New South Wales: Australia Allen and Unwin, 1998), 42-43.

for this research is that within the school community different stakeholders will have differing opinions on sexting. Of course, my own experience as a young, pakeha woman will also affect how I interpret data in this research.

The thesis employs a mixed methods approach, in that both quantitative and qualitative data were collected. Creswell and Plano Clark assert one of the advantages of such an approach is that it enables researchers to use all available tools to answer the research question.<sup>22</sup> This was deemed particularly useful when exploring sexting. Due to the sensitivity of the subject matter, an anonymous quantitative survey was considered the best way for ascertaining how common sexting behaviour is for the respondents. Qualitative interviews and focus groups, on the other hand, allow for a more nuanced insight into how people understand and evaluate the practice.<sup>23</sup>

Qualitative methods also fit well with a restorative paradigm. At the heart of restorative justice practice is storytelling – gathering multiple perspectives and exploring the nuances of the problem at hand. The strength of qualitative approaches is the rich data set they yield, which enables researchers to capture the complexities and idiosyncrasies of the problem.<sup>24</sup>

As this research involved human participants, ethics approval was needed from Victoria University. John Fenaughty's work was of immeasurable help in understanding the language needed to engage with adolescents while still conveying the essential idea of the research process.<sup>25</sup> Ethics approval was given on 22 April 2016, reference number 22861. Minor amendments were required, such as clarifying the nature of focus groups and removing a question on suicide. During the

---

<sup>22</sup> John W Creswell and Vicki L Plano Clark, *Designing and Conducting Mixed Methods Research* (California: Thousand Oaks, 2007), 9.

<sup>23</sup> Virginia Braun and Victoria Clarke, *Successful Qualitative Research: A Practical Guide for Beginners* (London Sage, 2013), 80, 113.

<sup>24</sup> Ibid.

<sup>25</sup> John Joseph Fenaughty, "Challenging Risk: Nz High-School Students' Activity, Challenge, Distress, and Resiliency, within Cyberspace" (PhD diss., University of Auckland 2010), 232-236, <https://researchspace.auckland.ac.nz/handle/2292/6775>.

course of the research two other amendments were made and approved. These were changing the number of parent participants from 10 to 17, and allowing parents from the same family to be interviewed together rather than separately.

### **Research Participants**

#### *Students:*

All student participants were recruited through the school. I was invited to speak about the research project at an assembly of Year 11 and 12 students. I explained the purpose of the research and the risks and benefits of participating in it and invited all students present to be involved. For students under 16 years of age, I sent permission slips home to get parental permission to participate in the research. For students over 16 years, I sent an email to parents outlining the research project. One parent raised concerns with the school about the nature of the research; however, once the content of the survey had been explained to her, she was happy for the research to go ahead.

As only a small number of students under 16 years returned forms, I made the decision to open the survey up to Year 13 students as well. The consent form and information sheet were included in the survey, which was built through Qualtrics and had an anonymous link.

A total of 146 students responded to the survey, 125 students completed at least 95% of the section on sexting. The format of the questionnaire meant that some respondents were able to skip questions. For this reason, some questions may have a different number of respondents, unless otherwise specified the number is 125.

As there were only three Year 11 students who wanted to participate in a Focus Group and had parental permission to do so, I decided to limit focus groups to Year 12 students, and if necessary open it up to Year 13. Students were asked to sign up in their form rooms. 17 students signed up and were divided into four focus groups. Of these 17 students, 13 participated in the groups, which were held at school at lunch time, with food provided. Of these students, four were male and nine were female. The focus groups ranged from 27 minutes to 90 minutes in length.

Although it wasn't intentional, the focus groups were composed of either all male or all female students. All comments were recorded and transcribed.

#### *Parents:*

After an email had been sent home explaining the research, a separate email was sent to all parents of Year 11 and 12 students inviting them to participate in the project. 22 parents responded and a total of 17 parents were interviewed; of these four were male and 13 were female. As one parent was unable to make a time for the interview, the interview guide was sent to her and she responded by email. The interviews ranged from 20-60 minutes in length. All the interviews except one were with one parent only; one interview was with both father and mother. Parents were given the option to review transcripts. Any identifiable characteristics of the interviewees were removed.

#### *Staff members:*

It was decided to invite only staff members who were trained and involved in restorative practice to participate in the research. This included the Senior Leadership Team and the Deans of Years 11, 12 and 13. Staff were contacted by email, and seven staff members agreed to participate. Of these three were male and four were female. The interviews were between 20–90 minutes in length. Staff had the option to review the transcripts, and any identifiable characteristics were removed.

### **Data Gathering and Analysis**

The first part of the research involved an online survey of Year 12 and 13 students. The survey was adapted from the 2010 version of Hinduja and Patchin's 'Cyberbullying and Online Aggression Instrument.'<sup>26</sup> The purpose was to gain an insight into the prevalence of sexting behaviours at the school, and students' perceptions of the criminalization of these behaviours. This was considered an important step due to the lack of quantitative data on sexting in New Zealand. The

---

<sup>26</sup> Sameer Hinduja and Justin W. Patchin, *School Climate 2.0: Preventing Cyberbullying and Sexting One Classroom at a Time* (California Corwin Press, 2012), 155-58.



second part of the research involved interviews and focus groups with students, staff and parents.

The reason for using focus groups with students was to provide them with a safe space to explore the issues. All the focus groups involved a group of friends. Their natural rapport with one another helped them to discuss conflicting viewpoints, and meeting at lunchtime over food helped to create a relaxed environment. These features would have been more difficult to achieve in one-on-one interviews.<sup>27</sup> Focus groups were not used for parents or staff. The decision to interview them individually was intended to allow them to present their own perspectives and experiences in more detail.

The focus groups and interviews were semi-structured and followed a similar format. The informants were asked some general questions about school policy and their knowledge of sexting, then were asked questions about a hypothetical scenario. Since sexting is a sensitive topic, reflecting on a hypothetical case meant the participants did not have to disclose their own experiences with sexting. The hypothetical scenario was based on an incident of *secondary* sexting – that is, the non-consensual sharing of an image received from someone else, as it is this behaviour that is considered to cause the most amount of harm.<sup>28</sup>

Katie and Tom are in a romantic relationship. During the relationship Katie sent Tom a sext as she was under the impression he would keep the sext private. Tom sent the sext to his friends and they forwarded it around the whole school. Everyone is talking about the sext and making inappropriate comments to Katie.

The scenario was deliberately kept short, with little detail about the context of the episode. This is because one of the goals of the research was to see how different stakeholders would construe the circumstances and how these assumptions, especially around gender, would influence their response. If

---

<sup>27</sup> Braun and Clarke, *Successful Qualitative Research: A Practical Guide for Beginners*, 113.

<sup>28</sup> Calvert, "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law."

participants asked me about Tom's motivation in sharing the sexts with others, they were told it was not malicious; if they asked about Katie's motivations, it was explained that she sent the sext consensually. The rationale for this was to see how participants understood sexting where there was no conscious attempts to cause harm to the source. The scenario also reflected overseas education campaigns on sexting. As such it made for an easy comparison between participant responses and critiques of these campaigns.

Quantitative analysis was limited to ascertaining the prevalence of sexting among the participants, and whether or not student participants agreed with the criminalization of certain sexting behaviours. Analysis of the statistics was done through SPSS version 23. For qualitative analysis, all interviews were transcribed and transcripts uploaded to NVivo11 and coded. Thematic coding enabled me to see emerging themes in the data. Once saturation point was reached, the codes were compared with existing literature on the topic.

## **Thesis Structure**

As noted earlier, the aim of this thesis is to analyse the phenomenon of teenage sexting through a restorative lens and to explore the potential of restorative practices in schools for responding to its negative consequences. Restorative dialogues take many different forms but essentially they focus on answering four basic questions: What happened? What has been the impact of the episode on the parties, in particular the victim? Who is responsible for causing the harm and what do they need to do to repair the damage? How can repetition be avoided? <sup>29</sup> These four questions provide a helpful framework for examining sexting and its consequences. Accordingly the following discussion is structured around these same four restorative questions:

1. What is happening? What information is available on the subject of sexting?

---

<sup>29</sup>Questions amended from Zehr, *The Little Book of Restorative Justice: Revised and Updated*.

2. What's the harm? In what ways is sexting responsible for inflicting hurt or harm?
3. When harm occurs, what needs to be done to put things right, especially for the injured party?
4. How can further harm from sexting behaviours be prevented?

The first question is taken up in Chapter 2, which aims to tell the 'story' of sexting. As there is little information on sexting in New Zealand, the chapter mainly draws on overseas research. It does include, however, the data I gathered on prevalence rates and provides a New Zealand context for exploring the issue.

The second question - What's the Harm? - is discussed in Chapter 3. The main focus here is on the harm caused by the non-consensual distribution of images, what we will refer to as 'secondary sexting.' It explores the harm caused to the victim, but also the harm experienced by the offender, any co-offenders and by the wider school community. The second part of the chapter addresses the issue of accountability for this harm.

Chapter 4 turns to the question of how the harms of sexting can be addressed. The goal is to explore the strengths and weaknesses of different responses to sexting and includes a discussion of the recently introduced Harmful Digital Communications Act and restorative practices.

Chapter 5 explores the question of what measures can be taken to stop harmful sexting from occurring in the first place or being repeated by perpetrators. The chapter starts by discussing preventative initiatives for students and then turns to discuss education initiatives for parents.

The final chapter draws the threads of the study together and provides recommendations on how schools could respond to sexting and the non-consensual distribution of images. It also offers suggestions for future research and concludes by noting the limitations of the present study and the contribution it makes to the literature on sexting.

## Chapter 2:

### What is Happening?

The first step in a restorative process is to ask the question, 'What happened?' The aim is to get a clear understanding of what has occurred before discussing who is responsible for any harm and what needs to be done about it.<sup>30</sup> The purpose of this chapter is to review the current state of knowledge on sexting – to tell the 'story' behind the behaviour and what we know about its nature and prevalence. The chapter begins by discussing the difficulties of accurately determining the pervasiveness of sexting because of the different ways it is defined or construed. It then examines the predominant understanding of sexting as something that is inherently harmful and the public's primary concern for the risk sexting poses for teenage girls. It then explores Nicola Döring's 'normative discourse' analysis, which views sexting as a normal part of adolescent development.<sup>31</sup> The chapter concludes by exploring the New Zealand context, including some high profile incidents related to sexting.

#### Prevalence of Sexting

Media reports on teen sexting have described the behaviour as at 'epidemic proportions,' however, to date it is unclear how many teenagers sext.<sup>32</sup> A Pew Internet Survey in 2009 found that 4% of teenagers between the ages of 12-17 years had sent an intimate image and 15% had received an image.<sup>33</sup> By contrast, the 2013

---

<sup>30</sup> Wendy Drewery and Maria Kecskemeti, "Restorative Practice and Behaviour Management in Schools: Discipline Meets Care," *Waikato Journal of Education* 15, no. 3 (2010): 106.

<sup>31</sup> Nicola Döring, "Consensual Sexting among Adolescents: Risk Prevention through Abstinence Education or Safer Sexting," *Cyberpsychology* 8, no. 1 (2014), doi: 10.5817/CP2014-1-9.

<sup>32</sup> Bianca Klettke, David J Hallford, and David J Mellor, "Sexting Prevalence and Correlates: A Systematic Literature Review," *Clinical psychology review* 34, no. 1 (2014): 46, doi: 10.1016/j.cpr.2013.10.007.

<sup>33</sup> Amanda Lenhart, *Teens and Sexting: How and Why Minor Teens Are Sending Sexually Suggestive Nude or Nearly Nude Images Via Text Messaging* (America: Pew Research Centre, 2009), 3.

National Survey of Australian Secondary Students and Sexual Health reported that 42% of teenagers between the ages 16-19 years had received a sexually explicit photo of someone else and 26% said they had sent an explicit photo of someone else.<sup>34</sup> A study of sexting and teenagers between the ages 14-17 across Europe by Wood, Barter, Stanley, Aghtaie and Larkins, placed receiving a sext between 14%-48% and sending a sext between 10%-38%.<sup>35</sup> Mitchell et al. reported that 10% of adolescents in their study had forwarded a sext,<sup>36</sup> whilst Wood et al reported a figure of between 8%-32%.<sup>37</sup>

There is yet to be an in-depth study in New Zealand on sexting. Anecdotal evidence from Netsafe and Youthline suggests that a significant proportion of the teenage population do engage in sexting.<sup>38</sup> Netsafe commented that 'you'd be hard pressed to find a teen that hasn't been asked to send a naked or semi-naked photo of themselves.'<sup>39</sup> The student led anti-bullying group Sticks'n'Stones reported that 50% of girls surveyed have had an embarrassing picture of them shared online against their will.<sup>40</sup> Although this figure is high, it is unclear from the survey if the images were intimate in nature.

Studies of the relationship between gender and the rate at which teenagers sext have also produced mixed results. The survey by Hinduja and Patchin found

---

<sup>34</sup> Anne Mitchell et al., *National Survey of Australian Secondary Students and Sexual Health 2013* (Melbourne, Australia: Australian Research Centre in Sex Health and Society & La Trobe University, 2014), 63.

<sup>35</sup> Marsha Wood et al., "Images across Europe: The Sending and Receiving of Sexual Images and Associations with Interpersonal Violence in Young People's Relationships," *Children and Youth Services Review* 59 (2015), 153-155, doi: 10.1016/j.childyouth.2015.11.005.

<sup>36</sup> Kimberly J Mitchell et al., "Prevalence and Characteristics of Youth Sexting: A National Study," *Pediatrics* 129, no. 1 (2012): 17, doi: 10.1542/peds.2011-1730.

<sup>37</sup> Wood et al., "Images across Europe: The Sending and Receiving of Sexual Images and Associations with Interpersonal Violence in Young People's Relationships," 154.

<sup>38</sup>Hunt, "Sexting Like 'Drug Addiction' for Kiwi Teens, with Kids as Young as 11 Taking Part."

<sup>39</sup> Ibid.

<sup>40</sup> Lynley Bilby, "Naked Photos Shared Against Their Will," accessed January 29, 2017, [http://m.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11656514](http://m.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11656514).

that males were slightly more likely to send and receive sexts than females,<sup>41</sup> the Pew Internet Survey found no gender difference,<sup>42</sup> while Strohmaier, Murphy and DeMatteo's study reported females were twice as likely to report sending sexts as males.<sup>43</sup> In terms of forwarding on a sext, Wood et al. reported that boys were more likely to say they had shared an image than girls.<sup>44</sup>

Despite the differences in the data, two trends may be identified. First, sexting tends to increase with age.<sup>45</sup> Hence, studies that do not provide an age breakdown can be misleading, as the older teenagers may skew the prevalence rates.<sup>46</sup> Second, survey participants are more likely to report receiving a sext than sending one.<sup>47</sup> It is unclear why more people receive sexts than send them. One hypothesis is that due to social desirability bias, participants may not want to admit to engaging in a deviant behaviour, so they under-report sending sexts.<sup>48</sup>

In my research, 23.4% (n=121-125)<sup>49</sup> of participants reported sending a sext and 34.7% reported receiving a sext. 11.3% said they had received a sext that was not meant for them, while 21.1% had been shown a sext that was not meant for them. 14.4% had asked someone to send a sext, 16% had been personally asked to

---

<sup>41</sup> Hinduja and Patchin, *School Climate 2.0: Preventing Cyberbullying and Sexting One Classroom at a Time*, 63.

<sup>42</sup> Lenhart, *Teens and Sexting: How and Why Minor Teens Are Sending Sexually Suggestive Nude or Nearly Nude Images Via Text Messaging*, 4.

<sup>43</sup> Heidi Strohmaier, Megan Murphy, and David DeMatteo, "Youth Sexting: Prevalence Rates, Driving Motivations, and the Deterrent Effect of Legal Consequences," *Sexuality Research and Social Policy* 11, no. 3 (2014): 251, doi: 10.1007/s13178-014-0162-9.

<sup>44</sup> Wood et al., "Images across Europe: The Sending and Receiving of Sexual Images and Associations with Interpersonal Violence in Young People's Relationships," 154.

<sup>45</sup> Klettke, Hallford, and Mellor, "Sexting Prevalence and Correlates: A Systematic Literature Review," 46.

<sup>46</sup> Lounsbury, Mitchell, and Finkelhor, "The True Prevalence of "Sexting"," 4.

<sup>47</sup> Klettke, Hallford, and Mellor, "Sexting Prevalence and Correlates: A Systematic Literature Review," 51.

<sup>48</sup> Lenhart, *Teens and Sexting: How and Why Minor Teens Are Sending Sexually Suggestive Nude or Nearly Nude Images Via Text Messaging*, 4.

<sup>49</sup> Some questions were skipped. It is unclear as to why this is but the participants did re-join the survey on later questions.

send a sext, 6% had been asked to forward a sext, and 4.9% had asked someone to share a sext with them that was not meant for them. 18% of students reported that they had engaged in primary sexting (viz., sending or receiving an image of themselves), while 9.6% reported engaging in secondary sexting (viz., distributing an image of someone else). Males were more likely than females to ask for a sext (26.2% males compared with 10.8% females). A Pearson Chi Squared Test of independence found a weak association between being a male and asking for a sext, but this result was not statistically significant ( $\chi^2$  (1, n=125) = 4.88,  $p = 0.27$ ), ( $\phi = 0.198$ ). There was no significant difference or relationship between gender and other sexting behaviours.<sup>50</sup> My research is in alignment with international data that teens are more likely to report sending a sext than receiving one. It also challenges anecdotal reports that the majority of New Zealand teens have been asked to participate in sexting.

One reason why quantitative research on sexting has provided mixed results is that there are vast differences in how sexting is studied.<sup>51</sup> Some researchers have defined sexting broadly to include both sexually explicit text messages and images.<sup>52</sup> Others have limited their research to images alone as this causes the most concern for policy makers, because the images may be considered a form of child

---

<sup>50</sup> Chi Squared Test were used to test the relationship between gender and the following: sending a sext ( $p = 0.937$ ), receiving a sext ( $p = 0.533$ ), received a sext not meant for them ( $p = 0.326$ ), having a sext shown to them that was not meant for them ( $p = 0.876$ ), asked someone to send a sext ( $p = 0.27$ ), personally was asked to send sext ( $p = 0.134$ ), asked someone to send a sext to them that was not meant for them ( $p = 0.736$ ), asked someone to show a sext to them that was not meant for them ( $p = 1.00$ ), engaging in secondary sexting ( $p = 0.534$ ), engaging in primary sexting ( $p = 0.534$ ),

<sup>51</sup> Klettke, Hallford, and Mellor, "Sexting Prevalence and Correlates: A Systematic Literature Review," 51. Lounsbury, Mitchell, and Finkelhor, *The True Prevalence of "Sexting."*

<sup>52</sup> Strohmaier, Murphy and DeMatteo, "Youth Sexting: Prevalence Rates, Driving Motivations, and the Deterrent Effect of Legal Consequences," *Sex Research and Social Policy*, 11 (2014): 245.

pornography.<sup>53</sup> Some researchers have restricted their focus to cell phones while others have included all electronic media.<sup>54</sup>

In addition to inconsistent definitions there is also the matter of interpretation. As several authors have pointed out, it is unclear how teenagers would interpret phrases such as 'explicit,' 'inappropriate' and 'nearly nude'.<sup>55</sup> It is also unclear whether teenagers even resonate with the term 'sexting' itself.<sup>56</sup> In my research, sexting was described as the sending or receiving of a semi-naked or naked picture. This definition was chosen for its simplicity, but one respondent commented that the definition failed to encapsulate the behaviour.

Sexting is not restricted to just nudes; nudes fall under the vast category that sexting is, and to only include nudes is a misrepresentation of the term sexting. A rename of the study would be beneficial to you.

Research methodology may also explain differing prevalence rates. Studies vary in terms of sampling techniques, the age range of participants and types of data collection, all of which may affect the results.<sup>57</sup> For example, non-random samples tend to report a higher prevalence of sexting than random sampling methods.<sup>58</sup> Furthermore, as the topic is sensitive in nature, anonymous studies are more likely to return accurate results than studies that employ other methods, such as surveys done over home phone lines.<sup>59</sup>

---

<sup>53</sup> Michele L Ybarra and Kimberly J Mitchell, "'Sexting' and Its Relation to Sexual Activity and Sexual Risk Behavior in a National Survey of Adolescents," *Journal of Adolescent Health* 55, no. 6 (2014): 757, doi: 10.1016/j.jadohealth.2014.07.012; Mitchell et al., *National Survey of Australian Secondary Students and Sexual Health 2013*, 63.

<sup>54</sup> Lenhart, *Teens and Sexting: How and Why Minor Teens Are Sending Sexually Suggestive Nude or Nearly Nude Images Via Text Messaging*, 3.

<sup>55</sup> Lounsbury, Mitchell, and Finkelhor, "The True Prevalence of "Sexting"," 4.

<sup>56</sup> Karaian, "Lolita Speaks: 'Sexting,' Teenage Girls and the Law," 64.

<sup>57</sup> Klettke, Hallford, and Mellor, "Sexting Prevalence and Correlates: A Systematic Literature Review," 51. Lounsbury, Mitchell, and Finkelhor, "The True Prevalence of "Sexting"," 4.

<sup>58</sup> Ibid.

<sup>59</sup> Renee Lamphere, "Prevalence and Research Methodology," in *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, ed. Todd C. Hiestand and W. Jesse Weins (Durham, North Carolina: Carolina Academic Press, 2014), 53.



## **Sexting Typologies**

As demonstrated above, sexting can involve a wide range of behaviours. In order to distinguish between these types of behaviours, researchers have created various sexting typologies.

### *Wolak's Typology of Aggravated and Experimental Sexting*

Wolak and Finkelhor limit their focus on sexting to 'youth produced sexual images' and divide sexting into two key main categories – 'experimental' and 'aggravated.'<sup>60</sup> Under experimental, there are three subcategories: 'romantic,' 'sexual attention seeking' and 'other.' Romantic sexting refers to teenagers who are already in a relationship, sexual attention seeking refers to teenagers who may send sexts with the intent of gaining someone's attention, and other refers to circumstances where a sext might have been created but not sent.

Within aggravated sexting, there are the subcategories of 'adult involvement' and 'youth involvement,' with youth having the subcategories 'intent to harm' and 'reckless misuse.' Sexting with intent to harm refers to using sexts as a form of revenge, while reckless misuse refers to situations where there may not have been an intention to harm but the image is shared without consent.

Broadly speaking, experimental sexting is a potentially less harmful form of sexting as there is 'no criminal behavior beyond the creation or sending of images, no apparent malice and no lack of willing participation by youth who were pictured.'<sup>61</sup> In comparison, aggravated sexting includes 'criminal and abusive elements' and therefore the potential for harm is dramatically increased.<sup>62</sup>

Although Wolak's typology is useful in broadly outlining sexting behaviours, there are several limitations to it. First, 'experimental' and 'aggravated' are loaded

---

<sup>60</sup> Janis Wolak and David Finkelhor, *Sexting: A Typology* (New Hampshire, America University of New Hampshire, 2011), 1.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

terms and play on assumptions about teenagers' motivations. The idea that every teenage who sends a sext is doing so for experimental reasons calls into question their sexual agency and autonomy. In Wolak's defence, the typology is limited to minors. However, as 17 year olds are considered minors in some jurisdictions it is difficult to see how such a person sending a sext in the context of a consensual intimate relationship could be considered experimental in the same way a 13 year old sending a sext would be.

Second, the typology does not take into consideration the elements of consent or coercion that may be placed on the sender.<sup>63</sup> The experimental category tends to assume the image was sent with consent. However, research has shown that teenagers frequently send sexts because they feel pressured to do so.<sup>64</sup> In Ringrose, Harvey, Gill and Livingstone's study, participants even reported being threatened if they did not comply with requests for images.<sup>65</sup> The role of willing consent is important in a typology as it would be dangerous for policy makers and educators to assume that all sexting falls neatly into experimental or aggravated in kind.<sup>66</sup> A girl who is pressured into sending a sext to her boyfriend may suffer from more adverse outcomes than those who consensually send a sext to several romantic interests.

Third, the categories do not distinguish between wanted and unwanted sexts. For example, a person could send a sext for sexual attention and this could be deemed to be inappropriate by the person who receives it. Although the sender's

---

<sup>63</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 140.

<sup>64</sup> Klettke, Hallford, and Mellor, "Sexting Prevalence and Correlates: A Systematic Literature Review," 50; Wood et al., "Images across Europe: The Sending and Receiving of Sexual Images and Associations with Interpersonal Violence in Young People's Relationships," 155; Elizabeth Englander, *Low Risk Associated with Most Teenage Sexting: A Study of 617 18-Year-Olds* (Massachusetts: Bridgewater State University 2012), 10.

<sup>65</sup> Jessica Ringrose, Rosalind Gill, Sonia Livingstone, and Laura Harvey, *A Qualitative Study of Children, Young People And 'Sexting': A Report Prepared for the NSPCC* (United Kingdom: NSCPP, 2012), 51.

<sup>66</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 140.

intent may not have been to cause harm, receiving unwanted sexual material can still have a significant negative impact on teenagers.<sup>67</sup>

### *Clay Calvert's Typology Primary and Secondary Sexting*

Like Wolak, Clay Calvert also divides sexting into two categories: 'primary' and 'secondary.'<sup>68</sup> Primary sexting is where sexts are sent between two people and not shared any further. Secondary sexting occurs when sexts are forwarded beyond the intended recipient.

The strength of Calvert's typology is that by using the neutral terms 'primary' and 'secondary' he avoids preconceived notions about motivation. However, it has the same limitation as Wolak's in that it does not distinguish between unwanted sexual material and wanted sexual material.<sup>69</sup> Nor does it explicitly mention consent, although his discussion shows that he recognises the importance of consent in understanding sexting situations.<sup>70</sup>

Although Wolak's typology is frequently employed, for my survey, interviews and focus groups I used Calvert's categories of primary and secondary sexting, particularly because of their neutrality. I, however, included consent in the definitions. Primary sexting was defined as 'when someone freely choose to send a sext to someone else (for example to your boyfriend or girlfriend)'. Secondary sexting was defined as 'when you forward a sext you have received to someone else, without the person's permission (e.g., a boy shows a sext from his girlfriend to his friends).'

---

<sup>67</sup> T.C. Clark et al., *Sexual and Reproductive Health & Sexual Violence among New Zealand Secondary School Students: Findings from the Youth'12 National Youth Health and Wellbeing Survey* (Auckland, New Zealand: The University of Auckland, 2015).

<sup>68</sup> Calvert, "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law."

<sup>69</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 140.

<sup>70</sup> Calvert, "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law."

## The Risks of Sexting

The media commonly portray sexting as risky and harmful and some researchers have investigated the relationship between sexting and other risky behaviours. Ybarra and Mitchell's study showed positive correlations between sexting, risky sexual behaviour and substance abuse, and negative correlations between sexting and self-esteem.<sup>71</sup> Temple *et al.* also found correlations between high risk behaviours, impulsivity and sexting, but no correlations between sexting and mental health.<sup>72</sup>

Van Ouystel's study considered underlying personality factors and sexting, and found that adolescents who scored highly on sensation seeking and experimental thinking are more likely to sext.<sup>73</sup> Van Ouystel concludes that one way to deter such adolescents from sexting would be to use education campaigns that are dramatic and highlight the negative consequences of the behaviour.<sup>74</sup>

Dake, Price, Maziarz and Ward found positive correlations between sexting, higher engagement in risky sexual activity, substance abuse and 'emotional health' issues.<sup>75</sup> Even though Dake et al.'s focus is on risky behaviour and sexting, they conclude the article by arguing that the main reason why adolescents should be discouraged from sexting is loss of reputation and potential legal consequences.<sup>76</sup> Dake et al.'s conclusions reflect the main reason for public concern about sexting: that it is not the initial act of sending a sext that causes harm, but rather what is

---

<sup>71</sup> Ybarra and Mitchell, "'Sexting' and Its Relation to Sexual Activity and Sexual Risk Behavior in a National Survey of Adolescents," 762.

<sup>72</sup> Jeff R. Temple, Vi Donna Le, Patricia van der Berg, Yan Ling, Jonathan A. Paul, and Brian W. Temple., "Brief Report: Teen Sexting and Psychosocial Health," *Journal of Adolescence* 37, no. 1 (2014): 35, doi: 10.1016/j.adolescence.2013.10.008.

<sup>73</sup> Joris Van Ouytsel, Ellen Van Gool, Koen Ponnet, and Michel Walrave, "Brief Report: The Association between Adolescents' Characteristics and Engagement in Sexting," no. 8: 1389, doi: 10.1016/j.adolescence.2014.10.004.

<sup>74</sup> *Ibid.*, 1390.

<sup>75</sup> Joseph A Dake et al., "Prevalence and Correlates of Sexting Behavior in Adolescents," *American Journal of Sexuality Education* 7, no. 1 (2012), 12-13, doi: 10.1080/15546128.2012.650959.

<sup>76</sup> *Ibid.*, 14.

done with the sext.<sup>77</sup> In other words, the concern lies with secondary rather than primary sexting. Most concern is focused on teenage girls.<sup>78</sup>

### **Gender and Sexting**

Panic about teenage girls and sexting are closely linked to the wider concern of sexualisation of culture.<sup>79</sup> For example Hinduja and Patchin view sexting partly as a result of girls viewing themselves as a 'primarily or (even partially) as a commodity that can possibly or (actually) benefit others.'<sup>80</sup> Closely linked to this is the influence of celebrity culture. Researchers seem to be particularly fixated on the impact of Miley Cyrus.<sup>81</sup> They argue that when teenage girls see female celebrities sharing sexts they are more likely to engage in sexting themselves as a way of emulating these celebrities and gaining attention.<sup>82</sup> The girls are sometimes portrayed as 'dupes' of celebrity culture and in need of protection from it.<sup>83</sup>

According to the sexualisation perspective, girls who sext are victims of the culture and in need of protection. However, as Hasinoff argues, the problem with this approach is that it fails to take into account female autonomy and the possibility that sexting may be part of normal sexual expression.<sup>84</sup> An article in the *New Zealand Listener* illustrates the problem. The article's tagline is 'Chilling research on how the online world is affecting teenage girls' and goes on to speak of 'the disturbing new world...where sexting has replaced 'intimacy.'<sup>85</sup> The article quotes Nancy Jo Sales, an

---

<sup>77</sup> Nicola Döring, "Consensual Sexting among Adolescents: Risk Prevention through Abstinence Education or Safer Sexting," *Cyberpsychology* 8, no. 1 (2014), doi: 10.5817/CP2014-1-9.

<sup>78</sup> Karaian, "Lolita Speaks: 'Sexting,' Teenage Girls and the Law," 4.

<sup>79</sup> Ringrose et al., *A Qualitative Study of Children, Young People And 'Sexting': A Report Prepared for the NSPCC*, 16-17.

<sup>80</sup> Hinduja and Patchin, *School Climate 2.0: Preventing Cyberbullying and Sexting One Classroom at a Time*, 52-53. Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 46.

<sup>81</sup> Ibid., 56.

<sup>82</sup> Hinduja and Patchin, *School Climate 2.0: Preventing Cyberbullying and Sexting One Classroom at a Time*, 56-57. Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 46.

<sup>83</sup> Karaian, "Lolita Speaks: 'Sexting,' Teenage Girls and the Law," 64.

<sup>84</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 110.

<sup>85</sup> Nicky Pellegrino, "Trolls & Tribulations," *New Zealand Listener* April 9 -15 2016.

American journalist, as an authority on why teenage girls participate in sexting. 'Sometimes it's girls trying to get a boy's attention and sending unsolicited shots of themselves. Or they may think they are in love, or are pressured into posting.' At no stage does the author consider the fact that girls may engage in sexting because they want to. As Hasinoff observes, the simple explanation that girls sext for 'pleasure...is rarely-if-ever suggested.'<sup>86</sup>

The assumption that girls cannot participate in sexting of their own accord is reflected in public service campaigns against sexting.<sup>87</sup> Girls who sext are presented as naïve and foolish and are encouraged not to engage in the behaviour, while boys who disseminate images are represented as mere bystanders.

The victim blaming rhetoric in educational campaigns is also evident in some teenagers' understanding of sexting. In her research, Shaheen Shariff presented teenagers between the ages of 13-18 years with a hypothetical scenario depicting the non-consensual sharing of images.<sup>88</sup> Disturbingly, 46.47% of participants said that the girl did not have the right to complain as she had sent the sext in the first place. Participants had very little sympathy for the girl and saw the boy who sent the sext as largely unaccountable.<sup>89</sup>

The tendency to blame the girls who send pictures can have some tragic consequences. In 2008, Jessica Logan sent a sext of herself to her boyfriend.<sup>90</sup> After they had broken up, her boyfriend sent the sext to some girls, who then forwarded it around the school. Logan was subjected to constant harassment and 'slut shaming'. In 2009 she died by suicide. Her parents believe that the harassment she suffered

---

<sup>86</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 88.

<sup>87</sup> Ibid., 73. Albury and Crawford, "Sexting, Consent and Young People's Ethics: Beyond Megan's Story," 465; Amy Shields Dobson and Jessica Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," *Sex Education* 16, no. 1 (2016): 18, doi:10.1080/14681811.2015.1050486.

<sup>88</sup> Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 61.

<sup>89</sup> Ibid.

<sup>90</sup> Mike Celizic, "Her Teen Committed Suicide over 'Sexting'," *today.com*, accessed on May 4, 2016, <http://www.today.com/parents/her-teen-committed-suicide-over-sexting-2D80555048>.

contributed to her death. Another high profile case was that of Hope Witsell.<sup>91</sup> In 2010 Witsell sent a sext to a person she had a crush on, who subsequently disseminated the image around the school. As a result of the harassment she suffered from her peers, she also died by suicide.

In both of the above cases, it is important to note that girls were involved in disseminating the images. As Shariff argues, once a girl has drawn unwanted attention to herself, other girls may see a need to put her in her place through 'slut shaming' and bullying.<sup>92</sup> In my research, one focus group asserted that females are more likely to harass a girl for sending a sext than males.

High profile cases, such as those above, have been used to highlight the dangers of sexting.<sup>93</sup> The message given to girls is that the non-consensual distribution of images is a foretold outcome of sexting.<sup>94</sup> For example, the Texas Online Safety School suggests that sexting can result in isolation from peers, bullying, loss of reputation and cyberbullying.<sup>95</sup> The resource does not distinguish between the different types of sexting.

The insinuation that sexting will always result in cyberbullying is unhelpful because it fails to distinguish between the intention and impact of these behaviours.<sup>96</sup> While cyberbullying is always harmful, the same cannot be said of sexting. On the other hand, some types of sexting may well fall under the category of cyberbullying. As Spears, Keeley, Bates and Katz argue, 'Sexting of itself is *not* cyberbullying, but when consensual images shared under the context of a private

---

<sup>91</sup>Randi Kaye, "How a Cell Phone Picture Led to Girl's Suicide," *CNN*, accessed May 4, 2016, <http://edition.cnn.com/2010/LIVING/10/07/hope.witsells.story/>.

<sup>92</sup> Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 68.

<sup>93</sup> Podlas, "Media Activity and Impact," 141-42.

<sup>94</sup> Döring, "Consensual Sexting among Adolescents: Risk Prevention through Abstinence Education or Safer Sexting."

<sup>95</sup> "'Before You Text' Sexting Prevention Course," *Texas School Safety Centre*, accessed November 02, 2016, <https://txssc.txstate.edu/tools/courses/before-you-text/>.

<sup>96</sup> Ringrose et al., *A Qualitative Study of Children, Young People And 'Sexting': A Report Prepared for the NSPCC*, 56.

relationship are used to publically humiliate, denigrate reputations, with clear intent to harm, then cyberbullying may be said to have occurred.<sup>97</sup>

Cyberbullying directed at girls whose images are shared without consent reflects broader cultural attitudes towards female sexuality. As Ringrose asserts,

Sexting is not a gender-neutral practice; it is shaped by the gender dynamics of the peer group in which, primarily, boys harass girls, and it is exacerbated by the gendered norms of popular culture, family and school that fail to recognise the problem or to support girls.<sup>98</sup>

In my own research, elements of this victim blaming rhetoric were apparent in both parent and staff responses. Girls who sext were described as 'naïve,' 'foolish' and 'stupid.' By contrast, students were more likely to consider sexting as an acceptable and normal behaviour. The implications of such attitudes are explored in more detail in the following chapter.

### **A New Narrative**

As research on sexting has progressed, academics have changed their focus from *how much* teenagers to sext to *why* they sext.<sup>99</sup> Instead of viewing sexting as a result of teenage impulsivity, researchers have decided to talk to teenagers about their reasons for sexting.<sup>100</sup> As a result a new narrative has emerged, one which Döring terms the 'normalcy discourse.'<sup>101</sup> Proponents of this view, such as Döring, argue that as the majority of teenagers that sext are in a relationship and sexting is

---

<sup>97</sup>Barbara Spears et al., *Research on Youth Exposure to, and Management of, Cyberbullying Incidents in Australia Part a - Literature Review on the Estimated Prevalence of Cyberbullying Involving Australian Minors* (Australia: Social Policy Research Centre, University New South Wales 2014), 17.

<sup>98</sup> Ringrose et al., *A Qualitative Study of Children, Young People And 'Sexting': A Report Prepared for the NSPCC*, 7.

<sup>99</sup> Karen Cooper et al., "Adolescents and Self-Taken Sexual Images: A Review of the Literature," *Computers in human behavior* 55 (2016): 707, doi: 10.1016/j.chb.2015.10.003.

<sup>100</sup> Ibid.

<sup>101</sup> Döring, "Consensual Sexting among Adolescents: Risk Prevention through Abstinence Education or Safer Sexting."



simply an expression of intimacy or sexuality through an online medium.<sup>102</sup> Even when teenagers use sexting in order to show interest in a potential romantic partner, this may be seen as flirting in the online world.<sup>103</sup> It is also a way of exploring sexual identity.<sup>104</sup> Proponents of this view do not deny that sexting can cause harm; however they view this harm as a result of wider issues in society, such as gender inequality, rather than as a result of sending a sext itself.

Although Döring's observations are useful, they do not represent the complexities of this behaviour. As Ringrose, Gill, Livingstone and Harvey argue, sexting 'cannot simply be described in absolute terms – wanted vs. unwanted sexual activity, deliberate vs. accidental exposure – for much of young people's engagement with sexual messages and images lies in the ambiguous and grey zone.'<sup>105</sup> The motivation for sexting is too complex to be deemed either deviant or normal; careful assessment needs to be made almost on a case by case basis.

### **The New Zealand Context**

There is limited research on sexting in New Zealand. However, there is research to show that females are more likely to be victims of sexual harassment online<sup>106</sup> and there can be little doubt that secondary sexting occurs here as well as elsewhere. While there are few reports on girls who have been victims of secondary sexting, there have been several high profile cases of teenage girls being victims of non-consensual taking of images and sharing on social media platforms. In some cases, these films and images have documented alleged sexual assaults.

---

<sup>102</sup> Ibid.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> Ringrose et al., *A Qualitative Study of Children, Young People And 'Sexting': A Report Prepared for the NSPCC*, 7.

<sup>106</sup> "Norton Study Shows Online Harassment at Epidemic Proportions for Young New Zealand Women", *Symantec*, accessed January 29, 2017, [https://www.symantec.com/en/au/about/newsroom/press-releases/2016/symantec\\_0720\\_01](https://www.symantec.com/en/au/about/newsroom/press-releases/2016/symantec_0720_01).

The most infamous example is the so-called 'Roast Busters' case.<sup>107</sup> The Roast Busters were a group of Auckland male teenagers who bragged online about having sex with drunk underage girls and who shared explicit images of these girls online and around their local high schools.<sup>108</sup> The case caused outrage and led to protests against rape culture. The incident also highlighted an underlying misogyny in wider culture. Two prominent Radio DJ's were suspended after describing the boys' actions as 'mischief,' asserting that kids are 'free and easy,' and alleging that the girls at the centre of the investigation had laid false rape complaints with the police.<sup>109</sup>

In 2014, 'The RACK Appreciation Society' on Facebook was shut down after it was found that several posts contained intimate images of female Otago University students.<sup>110</sup> The creator of the site maintained that the page was being taken too seriously and he was not prosecuted for his actions.<sup>111</sup> (A similar page reported to Australian police in 2016 had over 200 images and encouraged its members to actively pursue certain girls for their images).<sup>112</sup>

While the above cases did not result in prosecution, other cases have led to criminal convictions and prison sentences. In 2013, a Taranaki teenager covertly filmed two of his friends engaging in sexual activity with a girl. He then uploaded the films to a Facebook page which his friends used to document their 'antics.'<sup>113</sup> The

---

<sup>107</sup> Ian Steward and Kelly Dennett, "Roast Busters Case: No Charges to Be Laid," *Stuff.co.nz*, accessed December 12, 2016, <http://www.stuff.co.nz/national/crime/10674764/Roast-Busters-case-No-charges-to-be-laid>.

<sup>108</sup> Ibid.

<sup>109</sup> Amy Maas, "More Firms Pull Radio Live Ads," *Stuff.co.nz*, accessed December 12, 2016, <http://www.stuff.co.nz/business/industries/9378508/More-firms-pull-Radio-Live-ads>.

<sup>110</sup> Myles Hume, "Rack Appreciation Society Founder Unrepentant," *Stuff.co.nz*, accessed December 12, 2016, <http://www.stuff.co.nz/national/64451449/rack-appreciation-society-founder-unrepentant>.

<sup>111</sup> Ibid.

<sup>112</sup> Nina Funnell, "Exclusive: Students from 71 Australian Schools Targeted by Sick Pornography Ring," *news.com.au*, accessed August 18, 2016, <http://www.news.com.au/lifestyle/real-life/news-life/students-from-70-australian-schools-targeted-by-sick-pornography-ring/news-story/53288536e0ce3bba7955e92c7f7fa8da>.

<sup>113</sup> "Cameraman Convicted," *Taranaki Daily News Online*, accessed 29 January 2017, <http://www.stuff.co.nz/taranaki-daily-news/news/9632289/Cameraman-convicted>.

girl subsequently complained to police that she had been raped by the boys. The video had a devastating effect on the victim, and resulted in her being harassed by her own community.<sup>114</sup> The boy maintained that he did not intend to cause harm and saw the video as a 'joke.' He was convicted of making an intimate visual recording and sentenced to community detention and community work and ordered to pay reparation to the victim for emotional harm.<sup>115</sup>

In 2012, a 21 year old man was sentenced to prison for distributing objectionable material.<sup>116</sup> He was 19 at the time of the offending. He recorded a 16 year-old girl being coerced into performing sex acts, which he then uploaded to Facebook. A probation officer report noted that the offender did not consider he had done anything wrong and the victim had a 'reputation.'<sup>117</sup>

In a similar case, a 19 year-old male was charged with making an intimate visual recording.<sup>118</sup> The male covertly filmed himself and his girlfriend having sex.<sup>119</sup> When she found out about the video's existence, she asked her boyfriend to delete it, which he refused to do. The boy eventually uploaded the video to his Facebook page with the comment, 'Think twice before you get between me and my brothers.' At sentencing, Judge Merelina Burnett asserted that the offender's actions showed a complete disregard for the victim.<sup>120</sup>

---

<sup>114</sup> Lyn Humphreys, "Victim in Sex Video Case Says Her Life Ruined," *Taranaki Daily News Online*, accessed January 29, 2017, <http://www.stuff.co.nz/taranaki-daily-news/news/9634827/Victim-in-video-sex-case-says-her-life-ruined>.

<sup>115</sup> "Cameraman Convicted".

<sup>116</sup> Harmful Digital Communications: The Adequacy of the Current Sanctions and Remedies (Wellington, New Zealand: Law Commission, 2012), 89.

<sup>117</sup> *Broekman v R* [2012] NZCA 213 at [6].

<sup>118</sup> Hume, "Rack Appreciation Society Founder Unrepentant".

<sup>119</sup> Mike Mather, "Man Jailed for a Year for 'Spiteful' Revenge Porn Facebook Post," *Stuff.co.nz*, accessed January 29, 2017, <http://www.stuff.co.nz/national/crime/80275390/years-jail-for-spiteful-underage-revenge-porn-facebook-post>.

<sup>120</sup> *Ibid*.

It is important to note that, aside from the above case and the RACK Appreciation Society, all of the cases involved allegations of sexual assault and the non-consensual taking and distribution of images. Frequently these cases are reduced to the cyber element.<sup>121</sup> Whilst the cyber element is important, as it may exacerbate or create new harms, it should not be the central concern. As Shariff argues, to reduce a case of rape or sexual assault to sexting or cyberbullying minimises the seriousness of the offending and the harm caused to victims.<sup>122</sup>

## **Summary**

The literature reviewed in this chapter shows how diverse the research field on sexting is and how difficult it is to gain a clear picture of the behaviour. Although the extent to which teenagers participate in sexting is uncertain, there is a prevailing concern that the behaviour is inherently harmful and teens need to be discouraged from participating in it. However, when we factor in issues such as consent and motivations for sexting, it becomes apparent that sexting encompasses a wide range of behaviours, not all of which are harmful. Furthermore, the harm that does occur from sexting stems largely from harmful gender norms in society rather than from individual behaviours, norms that put girls unfairly at risk of harassment and bullying when their pictures are shared without their consent. The following chapter explores this harm in more detail.

---

<sup>121</sup> Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*

<sup>122</sup> *Ibid.*, 9.

## Chapter 3

### What's the Harm and Who is Accountable?

After telling the story of what has happened, the next step in the restorative process is to establish how the victim has been harmed by the incident, what their needs are and who is responsible for addressing those needs.<sup>123</sup> While the primary focus is on the victim, there is also the need to address the harms experienced by the wider community and by the offender.<sup>124</sup> Identifying all the levels of harm is important as it enables offenders to take full responsibility for their actions. Furthermore, just as harm extends further than the victim, so accountability also extends beyond the perpetrator to involve the contribution of the wider community.

The goal of this chapter is to understand the harm caused by secondary sexting. As argued in the previous chapter, the voluntary act of sexting itself does not create harm, but when sexts are forwarded to other recipients without consent, it will most likely result in harm.<sup>125</sup> In order to concretize this harm, the discussion refers to the fictional scenario of Katie and Tom, which was used in data collection for my research. Katie sends Tom, her boyfriend, a sext, which he then shares with his friends, who subsequently distribute the picture around the school. This section starts by analysing the harm done to Katie. It then outlines the potential harm that may occur to Tom, to the families of both parties and to the school community.

The second part of the chapter explores where accountability for the harm lies and what it entails. It begins with a critique of the victim-blaming discourse according to which Katie is completely or partially to blame for the harm caused.

---

<sup>123</sup> Zehr, *The Little Book of Restorative Justice: Revised and Updated*, 23.

<sup>124</sup> Ibid.

<sup>125</sup> Calvert, "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law."

After critiquing this discourse, the chapter outlines a restorative approach to accountability.

## **Identifying the Harm**

### *Harm to the Victim*

There are two main ways that the secondary distribution of intimate images causes harm: the violation of privacy and trust, and the potential for future harassment. Both of these harms are due to a breakdown of relationships or relational responsibilities.

In my research, respondents were asked how Tom's actions caused harm to Katie. One response was that because Tom did not ask for consent, he violated Katie's privacy. One staff member commented:

Is it not your picture? Do you have permission to share it? Whenever I deal with a child who I think has done something that's not OK, I refer to that and we talk through it. If you haven't done any of those things, then actually you have done some of this harm.

By itself, the focus on consent is problematic as it reduces the harm to a matter of intellectual property rights. The harm is much deeper than this. When asked to justify why they thought secondary sexting should be a crime, some students argued that sharing an image was a direct attack on the person. Tom's actions may be interpreted as what might be called a 'dignity violation,' in that they are a direct attack on Katie's self-worth.<sup>126</sup> As one student asserted, Tom's actions 'make her seem worthless.' Others commented:

Secondary sexting should be viewed along the same lines as rape, because it is effectively exploiting their body without their consent.

It is a betrayal of trust and somewhat counts as character attack.

---

<sup>126</sup> I first encountered the term "dignity violation" at the STAR Trauma Workshop in Wellington on 4-7 October 2016. Terri Day, "The New Digital Dating Behavior-Sexting: Teens' Explicit Love Letters: Criminal Justice or Civil Liability," *Hastings Communications and Entertainment Law Journal* 33, no. 1 (2010). Day refers to it as 'dignitary and emotional harm'

One staff member also saw the act of secondary sexting as an attack.

It's betraying the student really, and it's totally inappropriate. I don't ever like humiliation, shame. I hate to say it's often characteristics of girls that do it. Occasionally, a guy does it. The one thing they are really looking for is friendship, looking for need, and looking for acceptance. And the very thing they are looking for is turned round on its side and humiliation takes place.

Although both students and staff members saw secondary sexting as a character attack, their understanding of the primary sexter differed significantly. Most students saw the primary sexter as having some form of autonomy. They considered sexting to be a 'harmless form of romantic communication.' Another commented that sexting could be 'beneficial to the relationship.' By contrast, one staff member viewed primary sexting as a result of someone with low self-esteem. Whereas students saw the primary sexter as an active participant, the staff member viewed the girl as a passive victim, someone who needed to be protected. The idea that the majority of girls who sext are 'vulnerable' conflicts with research findings that for some girls, sexting is simply a form of sexual expression within their relationships.<sup>127</sup>

Alongside the idea that secondary sexting was an attack on Katie's self-worth, participants frequently saw Tom's actions as an attack on their relationship.

I think you would feel betrayed because you had enough confidence in someone to place your trust in them and then you find out that trust was misplaced and it wasn't how you expected it to go. *Student*

Reprehensible, bro, you gave an undertaking. Where's your word? Where's your integrity in giving that undertaking? And you have just really dissed all over the relationship. So he's a little heinous isn't he? *Parent*

Sharing the picture is a breach of their relationship. *Student*

---

<sup>127</sup>Cooper et al., "Adolescents and Self-Taken Sexual Images: A Review of the Literature," 713.

From a restorative justice perspective, this interpretation is significant. Harming a relationship is intrinsically linked to harming a person. Marshall argues that this one of the 'core convictions' of restorative justice is that 'what fundamentally marks out crime as wrong is that it injures, or seriously threatens to injure, the persons involved and violates their relational integrity.'<sup>128</sup>

The flow-on effects of Tom's actions would also cause harm. By sending the images to his friends, Tom opened up the possibility of the images being shared around the whole school. Students said that once an image is shared there is a high potential for the girl in the picture to be subjected to harassment and bullying. This can lead to girls feeling humiliated and shamed and potentially contribute to an increase in anxiety and depression.<sup>129</sup> Furthermore, due to the nature of technology, the girl would most likely feel powerless, as she would not know who has viewed the image and would have limited resources to remove it.<sup>130</sup> This harassment can be particularly vile in nature.<sup>131</sup> The following is an excerpt from the victim impact statement of a young woman who was a victim of a sexual assault, which was filmed and posted online.

In less than a day after it happened, I started getting more abuse at school. People started calling me XXXX XXXX, slut and I was being humiliated in front of the class and the kids at school. It got so bad that I could not stay in class and I could not walk around at lunchtime without being abused. The kids were saying 'I've seen your video' and there was stuff on Facebook about it. Apparently X and X wrote a synopsis about what happened. I heard that X connected his phone to his big TV and showed the video...<sup>132</sup>

---

<sup>128</sup> Marshall, "Restoring What? The Practice, Promise and Perils of Restorative Justice in New Zealand," 7.

<sup>129</sup> # *Cybermisogyny: Using and Strengthening Canadian Legal Responses to Gendered Hate and Harassment Online*, 36.

<sup>130</sup> Robert Slonje and Peter K Smith, "Cyberbullying: Another Main Type of Bullying?," *Scandinavian Journal of Psychology* 49, no. 2 (2008): 153, 10.1111/j.1467-9450.2007.00611.x.

<sup>131</sup> Ibid.

<sup>132</sup> *Harmful Digital Communications: The Adequacy of the Current Sanctions and Remedies*, 39.



As the picture is intimate in nature, it may impact Katie's ability to seek help.<sup>133</sup> Students expressed apprehension about disclosing the situation to parents or staff.

It's kind of shameful because I think if you were the girl who originally sent the photos it might be like you would feel like they (parents) would get angrier at you for doing it and almost blame you, although it's not your fault. They might not but you might feel like embarrassed to admit to them you have done that.

It's kind of more of a private thing, like you wouldn't share that with your teacher. If you got cyberbullied and it was a mean text or something, you might show a teacher, be like, 'OK help me deal with this.' But if it was a nude of yourself out there, like, I wouldn't tell a teacher because I wouldn't want them knowing about that.

This lack of willingness to disclose what has happened may contribute to the harm, as it prevents students from accessing the support systems they may need. This is particularly problematic in cases where a person's mental health may be at risk.

In addition to the immediate harm that occurs, there is also the potential for long-term harm. Teachers and parents commented that having an intimate picture online could affect future educational and career prospects.

Also I think students need to – young people in general need to – be aware about the digital footprint. That's the key thing. I think the more tales we hear about people being denied jobs because three years ago they had their 21st party on Facebook and their employer said you can't come and work here because of your digital past that would be a wakeup call for some of our students. *Staff*

While several informants commented on the potential for people to lose out on employment opportunities, it is unclear how well founded this

---

<sup>133</sup> Andy Phippen, *Sharing Personal Images and Videos among Young People* (United Kingdom: Southwest Grid for Learning, 2009), 2; Willard, "Sexting and Youth: Achieving a Rational Response," 550.

concern is as there is limited research on it.<sup>134</sup> Angelides points out that as most images are sent by text, concern about the impact of image appearing in cyberspace seems unwarranted.<sup>135</sup> In my research I have not come across any incidents of teenagers being refused job opportunities due to their image being posted online. Ironically, the one case I came across was of an offender losing out on job opportunities due to a conviction for distributing child pornography.

### *Harm to the Offender*

While the dominant focus of a restorative process is on the harm suffered by the victim, there is also a need to acknowledge the potential harm caused to the offender by his or her own actions. In the case of Tom, an immediate harm may come from the judgement of his family and peers.

I would say he's in the wrong because he is breaking a promise and betraying someone's trust. But at the same time, it will reflect on him because it shows he's the kind of person who can't be trusted, or the kind of person who is happy to go out and share people's private business with the outside world, which is not the kind of person I would want to be associated with. *Student*

Respondents recognized that through his actions Tom had become someone who is untrustworthy and who his wider peer group needs to be suspicious of. While this stigmatisation is common with offenders, it is often a cause of harm.<sup>136</sup> Braithwaite argues that this type of shaming may lead to the offender feeling like an 'outcast' and may 'provoke a defiant action from them.'<sup>137</sup>

---

<sup>134</sup> Steven Angelides, "'Technology, Hormones, and Stupidity': The Affective Politics of Teenage Sexting," *Sexualities* 16, no. 5-6 (2013): 671, doi: 10.1177/1363460713487289.

<sup>135</sup> Ibid.

<sup>136</sup> Eliza Ahmed and John Braithwaite, "Forgiveness, Shaming, Shame and Bullying," *Australian & New Zealand Journal of Criminology* 38, no. 3 (2005): 299.

<sup>137</sup> Ibid.

Secondary sexters may be harmed in other ways too. If their actions result in criminal prosecution, the longer term impact on their lives will be substantial. Research also shows that offenders may have an increased risk of suicide ideation and other mental health problems.<sup>138</sup>

However, although there is potential for Tom to be shamed by others his actions, research suggests that Katie is much more likely to be ostracized from the peer group.<sup>139</sup>

### *Harm to the Wider Community*

The harm caused by incidents of secondary sexting is not limited to Katie and Tom. My interviews made it clear that both Tom's and Katie's parents would also suffer harm, as would the wider school community. When participants were asked how they would feel if they were Katie's parents, their responses paralleled those of parents whose children have been victims of bullying. In a meta-analysis of parents' reactions to bullying, Harcourt et al. found that the majority of parents commonly reported feeling 'angry, helpless, frustrated, guilty, worried, and stressed.'<sup>140</sup> The parents I spoke to expressed similar dismay at the thought of their child being the victim of secondary sexting.

Devastated. And you would think, 'oh you poor thing, I don't know how to fix this.'

Quite unhappy for her, and distressed for her. I would be wanting to reassure her that I still loved her and it was a bad mistake.

---

<sup>138</sup> Sheri Bauman, Russell B Toomey, and Jenny L Walker, "Associations among Bullying, Cyberbullying, and Suicide in High School Students," *Journal of adolescence* 36, no. 2 (2013): 347, doi: 10.1016/j.adolescence.2012.12.001.

<sup>139</sup> Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 46-47.

<sup>140</sup> Susan Harcourt, Marieke Jasperse, and Vanessa A Green, "'We Were Sad and We Were Angry': A Systematic Review of Parents' Perspectives on Bullying," *Child & Youth Care Forum* 43, no. 3 (2014): 382, doi: 10.1007/s10566-014-9243-4.

Gutted for her. Possibly as parents we have failed her in terms of what actually is appropriate. Keeping her safe, not physically safe but emotionally safe.

The range of responses shows not only are the parents taking on the Katie's own distress but her victimization means they may also question their parental capabilities. By contrast, when parents were asked how they would feel if they were Tom's parents, they asserted they would be angry, disappointed and ashamed of their son.

Gutted that we've got this boy who thought it was OK to - not to receive the photo (that we just have to accept) but for him to share it, knowing...because they do know how awful these things are. We would be absolutely gutted.

I would be extremely shameful of his behaviour.

If I knew it was my son I would be gutted. Again, the same thing failed him, to what is appropriate behaviour and what inappropriate behaviour was. Be really angry that he has caused harm to somebody else in that way, which for all you know could not be stopped.

These emotions are not surprising. Research shows that parents of young offenders have reported viewing their child's behaviour as a reflection on them as parent.<sup>141</sup>

Alongside the harm caused to both sets of parents, Tom's actions would also harm the school community. The gossip, bullying and tension that may occur would very likely disrupt learning and other relationships.<sup>142</sup>

---

<sup>141</sup>Jeremy Prichard, "Parent-Child Dynamics in Community Conferences—Some Questions for Reintegrative Shaming, Practice and Restorative Justice," *Australian & New Zealand Journal of Criminology* 35, no. 3 (2002): 334.

<sup>142</sup> Keith Sullivan, *The Anti-Bullying Handbook - Second Edition* (London Sage, 2010), 38.

## Establishing Accountability

### *Victim accountability?*

I have commented frequently on the tendency in wider culture to lay the blame for sexual assault on victims and how such victim blaming is even more apparent in cases of secondary sexting. Prominent educational campaigns and media reports on sexting frequently blame the girl for the non-consensual distribution of images.<sup>143</sup> Although none of the participants in my research saw Katie as completely responsible for the harm caused, elements of victim-blaming rhetoric were still apparent. For example, when asked if Tom's actions constituted an act of cyber aggression, some participants asserted that it was not as it wasn't Tom's *intent* to harm Katie: it might just be him showing off. Similarly one teacher commented,

To be aggressive you actually have to want to hurt somebody, and in actual fact Tom might be very proud of this bird that he's scored, and how lovely she is, and wants to share her in the same way. But I think you need to tease that out with Tom, you need to say, 'it's inappropriate, it's not your image and it's unwise and have you thought about the repercussions for Katie who is a shy, demure girl in her first relationship.'

On a similar note, one parent observed,

I think it is just a teenage boy that is not thinking about the consequences to be honest. I don't know from this scenario if it is more of a 'feel good' factor for him, as opposed to not thinking of what he is doing to Katie.

Other parents were quick to state that their child would never sext and that only a certain type of person would engage in such behaviour. These assumptions may potentially be a sign of deviance labelling, where a negative action ends up controlling people's understandings of a person.<sup>144</sup>

---

<sup>143</sup> Albury and Crawford, "Sexting, Consent and Young People's Ethics: Beyond Megan's Story." Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed."

<sup>144</sup> Christopher D Marshall, *Compassionate Justice: An Interdisciplinary Dialogue with Two Gospel Parables on Law, Crime, and Restorative Justice* (Eugene, Oregon: Cascade Books 2012), 235.

My son wouldn't do that. He would never do that but he would never go out with a girl who would send a picture of, whatever breasts. And my daughters who are here, they would never do that, they would never ever think about doing that. So you're dealing with a certain type of person or a Kardashian.

Parents also frequently asserted that Katie needed to protect herself from the risks involved in sexting.

A bit stupid, technology aside, that you could do that with a photograph. Distributing that or allowing it to occur opens you up to the risk involved.

She is putting herself at risk. I feel kind of torn. Because it's a personal thing between the two of them but as it is nowadays I don't think you can trust anybody.

No, I don't think you should be sending nude pictures, regardless if you're in a long term relationship, or if you're married. They can still be used against you. The risk is too high you just can't get them back once they are out there.

In the above comments, it is not entirely clear what these risks are. However, other participants identified the risk as being directly related to the untrustworthiness of teenage boys.

Well, you would think there would be more trust in the relationship not to do that. But then, at the same time, boys are boys. *Student*

If Katie can come out of this with a lesson, it's about not engaging in that sort of risky behaviour and that maybe boys might just have more than one thing on their mind, you might want to think about that.

*Parent*

I don't think we can negate responsibility. Because we have got to accept our own actions have consequences. Again, back to the rape victim analogy, women should be able to walk where they want, when they want. But if you are walking down a dark alley at midnight, there might

be consequences to that. It doesn't make it your fault but you can lessen the risk. And so sending a dodgy picture is increasing that risk. *Parent*

The above responses correspond with the messages of the education campaigns that suggest girls should know how to protect themselves from their male counterparts. This protection is not just limited to the online world. As Dobson and Ringrose assert, 'The female subject must adapt and become resilient in conditions of renewed sexism and gender imbalances that are seen to normatively pervade in both the schoolyard and the digital realm.'<sup>145</sup>

Although victim blaming rhetoric was apparent in responses, some of the participants who asserted that Katie's actions were stupid also said that Tom had to take full responsibility for his actions. This apparent contradiction may reflect the specific focus of the questions asked. For example, when asked if Katie's actions were appropriate, participants took a victim-blaming approach. However, when asked about Tom's actions, participants frequently asserted they were harmful to Katie. One parent captured the contradiction well by saying that, while 'Katie's actions were stupid, Tom's were cruel.'

For some participants, Katie and Tom were deemed to be 'as bad as each other' and their behaviour could be attributed to teenage impulsivity and adolescent brain development.

Aw, she is just a dumb teenage girl as it happens. I don't think it was appropriate but we make mistakes and the reality is because of the devices she now has to live with that. *Parent*

[Technology] is almost forcing you as a teenager to make adult decisions in a split second that you're not capable of making because all your pathways aren't there and you're still an idiot. *Parent*

However, as Hasinoff asserts, these 'biological narratives put adolescents in a strange position; they are personally not responsible for their misbehaviours, but

---

<sup>145</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," 12.

neither is the person who harasses or assaults them.<sup>146</sup> Furthermore, it needs to be asked whether Katie's and Tom's actions were equally risky.<sup>147</sup> Katie was voluntarily engaging in *primary* sexting. If the pictures had remained between her and Tom, there is little risk of harm. By contrast, Tom engaged in *secondary* sexting. He sent the pictures to his mates, which increases the risk of harm exponentially.

### *Offender and Co-offender Accountability?*

Although participants did view Katie's actions as inappropriate, it was Tom who was always cast as the principal offender.

Certainly the chap. He has got to be front and centre and take responsibility for what he did. *Parent*

I think he has much more responsibility and accountability for this. In fact she doesn't. He has all the accountability and responsibility of what happened. *Parent*

It's not something I would want my daughter to be doing, but if she does it in good faith to one person, then it's actually *his* misdeed not hers. *Parent*

It would definitely have to be Tom first, because he caused the harm. Her actions, that's different. *Parent*

Although everyone thought Tom should be held accountable for his actions, they also said they would be cautious about viewing his actions as deliberately harmful. For example, one staff member commented that his actions could have been due to peer pressure.

If the friends were aware of the existence of it, I think they would expect that it would be shared with them. And not for any reason, just because they are nosy and think they have a right to everyone's personal business. *Staff*

---

<sup>146</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 58.

<sup>147</sup> *Ibid.*, 2.



One student suggested that the sharing of the images could be simply to prove a claim.

Aww look, my girlfriend sends me nudes. What about you? Like, you know. She sent me nudes! I don't believe you! Aww here then.

Respondents therefore recognised that Tom's rationale for sending the image is important. While he is still accountable for causing harm, this may not have been his intent.

In educational campaigns and media reports on sexting, there is an overwhelming emphasis on individual responsibility.<sup>148</sup> This was reflected by some of my interviewees as well. One parent asserted, for example, that there is little point in talking to friends or the wider community about the sharing of images, as they had 'no obligations' to Katie. For the majority of participants, however, the actions of Tom's friends were also a source of harm and reflected a complete lack of consideration and empathy for Katie, therefore they shared accountability for the wrong. As one male student said,

Sending it to the whole school, it's not like, 'oh I'm sending it to my friend that can keep a secret.' It's sending it to the *whole* school and that action could destroy someone's reputation at school, and reputation is not something you can get back straight away.

Students also understood the friends' actions as a kind of cruel joke.

I think they are (insensitive), but some people just look at it as a joke, and they do it, but they don't feel for the person in the same way.

A lot of boys don't think about it person to person they are just like, aw this is funny and it's not me, so hahaha everybody else should know about it to. And then when it comes back to them, aw yeah we probably shouldn't of done that ah whoopsies, aw it was just a joke.

---

<sup>148</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," 18.

Shariff argues that part of the reason for viewing the non-consensual distribution of images as a joke is due to moral disengagement and lack of empathy for those affected.<sup>149</sup> In addition, there is a kind of misplaced empathy for the sender, a view that sometimes sexting just spirals out of control.<sup>150</sup> This may help explain the results of Andy Phippen's study, in which of the 56% students who were aware of the non-consensual distribution of images, only 23% of them believed the images were sent on to cause harm.<sup>151</sup> As discussed in the previous chapter, the defence of the Taranaki teenager who filmed his friends having sex was that it was 'just a joke,' while the creator of The RACK Appreciation Facebook page argued that people simply took the page 'too seriously.'<sup>152</sup>

### *Societal Accountability?*

While Tom's friends caused additional harm by sharing the picture, accountability does not stop with them. Wider society shares the blame. The bullying and 'slut shaming' inflicted on Katie by her peers would likely cause an immense amount of harm to her. One student acknowledged the irony in that while teenagers view sexting as 'normal,' they still feel the need to condemn the girls whose sexts are forwarded.

I think society makes us look at girls that way and that's how we are expected to treat it like even though probably the girls say ooh what a slut and stuff, they are doing it (sexting) themselves and yeah.

The normalising of the harassment and humiliation of girls whose images are shared without consent is reflective of strands of rape culture in society. For example, New Zealand actress Teuila Blakely was subjected to harassment when an intimate video of her was shared without consent.<sup>153</sup> After being inundated with

---

<sup>149</sup> Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 65.

<sup>150</sup> Ibid., 63.

<sup>151</sup> Phippen, *Sharing Personal Images and Videos among Young People*, 2.

<sup>152</sup> Hume, "Rack Appreciation Society Founder Unrepentant".

<sup>153</sup> Shahra Walsh, "Teuila Blakely Still 'Persecuted' by Following Konrad Hurrell Sex Tape Scandal," accessed January 29, 2017, *Stuff.co.nz*,

hurtful comments, Blakely described the backlash from the public as 'persecution.'<sup>154</sup> In one study, young New Zealanders reported that victim blaming and 'slut shaming' were 'commonplace.'<sup>155</sup> The authors note that a 'sense of resignation about sexism and rape culture coloured many participants' talk.'<sup>156</sup>

The idea that sharing an intimate picture could be a way for a young man to show off his sexual conquests also demonstrates how these values are normalised.<sup>157</sup> The rationale that boys might share pictures because they are 'proud of their bird' in and of itself is inherently harmful as it reduces the young woman to an object. Society has to accept responsibility for promoting harmful attitudes towards women and not educating students about respectful relationships. This point will be explored in detail in Chapter 5, but it is important here to highlight how the pervasiveness of harmful gender norms contributes to the harm of sexting. Is there an age when girls should be able to trust boys? Or are females forever meant to modulate their behaviour according to the risk of being humiliated, exposed or shamed for asserting their sexuality?

And what about the boys? How are they meant to know their behaviour is 'cruel' and 'selfish' when popular rhetoric on sexting presents it as normal? If the girl was drunk or dressed inappropriately, would the judgment change? In cases where alcohol has been a factor in the recording and forwarding of intimate images, the public still often thinks the girl deserved it.<sup>158</sup> For example, in an American case where images of a 16 year-old woman being raped were posted online a person commented on Twitter, 'Shouldn't they charge the slut for underage drinking?'<sup>159</sup>

---

<http://www.stuff.co.nz/entertainment/celebrities/77826508/Teuila-Blakely-still-persecuted-by-following-Konrad-Hurrell-sex-tape-scandal>.

<sup>154</sup> Ibid.

<sup>155</sup> Sophie Sills et al., "Rape Culture and Social Media: Young Critics and a Feminist Counterpublic," *Feminist Media Studies* 16, no. 6 (2016), 942, doi: 10.1080/14680777.2015.1137962.

<sup>156</sup> Ibid.

<sup>157</sup> Jessica Ringrose et al., "Teen Girls, Sexual Double Standards and 'Sexting': Gendered Value in Digital Image Exchange," *Feminist Theory* 14, no. 3 (2013), doi: 10.1177/1464700113499853.

<sup>158</sup> Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 65.

<sup>159</sup> Ibid., 42.

## **Summary**

This chapter began with a brief explanation of the importance of answering the questions, ‘Who has been harmed, and who is accountable for this harm?’ A restorative lens helps to show that it is secondary sexting that causes the most significant harm. This harm is most severe for the victim, but it is not limited to them. It also extends to the offender, their accomplices and the wider community. The harm to the victim, moreover, is exacerbated by the harmful gender norms that pervade society, so that the victim is often blamed for her own suffering. But such victim-blaming narratives are dangerous as they are based on an understanding of sexting that fails to differentiate between its primary and secondary forms. On the other hand, seeing the offender as wholly and solely responsible for the harm is also problematic as it does not take into consideration the contribution of the wider peer group and community, or the extent to which his actions are also the result of wider gender norms and expectations. Any adequate response to sexting must be able to recognise and respond to the different layers of accountability involved. Only by doing so are we able to turn to the more important question of how things can be made right again, which is the focus of the next chapter.

## Chapter 4

### How Do We Put Things Right Again?

The third step in a restorative process is to explore what can be done to repair the harm and make things right again.<sup>160</sup> This is the most distinctive feature of restorative justice. Whereas the conventional justice system is primarily focused on establishing guilt and administering punishment, restorative justice is chiefly concerned with the healing of hurts and the restoration of right relationships. The purpose of this chapter is to identify and evaluate various common responses to sexting. It begins with a discussion of passive responses and the inadequacies of such an option. It then turns to the criminal justice response, including the controversial use of child pornography laws. The chapter concludes by outlining a restorative response to sexting, both in criminal justice and educational settings.

#### A Passive Response – Do Nothing?

Although it may seem paradoxical, one response to sexting is simply to do nothing. Research in New Zealand has shown that when bullying or cyberbullying comes to the attention of teachers, they sometimes remain passive.<sup>161</sup> For example, in the Children's Commission School Safety report, students complained that when they reported bullying behaviour to teachers, little or nothing was done about it.<sup>162</sup> A perceived lack of action on the part of the school to address incidents of harm was also a common theme of complaints from parents.<sup>163</sup> One parent in my own research said it was her experience that some schools denied the existence of bullying in

---

<sup>160</sup> Zehr, *The Little Book of Restorative Justice: Revised and Updated*.

<sup>161</sup> Janis Carroll-Lind, *School Safety: An Inquiry into the Safety of Students at School* (New Zealand: Office of the Children's Commissioner, 2009), 42-4; Sheri Bauman and Cindy Hurley, "Teachers' Attitudes and Beliefs About Bullying: Two Exploratory Studies," *Journal of School Violence* 4, no. 3 (2005): 59, doi: 10.1300/J202v04n03\_05.

<sup>162</sup> Carroll-Lind, *School Safety: An Inquiry into the Safety of Students at School*, 42-45.

<sup>163</sup> Ibid.

order to protect their reputations, and that challenging such behaviour was seen as 'rocking the boat.'

Research has shown that teachers are slow to react to incidents of gendered bullying, as misogynistic bullying is sometimes considered 'normal.'<sup>164</sup> In 2013, the New Zealand Police came under intense criticism for their handling of the Roast Busters case.<sup>165</sup> When the case erupted in the media in 2013, people were shocked to learn that the police had been aware of the group since 2011 and that little action had been taken over complaints about it. Furthermore, after a lengthy investigation of the case none of the boys involved were prosecuted for their actions. Had the police not taken such a passive approach in the first instance, the offending involved may have been curtailed more quickly.

Unsurprisingly, passive responses to reported abuse are heavily critiqued. Yet educational campaigns sometimes unwittingly endorse this approach to secondary sexting.<sup>166</sup> In one such campaign, *Megan's Story*, which depicts a harmful incident of secondary sexting, the response of the teacher to sigh in exasperation. In the educational video *Tagged* the victim deals with the situation by simply changing schools.<sup>167</sup> Passive responses like these have the potential to cause significant injury as they leave the victim without support. In the case of Jessica Logan, her parents asserted that the school's lack of action against her ex-boyfriend made the harassment worse and contributed to their daughter's death.<sup>168</sup> Whilst informants in my research did propose changing schools as a solution to victimization, they emphasised that they would only take this approach if no resolution had occurred through the school.

---

<sup>164</sup> Deborah, Chambers, Joost Van Loon and Estella Tincknell, "Teachers' views of teenage sexual morality," *British Journal of Sociology of Education* 25, no. 5, (2004): 568, doi: 10.1080/0142569042000252053.

<sup>165</sup> Steward and Dennett, "Roast Busters Case: No Charges to Be Laid".

<sup>166</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," 12.

<sup>167</sup> Ibid.

<sup>168</sup> Kim Zetter, "Parents of Dead Teen Sue School over Sexting Images," *Wired*, accessed January 29, 2017, <https://www.wired.com/2009/12/sexting-suit/>.

## The Criminal Justice Response

At the opposite end of the spectrum is the application of child pornography laws to teenagers who engage in sexting. Australia, Canada, and the United States of America have all used child pornography laws to prosecute both primary and secondary sexters.<sup>169</sup> As sexting by minors involves the exchange of sexual images of minors, it can fall within the definition of child pornography.<sup>170</sup> The rationale for charging minors with these offences is to deter them from further offending and to prevent exploitation of children from occurring.<sup>171</sup>

In the United States, there have been several high profile cases of minors being threatened or charged with child pornography. One of the most cited cases is *Miller v. Skumanick* (2009).<sup>172</sup> In 2008, a high school in Tunkhannock, Pennsylvania confiscated several students' cell phones and uncovered images of semi-nude and nude girls. The school handed the phones to the District Attorney, George Skumanick. He sent a letter to approximately 20 parents giving them the following ultimatum: they either ensured their child attended a re-education programme or they would face criminal prosecution for creating and possessing child pornography. The parents of the boys who allegedly disseminated the images were not threatened with any action.

Another well-known case is *A.H. v Florida*.<sup>173</sup> This case differs from the above in that the images were not shared with a third party. However the case ruling is important as it highlights some of the justifications for criminalising teenagers who engage in sexting. A.H. was a 16 year-old girl who took pictures of herself and her 17 year-old boyfriend having sex and sent them to him via email.<sup>174</sup> The pictures were found by a third party, and both A.H. and her boyfriend were charged with offences

---

<sup>169</sup> Crofts and Lee, "Sexting, Children and Child Pornography; Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 76.

<sup>170</sup> Crofts and Lee, "Sexting, Children and Child Pornography," 91.

<sup>171</sup> *Ibid.*, 94.

<sup>172</sup> *Miller v. Skumanick* 605 F. Supp. 2d 634 (March 30, 2009).

<sup>173</sup> *A.H., a child v. State of Florida*, 949 So. 2d 234 (January 19, 2007).

<sup>174</sup> *Ibid.*

related to child pornography. A.H. unsuccessfully tried to defend the charges. The court ruled that while teenagers had a right to engage in sexual activity, they did not have a right to 'memorialize' the act, as there was no 'reasonable expectation' that the other party would respect their privacy.<sup>175</sup> This lack of expectation was due to the age of the participants and to the ease with which the photos could be transmitted. It was also due to the sheer number of photos involved; there were over 100, which could be considered a 'collection.'<sup>176</sup>

Neither (minor) had a reasonable expectation that the other would not show the photos to a third party. Minors who are involved in a sexual relationship, unlike adults who may be involved in a mature committed relationship, have no reasonable expectation that their relationship will continue and that the photographs will not be shared with others intentionally or unintentionally.<sup>177</sup>

Child pornography laws have also been used to punish teens who engage in secondary sexting. In 2007, 18 year-old Philip Alpert had an argument with his 16 year-old girlfriend.<sup>178</sup> Out of spite he decided to send an intimate picture of his girlfriend to her friends and family. This decision led to Alpert being charged with possessing and disseminating child pornography, which had a devastating effect on his life.

As for Alpert, life is not easy as a registered sex offender, a label he will carry until the age of 43. He's been kicked out of college, he cannot travel out of the county without making prior arrangements with his probation officer, he has lost many friends and is having trouble finding a job because of his status as a convicted felon.<sup>179</sup>

In Canada teen sexters have also been threatened and charged with child pornography. A 16 year-old girl was charged after distributing images of her

---

<sup>175</sup> Ibid.

<sup>176</sup> Ibid.

<sup>177</sup> Ibid.

<sup>178</sup> Feyerick and Steffen, "'Sexting' Lands Teen on Sex Offender List."

<sup>179</sup> Ibid.



boyfriend's ex-girlfriend.<sup>180</sup> Judge Wishart, who presided over the case, did acknowledge that child pornography laws were not intended for such cases and that charging under laws relating to cyberbullying would have been more appropriate.<sup>181</sup>

In another case, nine Canadian teenage boys were threatened with charges after they were caught pressuring girls to send them pictures over SnapChat.<sup>182</sup> Although the charges were dropped, the way in which the boys were dealt with is questionable.<sup>183</sup> Parents were not notified of the boys' alleged offences and were woken by police on their doorstep at 5.45am. Electronic devices were seized from the house and the boys were forced to get dressed in front of officers.<sup>184</sup> As Shariff points out, 'while the actions of these boys are very serious, one should not forget that they are children.'<sup>185</sup>

The use of child pornography laws as a response to sexting has been heavily criticised as being anachronistic, inappropriate and overly harsh.<sup>186</sup> Critics argue that child pornography laws are in place to protect minors, not to prosecute them, and should not be used to punish them for engaging in a behaviour that may be seen as a normal part of adolescent sexual development.<sup>187</sup>

---

<sup>180</sup> Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 89-90.

<sup>181</sup> Ibid.

<sup>182</sup> "Porn Charges Dropped after Laval Boys Complete Programs," *CTV Montreal*, accessed January 29, 2017, <http://montreal.ctvnews.ca/porn-charges-dropped-after-laval-boys-complete-programs-1.2244402?autoplay=true>.

<sup>183</sup> *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 90.

<sup>184</sup> Ibid.

<sup>185</sup> Ibid.

<sup>186</sup> Ibid., 81-98; Thomas Crofts and Murray Lee, "Sexting, Children and Child Pornography," *Sydney Law Review* 35, no. 1 (2013): 102 – 103; Elizabeth M Ryan, "Sexting: How the State Can Prevent a Moment of Indiscretion from Leading to a Lifetime of Unintended Consequences for Minors and Young Adults," 371-373. Calvert, "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law. Hasinsoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 36.

<sup>187</sup> Ibid.

A key problem with employing child pornography laws is that they fail to distinguish between different types of sexting.<sup>188</sup> As a result, a victim can be held accountable for their offender's actions. This reflects the message in educational campaigns – that girls should know better, while boys will be boys.<sup>189</sup> This message is harmful in its own right, but it becomes particularly harmful when girls are threatened or held criminally accountable for the actions of their peer.<sup>190</sup> Rather than addressing the harm and holding offenders accountable, in some cases the law exacerbates the harm and leaves victims with no means of redress.<sup>191</sup> For example, a 15 year-old girl in America who said she felt suicidal when an image of her was shared without consent, decided not to contact police out of fear that she might be 'prosecuted for sending child pornography – *of herself*.'<sup>192</sup>

In some ways 'adult' victims of secondary sexting (in New Zealand, those over 16 years of age) are better off than juvenile victims, who ought to be afforded greater protection. For example, a pamphlet from the United Kingdom about 'revenge porn' encourages victims to seek help, outlines their legal rights and is reassuring to the victim about their lack of culpability.<sup>193</sup>

It's vital you don't beat yourself up about this. While you may regret what happened, it isn't you who's made it public. You are not the one in the wrong. You don't have to be defined by this – you can't change the past but it doesn't mean your life is over... Doing something nice for yourself can also help to bolster self-worth after a really difficult experience. So

---

<sup>188</sup> Calvert, "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law; Powell and Henry, "Blurred Lines? Responding to 'Sexting' and Gender-Based Violence among Young People; Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*.

<sup>189</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," 18.

<sup>190</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 38.

<sup>191</sup> Willard, "Sexting and Youth: Achieving a Rational Response."

<sup>192</sup> Ken Edelstein, "Teens Face More Consequences from Sexting Than Congressmen Do," *Juvenile Justice Information Exchange*, accessed January 29, 2017, <http://jjie.org/2011/06/13/teens-face-more-consequences-from-sexting-than-congressmen-do/>.

<sup>193</sup> *Revenge Porn - What You Need to Know* ed. South West Grid for Learning (United Kingdom: South West Grid for Learning, 2015).

take time to be kind to yourself and find others who are kind to you, too.<sup>194</sup>

In contrast to this comforting message, the educational video on sexting, *Exposed*, encourages victims of secondary sexting to face up to their mistakes and to 'stop blaming everybody else.'<sup>195</sup> The video ends with the main character threatening students that if they engage in sexting, they may face legal consequences for creating and distributing child pornography.<sup>196</sup>

Some jurisdictions have amended child pornography laws to target only harmful incidents of sexting. In the state of Victoria, the law now targets teenagers who distributed or threatened to distribute images without consent.<sup>197</sup> New South Wales has recently published a report on sexting that may result in similar amendments being made there.<sup>198</sup>

Even in situations where only the person who distributes images can be prosecuted, the appropriateness of doing so remains questionable. Child pornography is a serious offence. If a minor who engages in sexting is found guilty of transmitting child pornography, he/she would likely be registered as a sex offender which would have a profound impact on the rest of their life. Willard argues that the mixed messages given to males puts them in a position of high risk. 'One day boys will be boys – the next they are registered sex offenders and their life is destroyed.'<sup>199</sup>

Given the problems of using child pornography laws, several jurisdictions have implemented legislation that specifically targets sexting by minors. For example, in Texas students who are caught sexting may be charged with a

---

<sup>194</sup> Ibid.

<sup>195</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," 11.

<sup>196</sup> Ibid.

<sup>197</sup> "Sexting," Victoria Government.

<sup>198</sup> *Sexualisation of Children and Young People/ Committee on Children and Young People*, 55-56.

<sup>199</sup> Willard, "Sexting and Youth: Achieving a Rational Response," 547.

misdeemeanour and required to take part in community service or an educational programme. If they do not reoffend, there is the possibility of the conviction being expunged from their record on or after their 17th birthday.<sup>200</sup> But even if the punishment is far less severe, it is still problematic in that fails to distinguish between consensual and non-consensual sexting. Furthermore, fear of suffering punitive sanctions has the unintended consequence of discouraging teens harmed by sexting from speaking out.<sup>201</sup>

In my research, the majority of students were in favour of criminalising harmful forms of sexting. 7.2% thought primary sexting should be a crime, while 62.4% thought secondary sexting should be criminalised. When explaining their answers, students frequently distinguished between the two activities on the basis of intent and the harm they cause.

Primary sexting should be legal to ensure that people have control over their bodies and are allowed to make their own choices. Secondary sexting should be illegal because it can do an enormous amount of social, emotional and physiological damage to the victim, and needs to have laws in place to prevent it.

Primary should not being a crime so long as all participants are of the age of consent and are consenting. Someone involved in secondary sexting cannot give consent, and as such, it should be illegal, as the law should not allow for any kind of sexual activity without consent.

However, some students did question the need to punish at all and argued that education might be a better alternative.

Maybe instead of making these behaviours a crime, we have educational processes in place to inform and deter people from engaging in this activity. *Student*

---

<sup>200</sup> Sameer Hinduja and Justin Patchin, "Sexting Laws Across America," Cyberbullying Research Centre, accessed 4 December 2016, <http://cyberbullying.org/sexting-laws>.

<sup>201</sup> Willard, "Sexting and Youth: Achieving a Rational Response," 550.

In contrast to overseas jurisdictions, in New Zealand the legal response to sexting is restricted to harmful incidents.<sup>202</sup> Prior to 2015, people could be charged under legislation proscribing the distribution of intimate visual recordings and objectionable images. However the law was limited in its application, as it only covered incidents where the person did not consent to their image being taken.<sup>203</sup> Technically sexting by minors could have been deemed objectionable material, but the police were encouraged to prosecute only harmful incidents.<sup>204</sup>

In July 2015, the new Harmful Digital Communications Act (HDCA) was passed by parliament.<sup>205</sup> The purpose of the new Act is to 'deter, prevent and mitigate' harmful digital communication.<sup>206</sup> The Act has three key features – the establishment of an Approved Agency to handle complaints, a new civil law regime and new criminal offences. Netsafe was appointed as the Approved Agency in May 2016, the civil regime came into force on the 22 November 2016 and the criminal regime has been in place since 25 July 2015.<sup>207</sup> The non-consensual distribution of images is covered under Section 22, according to which a person commits a criminal offence if:

- the person posts a digital communication with the intention that it cause harm to a victim; and
- posting the communication would cause harm to an ordinary reasonable person in the position of the victim; and

---

<sup>202</sup> Police Manual, 'Investigating online offences against children' (Obtained under Official Information Act, 1982 Request to New Zealand Police). Police are encouraged to consider objectionable material offences when images are forwarded and shared without consent. There is no mention of prosecuting minors who engage in consensual sexting.

<sup>203</sup> "Naked Photo Sends Jilted Lover to Jail," *The Dominion Post*, accessed January 29, 2017, <http://www.stuff.co.nz/national/crime/4341191/Naked-photo-sends-jilted-lover-to-jail>. In one case pre the Harmful Digital Communications Act, a Wellington Man was charged under the morality and decency section of the Crimes Act for distributing images without consent.

<sup>204</sup> Police Manual.

<sup>205</sup> Harmful Digital Communications Act 2015, s 3.

<sup>206</sup> Ibid.

<sup>207</sup> "Netsafe Appointed to Cyberbullying Role," *beehive.govt.nz*, accessed January 20, 2017, <https://www.beehive.govt.nz/release/netsafe-appointed-cyberbullying-role>.

- posting the communication causes harm to the victim.

A fine of up to \$50,000 or two years in prison may be imposed.<sup>208</sup> Since the Act came into force, there have been, in the words of Judge David Harvey, a 'surprising' number of criminal prosecutions on the charge of non-consensual distribution of images.<sup>209</sup> The civil law option allows for less severe cases of secondary sexting to be handled by the Approved Agency or by the District Court, which, in the case of young people, serves to keep them out of the criminal justice system, which is always preferable.

Although most of my informants were positive about the Act, they thought it should only be used in extreme situations or when there were repeat offenders.

With the sexting, if I didn't feel that there was any reconciliation through the school restorative justice and that we felt that it was a huge risk it hadn't stopped or wouldn't stop, then probably we would take it to the next level. But I think that would be if he had got another a photo and sent it out, re-offending. *Parent*

I think I would make that call on what the impact was, see how distressed the person was about it, if it totally wrecked their life, if they have withdrawn from school, if they are suicidal. Then yep, I think I would want to go the police. *Parent*

Part of the reason informants did not want to resort to criminal proceedings is because they believed it would have a detrimental impact on the offender.

I know it would be an awful situation to have those pictures shown everywhere but...you can't get the photos down, and all that would happen is that you would get that person a criminal record and stuff...Because I know if you like had a criminal record, how much that could affect your life...While I'm not saying what he did was OK, I'm not

---

<sup>208</sup> Harmful Digital Communications Act 2015, s 22.

<sup>209</sup> Lynley Bilby, "Cyberbullying: Retiring Judge Leads New Centre to Assess Laws," *New Zealand Herald*, accessed January 27, 2017, [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11657976](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11657976).

victim blaming. What I am saying is that we are sixteen and you can screw up. *Student*

It's about the long term impact on somebody's life. Again two years in prison is going to have a huge impact on your life, whereas in a restorative practice meeting you can move on from that and hopefully learn from it. *Parent*

While there are some benefits to criminalization in that it may deter teens from engaging in secondary sexting and may hold offenders to account in some form, it fails to address all the harms that were mentioned in the previous chapter. In particular it fails to address the relational harm. In some cases, criminalization may cause additional harm to the victim and the offender. While none of my informants condoned non-consensual secondary sexting, they all acknowledged that people, particularly teenagers, make mistakes and the best way forward is for them to learn from those mistakes rather than to be punished.

### **A Restorative Response**

Given the problems of criminalization, several authors have proposed the use of restorative justice as an alternative.<sup>210</sup> One documented case of that occurred in Wright County, Minnesota in 2014.<sup>211</sup> The circumstances were similar to the hypothetical scenario of Tom and Katie. The case involved over 40 students sharing intimate images of one another. The images were handed over to the sheriff who decided a restorative approach in the form of a Family Group Conference would be the most appropriate resolution. Initially there was apprehension from parents of the offenders, as they did not understand the harm that their child had caused. However when they heard one of the female victims speak about the embarrassment she felt about having her images everywhere, the parents were more empathetic. As

---

<sup>210</sup> Hanley Duncan, "Child Pornography Statutes and New Legislation," 196; Willard, "Sexting and Youth: Achieving a Rational Response," 560; Shariff, *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*, 152. Sheri Bauman, "When Sexting Becomes Cyberbullying: Helping Victims," in *National Conference Against Bullying, 2016*. (Melbourne, Australia 2016).

<sup>211</sup> Riestenberg, "Restorative Group Conferencing and Sexting: Repairing Harm in Wright County".

a result of the conference, students agreed to apologise to those who had been harmed, to report any knowledge of sexting to teachers, and to write a letter on the dangers of child pornography. The parents agreed to monitor their cell phones and the school administration agreed to introduce age appropriate education on sexting.

Wright County's use of a Family Group Conference led to a county-wide protocol on sexting. Once an image is reported, the Sheriff will view the image, delete it and investigate the situation. From there, the case will be referred to a restorative justice coordinator and a Family Group Conference will take place. The County has dealt with over 200 cases of sexting in this way. Although it could be deemed a success, it is questionable whether or not the process addresses harm and accountability in a truly restorative manner.

One of the key tenets of restorative process is that it is voluntary. It is unclear whether this is true of the Wright County process. By giving people the choice between a restorative conference or prosecution for child pornography, the conference becomes coercive.<sup>212</sup> While there is always a degree of pressure to participate in a restorative conference, participants should never be coerced or threatened into doing so.<sup>213</sup>

The restorative nature of the Wright County process itself is also undermined by the classification of all types of sexting involving minors as a form of child pornography and its corollary of victim blaming. Furthermore, it fails to adequately address the relational harm. By saying that both parties were in the wrong, the focus is put on individual actions rather the harm caused to the relationship. As Teri Day argues, 'Neither criminal law nor restorative justice principles are well-served by treating teen sexting as child pornography.'<sup>214</sup>

As New Zealand law does not criminalise teens who engage in primary sexting, and there is a statutory duty to keep young people out of the criminal justice

---

<sup>212</sup> Terri Day, "The New Digital Dating Behavior-Sexting: Teens' Explicit Love Letters: Criminal Justice or Civil Liability."

<sup>213</sup> Zehr, *The Little Book of Restorative Justice: Revised and Updated*, 46.

<sup>214</sup> Day, "The New Digital Dating Behavior-Sexting: Teens' Explicit Love Letters: Criminal Justice or Civil Liability."



system wherever possible, there is an even greater potential in New Zealand for sexting to be dealt with in a restorative manner, and within an educational rather than a criminal justice setting.<sup>215</sup> Most teenage sexters still attend school, and hundreds of schools in New Zealand now employ restorative practices, so it is important to consider how schools may be involved in responding restoratively to the harmful consequences of sexting and in providing learning opportunities about the behaviour.<sup>216</sup>

In my research, I asked staff to comment on how they would respond to the hypothetical situation of Katie and Tom in their restorative school. They said the first step was to try to remove all of the photos as quickly as possible. Conscious of the gender dynamics, they said that if there was a need to view the photos, it would be done by a female member of the Senior Leadership Team. During the investigation stage, staff also saw it as appropriate to make sure Katie was alright. Her safety was their top priority. One staff member also commented on the need to create a support group for Katie.

I think probably I would get Katie to nominate a few girlfriends who she thought could be supportive. I would talk to her and them about how to get through this and to make a plan to try and minimise the harm caused to Katie...The photo will most likely circulate for a bit longer, so there is a need to have some strategies in place. This would probably involve going to the Guidance Counsellor and having a bit of a talk to him as well, because maybe there are other things that Katie and Tom have been doing that it would be good for her to be discussing, particularly if she is Year 9 or Year 10.

---

<sup>215</sup> Gabrielle M Maxwell and James Hou-fu Liu, *Restorative Justice and Practices in New Zealand: Towards a Restorative Society* (Wellington, New Zealand Victoria University of Wellington-Institute of Policy Studies, 2007). For an outline of the Family Group Conference in Youth Justice Sector and in the Education Setting.

<sup>216</sup> Hilary Cremin, "Critical Perspectives on Restorative Justice/Restorative Approaches in Educational Settings," in *Restorative Approaches to Conflict in Schools: Interdisciplinary Perspectives on Whole School Approaches to Managing Relationships*, ed. Edward Selman, Hilary Cremin, and Gillean McCluskey (New York: Routledge, 2013), 113.

Staff said they would also contact the parents of both Tom and Katie to explain what had occurred and that the school was investigating it. The next step would be the pre-conference. During this phase the school would assess the parents' willingness to participate in a restorative conference and the willingness of the offender to take responsibility for his actions. If there was no acceptance of accountability or the parents of either party refused to participate, the offender would be subject to a punitive approach decided by the Senior Leadership Team and the Board of Trustees.

If all parties agree, the conference would be held. A trained staff member would facilitate the meeting and at least one member of the Senior Leadership Team and, if appropriate, the community constable would attend. At the conference everyone is given a chance to speak about the harm that has been caused and what needs to be done to make things right. This may involve a verbal or written apology or some form of community service. A plan to assist the wrongdoer would be agreed on, as well as a support plan for the victim(s). In the case of Katie and Tom, as there are co-offenders (Tom's friends) it is possible the school would hold two separate conferences – one to address the situation between Katie and Tom, the other between Katie and the co-offenders. Again, the decision to hold one or two conferences would be made consensually with the students and parents.

All informants viewed the restorative conference as a constructive way of addressing harmful incidents of sexting. It would enable both sides of the story to come out, give Katie an opportunity to describe the harm she suffered, and hold Tom genuinely accountable for his actions. Students in particular saw the process as beneficial.

It could start with a roundtable kind of talk. She could say how it affected her and how she felt about it. That might make him understand better than just punishing him. Actually understanding what was wrong about what he did. It may mean he might not do it again.

That fact that he's been talked to about it will give her some kind of like closure and then once she has talked to the three boys after that she just has to wait for it to blow over.

Parents also saw the process as beneficial, as a way to build empathy.

Kids make mistakes, and how are they going to understand? How are they going to learn? Unless they go through that. But in some cases, some boys you have got to do it over and over again before their empathy has grown.

I would want to use the restorative practice route because I think it does engender empathy and to see things from the other person's perspective...I do think there's a better chance of getting something positive out of the situation if both parties learn something from it, whereas slap a fine on somebody and they are just angry about it.

For staff members, one of the most important outcomes of a restorative process was that it mends and strengthens relationships. The following example demonstrates the power of a successful conference.

We had a situation where the photos circulated and the girl was just totally overwhelmed by it and distraught by the whole thing, so it was actually really important that we built her strength up. After much preparation we had a fantastic conference. The perpetrators were all there with their parents and she was there with her support and parents, and they all apologised to her and there were tears and things. They came to realise just how dreadful the implications of what they had done were and how badly she was impacted, which wasn't their intention. They just thought it was a joke. It was fantastic. Her attendance at school improved, there were no further issues for any of that group, they were all in the same classes for several subjects, there were no issues in classes at all, no isolating of her, in fact the opposite they then started including her. Even though it was a terrible thing for her to be thinking about and I'm sure it was not pleasant to go through, the fact that she was prepared to be honest about the impact on herself and we got the right support and the right facilitator and it's made those other kids much better people.

Not only do relationships improve between students, a restorative process can also lead to better relationships between parents and their teens.

It's my experience when the parents are in a conference the results are much better...You start building bridges between the parents and the kids and there are conversations they have in those. And the parents say afterwards they had never heard their child articulate concerns around those things. So I think it is huge relationship building for the student and parent in one of those meetings. *Staff*

Although informants were positive about restorative practice, they also noted several potential problems with the process. One of the key concerns of students was the involvement of parents. They were apprehensive that parents may react negatively due to the moral issues involved.

There are a lot of religiously conservative parents so it's really not a thing you would want your parents knowing about at all. *Student*

A lot of teenagers wouldn't see that as beneficial. On one hand they would want someone from their family or older than them to support them. On the other hand they don't want the shame of their family knowing something about it. *Student*

However, if their mental health was at risk, students said they would want their parents informed.

Yep, I think it gets to a point where it's really affecting their welfare and then their parents would need to know.

If I got the support from my Mum and Dad even if it meant I got in trouble but if everything stopped then and there, and I would have to like 'head down butt up' work, then I'm cool.

Some students argued that the consent of the victim was needed to inform parents. Voluntary consent is an essential part of restorative practice, yet under the Education Act, schools have an obligation to inform parents of incidents that affect their child's relationships or schoolwork.<sup>217</sup> This means that parental participation cannot be vetoed by victims. Students were also concerned about parents

---

<sup>217</sup> Education Act 1989, s 77.

overpowering the conference and their own voices being lost – which is one of the significant criticisms of the use of Family Group Conferences in the youth justice arena.<sup>218</sup> Parents can easily feel that their own parenting skills are on trial and they need to defend themselves against the other party.

What I know is parents tend to react very strongly when their children are threatened and it could end up with the parents overpowering the situation and getting more angry at the opposite party instead of trying to sort it out. *Student*

Staff and parents also commented on the difficulties of involving parents in the conference. The main difficulty was seen to be parents who may refuse to acknowledge their son's actions. Referring to another school, one staff member said he was shocked by the extent of victim blaming by some parents. One parent informant observed that one of the benefits of a restorative conference is that it may lead to parents recognizing the harm their son had caused.

Well I suppose another feature of the restorative process is if I was going in there really to bat hard for my son, and maybe he's done other heinous things, maybe I get taken along as well, and slowly exposed and slowly change my mind and slowly get drawn into restoration, rather than just hearing your son is bad, you need to do this – in which case I would really dig my toes in.

For staff informants, the main difficulty with using a restorative conference is the time and resources needed for the process. The Ministry of Education estimates that it takes approximately 15 hours for pre-conferencing, conferencing and follow up.<sup>219</sup> Staff explained that the case of Katie and Tom would take a significant amount of time and resources to resolve.

Big amount of people and it may well be that their three friends need their parents as well, so you have actually got quite a big one. You could do it in two, you could do it with this bit and then the friends bit, and you

---

<sup>218</sup> Prichard, "Parent-Child Dynamics in Community Conferences—Some Questions for Reintegrative Shaming, Practice and Restorative Justice," 342.

<sup>219</sup> *Restorative Kete: Book Four Restorative Conferences*, ed. Ministry of Education (New Zealand), 25.

could do it on two different levels. That would probably be the most difficult. Then there is the time involved to do that and the outcome might not be an apology. The outcome might be I won't do it again, the outcome might be some learning. But the outcome for the person where the harm has been caused to might be long term because we may not be able to bring that image back under control.

Clearly for the process to be successful, there is a need to dedicate a significant amount of time to it. As one parent pointed out, when a conference is done incorrectly 'it's rubbish.' It could potentially cause more harm and leave participants feeling 'destroyed.' For other informants, there was concern that the restorative process might not hold the offender sufficiently to account and some would prefer a more punitive response.

At a bare minimum, I would want to use restorative practice. I don't know if that is the right terminology but it would have to be dealt with in some way.

I don't know if it is going to cut the mustard on that one. I think there needs to be some other kind of consequence. It doesn't matter if the boyfriend can still make it up, it's still going to be out there for everyone to see.

The idea that restorative justice is not sufficient response reflects the view that it is a 'soft option'<sup>220</sup> and that punishment is the only way to hold offenders to account. But having to face up to the consequences of one's actions can be an immensely demanding experience. Furthermore, restorative conferences and punitive sanctions are not mutually exclusive options. A staff member pointed out that in some cases a student would be stood down prior to the restorative process while an investigation took place, and a penalty might be part of the plan agreed to in the conference. However, students were sceptical about how effective punishments are in changing a student's behaviour.

---

<sup>220</sup> Gabrielle Maxwell and Allison Morris, "Family Group Conferences: Perspectives on Policy and Practice," in *Family Group Conferences: Perspectives on Policy and Practice*, ed. Joe Hudson, et al. (New South Wales Federation Press Annandale, 1996), 90.

I don't think suspension would work. Suspension you are just taking him out of school. You need some sort of counselling or, I wouldn't say monitoring but just someone talking to him about it and saying, 'Do you know what you did is wrong? Do you know why it's wrong'?

In situations like that he may think, 'I'm away from school so I can't be punished by the teachers now, let's just do more.'

More effective than imposing a punitive response, such as a suspension, would be to have a police officer attend the conference. Informants saw this as beneficial and a way in which the seriousness of the offence could be made apparent, without the need for a punishment.

I think it would be an absolutely great idea to have a uniformed Police officer in the room...I think having a police officer there says actually you did do something wrong. *Parent*

The community constable can be used just to emphasize how serious this act was, just so the person who caused the harm realises this isn't a joke... actually I'm in really serious trouble. Just with the presence of police, it emphasizes the seriousness of it. *Parent*

Police can talk about, you know, if you were an adult and this was out in the real world, this is what would be happening to you right now? You know you would be in the court and this would be the sort of consequences you would be facing. That can actually be really helpful because sometimes the kids underestimate all that stuff. *Staff*

Whilst informants did see the inclusion of the police officer as a positive move, this may not be representative of the views held by the wider community. In 2015 a group of boys were 'let off' with a warning after purposely getting girls drunk so they could take pictures of them unconscious with the boys' genitals hanging over their faces.<sup>221</sup> Both the police and the school were criticised for not taking a firmer

---

<sup>221</sup> Lynley Bilby, "Warnings over Roast Busters II," *New Zealand Herald*, accessed January 27, 2017, [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11541781](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11541781).

approach, and the incident was described as 'Roast Busters II.'<sup>222</sup> The public perceived the lack of formal charges as a sign that the boys' actions were not serious or did not amount to criminal behaviour, which would in turn set a dangerous precedent for others.

Staff mentioned that due to the loss of the local community constable there is less opportunity now for schools to work in partnership with police.<sup>223</sup> With the appointment of Netsafe as the Approved Agency, there might be more resources dedicated to resolving issues, but it is very unlikely Netsafe would have the resources to attend every conference.

Another perceived limitation of employing a restorative process is the lack of attention it gives to the reintegration of victims into the wider community. As mentioned in Chapter 2, due to the nature of sexting incidents it is likely that the victim will need more reintegration into the community than the offender.<sup>224</sup> As Cremin points out, 'processes of encounter sometimes fail because there is a false assumption that a sense of belonging comes uniquely from being part of a group that is good and compassionate, and that young people who bully others need to be 'reintegrated.'"<sup>225</sup> Because the wider community is not always compassionate towards victims of sexual offending, the rationale for such an approach becomes questionable.

Although not mentioned by my informants, another critique of a restorative approach to secondary sexting is that it may relegate the issue to the private arena and keep issues hidden. This critique has also been levelled against using restorative practices for bullying.<sup>226</sup> However in an assessment of violence in schools, Carroll-Lind recommended the use of restorative justice as to way for incidents of violence

---

<sup>222</sup> Ibid.

<sup>223</sup> Andrea Vance, "Police Shut 30 Stations in Efort to Combat Budget Cuts," *Stuff.co.nz*, accessed February 1, 2017, <http://www.stuff.co.nz/national/67617030/police-shut-30-stations-in-effort-to-combat-budget-cuts>.

<sup>224</sup> Cremin, "Critical Perspectives on Restorative Justice/Restorative Approaches in Educational Settings," 114.

<sup>225</sup> Ibid., 114-15.

<sup>226</sup> Ibid.



to come to light.<sup>227</sup> Staff informants also commented on how the implementation of a whole school approach had created a culture in which students felt confident to tell staff members about incidents of wrongdoing. Harmful behaviour is now more likely to be drawn to their attention than when they only employed a punitive system.

One of the biggest challenges for restorative practice is how to hold the wider community responsible for the harm done. The cause of the harm to Katie is not limited to Tom and his immediate friends, it extends to the wider peer group. Some parents suggested the use of school assemblies to challenge the school community, but students were quick to point out that this would probably make the problem worse, and that it would be better to say nothing.

If you took the whole year group in an assembly and someone stood up and was, like 'just so you know we know about the situation that's happening right now' – then everybody would be, like, well somebody said something or who told them?

Some students were surprisingly optimistic about the chance of the student population forgetting about the incident and about their ability to move on from it.

You just let it lie, give it a year. It will still be brought up as a joke, you would look back at it and remember that time when you sent those photos 'Aw yeah that was so funny', but at the time, no.

The overwhelming disadvantage of not addressing the wider peer group is that there is potential for further harm to occur. Although it would be impossible for the whole school to attend a conference, the incident provides an opportunity for parents and staff to consider how to prevent a similar thing from occurring again.

One powerful example of a restorative approach that did include addressing the wider community responsibilities occurred at Dalhousie University Dentistry School in Halifax, Canada.<sup>228</sup> In 2014, four female students of the school filed

---

<sup>227</sup> Carroll-Lind, *School Safety: An Inquiry into the Safety of Students at School*, 135.

<sup>228</sup> Jennifer Llewellyn, Jacob Macisaac, and Melissa MacKay, *Report from the Restorative Justice Process at the Dalhousie University Faculty of Dentistry* (Halifax, Nova Scotia, Canada: Dalhousie University Faculty of Dentistry, 2015).

complaints to the university about sexual harassment after uncovering a misogynistic and offensive Facebook page created by 13 male classmates.<sup>229</sup> During the investigation stage, the male students were suspended. Most of those involved agreed to take part in a restorative justice process.<sup>230</sup> The process involved more than a one-off conference, but was held over several months and included numerous workshops, meetings and restorative circles.<sup>231</sup> It included an undertaking to review the Dentistry School and the institutional climate that led to such harmful behaviour in the first place. The process concluded with a 'Day of Learning' in which students had the opportunity to discuss what they had learned from the episode and to make recommendations about how to change the school's climate and culture.<sup>232</sup>

Although the Dalhousie process may not be applicable to all incidents of harmful sexting, the process itself is an example of how school communities can work together to address the issues that arise from such episodes. Such an extended process would be particularly useful in situations where several people have been hurt and where the non-consensual distribution of images is normalised.

### **Developing School Policy on Sexting**

Whilst this thesis is primarily concerned with non-malicious incidents of secondary sexting, there is also a need to consider what an appropriate response would be for cases where an image is taken without consent and then distributed for malicious purposes or where sexts are used for blackmail. For example, in a case in England a boy coerced girls into sending him sexts and then used the pictures as blackmail to try and force the girls to sleep with him.<sup>233</sup> In another case in Australia, boys deliberately targeted girls so that they could receive intimate images and then

---

<sup>229</sup> Ibid., 4.

<sup>230</sup> Ibid.

<sup>231</sup> Ibid., 37.

<sup>232</sup> Ibid.

<sup>233</sup> Harry Yorke, "Boarder at One of UK's Best Private Schools Used Facebook Revenge Porn Threats to Blackmail Girls into Sleeping with Him," *The Telegraph*, accessed January 27, 2017, <http://www.telegraph.co.uk/news/2017/01/10/boarder-one-uks-best-private-schools-used-facebook-revenge-porn/>.

upload them to a shared Facebook site.<sup>234</sup> Commenting on the case, the head of *End Rape on Campus* said that the boys' behaviour 'closely mirrors that of a rapist.'<sup>235</sup> Clearly in such cases schools would need to involve the police from the outset.

Given the range of behaviours that can constitute sexting, it is important that schools do not rely solely on either punitive or restorative responses. Both have a role to play depending on circumstances. Schools could adapt the Bullying Prevention Matrix in the *Bullying Prevention Guide* to deal with sexting.<sup>236</sup> The guide suggests asking questions about the impact of the action on the victim, the frequency of occurrence and the severity of the incident.<sup>237</sup> As any incident involving 'inappropriate sexual behaviour' is considered 'severe' and schools are advised to contact the police in severe cases, a more nuanced approach to sexting would be required. Willard suggests that in order to assess the level of harm involved in sexting teachers need to ask several key questions:<sup>238</sup>

- Who are the participants?
- What are the differences in age?
- Did the person depicted know the image was created and approve?
- Is there evidence of a faked image?
- What kind of degree of pressure was applied?
- Did the person use coercion, threats or false promises to trick or convince the person into creating the image?
- Was this an abusive partner?
- What was the apparent intent of all participants in the dissemination?

---

<sup>234</sup> Funnell, "Exclusive: Students from 71 Australian Schools Targeted by Sick Pornography Ring".

<sup>235</sup> Ibid.

<sup>236</sup> *Bullying Prevention and Response a Guide for Schools*, (Wellington, New Zealand: Ministry of Education, 2015). This approach was suggested at the Cyber Aggression working group November 4, 2016, in which the alcohol and drug intervention plan was used as an example on how to tailor the matrix to different circumstances. "Sample 'Alcohol & Other Drugs' Intervention," *New Zealand Police*, accessed 16 December 2016, <http://www.police.govt.nz/advice/personal-and-community-advice/school-portal/latest-news/sample-alcohol-other-drugs>.

<sup>237</sup> *Bullying Prevention and Response a Guide for Schools*, 58-60.

<sup>238</sup> Willard, "Sexting and Youth: Achieving a Rational Response," 559-560.

- If the image has not been widely disseminated, is it being used for blackmail?

These questions are helpful as they help distinguish between the different types of behaviours. For example, a non-malicious act of sexting, where the person suffered limited harm in that the image was only sent to one other person could warrant notifying the police, but not police involvement, and it could be resolved through restorative practice. By contrast, any incident that involved abuse, predatory behaviour, or blackmail, or where the image was disseminated widely would automatically be escalated to the police, with a restorative justice process being considered as part of the criminal justice process.

## **Summary**

This chapter has reviewed several responses to sexting and the benefits and limitations of using them. Simply ignoring the problem is no solution. The use of child pornography laws is likely to increase the harm associated with sexting, and fails to address the wider issues. Legislative responses that fail to distinguish between harmful and non-harmful forms of the behaviour are also problematic.

Some experts have suggested that restorative justice may provide a useful tool for addressing sexting, and there have been a few documented cases of employing it in a criminal justice context. It is its use in an educational setting, however, that shows the greatest promise of adequately addressing the harms caused by sexting. The advantages of doing so include allowing both victim and offender to tell their side of the story, allowing the victim to express harm, and holding the offender accountable in such a way that doesn't cause future harm. However the biggest advantage is the process is centred on fixing a relationship. As mentioned in Chapter 3, it is the victim's relational integrity that needs to be repaired. Not only does restorative justice help mend relationships, it can also strengthen existing relationships. Certainly there are problems associated with using restorative tools in cases of sexting, such as the involvement of parents, the potential for it to be viewed as a soft option, the idea that it may not put enough focus on reintegrating the victim and relegate incidents of secondary sexting to the private arena, and the amount of resources it takes to run a conference. However,

all things considered, restorative practices offer the greatest hope for addressing the needs of all involved – victims, offenders, co-offenders, family members and peers.

## **Chapter 5**

### **How Can We Prevent the Harm From Happening Again?**

The final step in a restorative conversation is consideration of how similar harm can be avoided in the future, especially in terms of reoffending on the part of the perpetrator. It is hoped that through their involvement in the conference offenders will develop greater empathy for their victims and this will discourage reoffending. There is also the need to consider how other potential offenders can be prevented from committing similar offences. This is partly achieved by representatives of the wider community participating in the conference and sharing their experiences with others. It may also be achieved by the participants in the conference agreeing to provide some consciousness-raising education to their peers, in the hope of dissuading others from repeating the harm.

In the previous chapter we looked at the preventative potential of using restorative circles in schools to deal with sexting. The aim of this chapter is to explore wider strategies schools may use to prevent the harms associated with sexting. We will first consider the importance of educating students about sexting, then look at the need to educate parents and, through them, society in general. In undertaking such education it is important that schools are well resourced and supported by external agencies, such as Netsafe, which now has statutory obligation not only to respond to harmful online communication but also to work at prevention.<sup>239</sup>

---

<sup>239</sup> Harmful Digital Communications Act, 2015, s 3.

## Educating Students on Sexting

Hinduja and Patchin's research has shown that schools that have a positive school climate may have fewer incidents of secondary sexting.<sup>240</sup> However it is not enough for schools simply to focus on cultivating good relationships in general; key messages specifically about sexting also need to be covered. Even though the school I studied had implemented the whole-school approach to restorative practice, students felt that they were given no education on sexting. 'I've never seen anything to do with sexting,' one commented. 'The school doesn't talk about it,' another said. 'We are told to be aware of these things but we are not taught anything about it.'

Most informants agreed that education about sexting is essential. But given the different characteristics of primary and secondary sexting, it is important that this education is carefully constructed and thorough. The Netsafe website includes links to prominent overseas resources. These education campaigns are a useful insight into how policy makers perceive incidents of sexting.<sup>241</sup>

### *Educational Resources Overseas*

The short video *Megan's Story* was released in Australia in 2010 as part of the ThinkUKnow campaign on cyber safety.<sup>242</sup> In the film Megan takes a picture of her breasts and sends it to her boyfriend, Ryan. The image is then forwarded around the entire class, who are seen to be judging Megan. The video ends with the teacher receiving the sext, sighing and Megan running out of the classroom in tears. While there are educational resources that accompany *Megan's Story* that focus on Ryan and her peers, the video itself has quite a clear message. As Kath Albury and Kate Crawford write, 'In the absence of context, the video appears to be a morality tale:

---

<sup>240</sup> Hinduja and Patchin, *School Climate 2.0: Preventing Cyberbullying and Sexting One Classroom at a Time*, 82.

<sup>241</sup> Albury and Crawford, "Sexting, Consent and Young People's Ethics: Beyond Megan's Story," 463.

<sup>242</sup> "Megan's Story," *ThinkUKnow*, accessed 27 January 2017, <https://www.youtube.com/watch?v=DwKgg35YbC4&t=6s>.

the story of a foolish young woman who 'thought she knew' (but should have known better) and was victimized as an inevitable result of her own actions.'<sup>243</sup>

The parallels between the message of *Megan's Story* and commonly held beliefs about sexual assault cannot be ignored.<sup>244</sup> To illustrate this point, Salter compares the video to another campaign involving 'Matt.'<sup>245</sup> In the video, Matt is shown talking to a stranger online, who then asks for pictures and a case of 'sextortion' follows. The video then rewinds to show Matt alerting the authorities to the stranger and the man being arrested. While Matt's aggressor is held accountable for his actions, Megan is blamed for hers. Salter attributes this disparity to prevailing gender norms:

Matt's abuse represents an unexpected break from normative (hetero)sexuality for which he is not held accountable, whereas Megan's victimisation occurs within the "everyday" sphere of gendered interaction in which "flirting" can be reworked into a hidden indicator of consent for activities to which a girl (or woman) does not agree.<sup>246</sup>

As Salter asserts, by not seeing it as harmful for boys to share sexts, an opportunity is missed to address future harm.<sup>247</sup>

The second short video *Exposed* also focuses on the non-consensual distribution of images and was released by ThinkUKnow in the United Kingdom.<sup>248</sup> The clip starts with a girl visibly upset. Through flashbacks we learn that the girl, Dee, sent an image to her boyfriend, who sent it on to his friends and they passed it

---

<sup>243</sup> "Sexting, Consent and Young People's Ethics: Beyond Megan's Story," 465.

<sup>244</sup> Michael Salter, Thomas Crofts, and Murray Lee, "Beyond Criminalisation and Responsibilisation: Sexting, Gender and Young People," *Current Issues in Criminal Justice* 24, no. 3 (2013), 309.

<sup>245</sup> Ibid., 309.

<sup>246</sup> Ibid.

<sup>247</sup> Ibid., 312.

<sup>248</sup> "Exposed," *ThinkUKnow – UK*, accessed 27 January 2017, [https://www.thinkuknow.co.uk/14\\_plus/Films/Exposed/](https://www.thinkuknow.co.uk/14_plus/Films/Exposed/).



around the whole school. As a result Dee is harassed by her peers. As Dee sits in tears, another version of Dee appears to discuss the scenario with her.<sup>249</sup> Dobson and Ringrose label the first Dee as 'melancholy Dee' and the second Dee as 'rational Dee.' During their discussion, 'rational Dee' convinces 'melancholy Dee' to face up to her actions and to 'Stop blaming everyone else.'<sup>250</sup> According to Dobson and Ringrose, the point here is to show that Dee must 'move forward along the neoliberal path of self-responsibility.'<sup>251</sup>

One explanation for such victim blaming is the assumption that students simply don't understand the public nature of the internet, and that to avoid harm they should refrain from sending images in the first place.<sup>252</sup> In Andy Phippen's judgment, sexting 'shows a population who are unconcerned about intimacy and privacy.'<sup>253</sup> However, this explanation can be challenged. My participants frequently asserted that Tom's actions caused harm because he invaded Katie's privacy. Furthermore, students frequently distinguished between primary and secondary sexting by appealing to a private/public divide.

Primary sexting shouldn't be a crime because if it's between a couple, it's their business. Secondary sexting should be a crime because it is an invasion of privacy.

I think secondary sexting should be a crime because you are invading someone else's privacy and if someone trusts you enough to send such a thing, then you should have no right to show anyone else anything so personal, unless you have direct consent from the person sending you the message.

---

<sup>249</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," 11.

<sup>250</sup> Ibid.

<sup>251</sup> Ibid., 11-12

<sup>252</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 83.

<sup>253</sup> Phippen, *Sharing Personal Images and Videos among Young People*, 2.

As Hasinoff argues, 'just because an image is digital doesn't mean it is public... one crucial step... is conspicuously absent: Someone with access to the image needs to make the decision to distribute it without the girl's permission.'<sup>254</sup>

In contrast to *Megan's Story* and *Exposed*, *Tagged* is a 20 minute video that explores sexting within the wider context of harmful online behaviour.<sup>255</sup> The video starts with the protagonist, Kate, and her friends posting a blog online about her ex-boyfriend Jack's girlfriend hanging out with another boy, Ben. In response to Kate's actions, Jack confronts Ben and a fight occurs. Kate and her friends decide to post footage of the fight online. This leads to a local news station picking up the footage and the boys' parents getting involved. Kate's friend then informs Jack that it was Kate who posted the material. Jack retaliates by sharing intimate pictures of Kate, who is readily identifiable in the image due to a star tattoo. This leads to boys calling out to Kate about 'twinkling' and her locker being covered in stars. Jack is then brought into the Principal's office and told he may face prosecution under child pornography laws. To escape the bullying Kate ends up changing schools. However, on the first day she is confronted with stars drawn on her locker. The video concludes with Kate being told by a fellow student, 'Don't worry, it will be old news soon,' and Kate responding, 'Yeah, that's what my counsellor says.'

Like, *Megan's Story* and *Exposed*, *Tagged* has been criticised for its victim blaming narrative.<sup>256</sup> Although Jack is threatened with child pornography laws, it is Kate who changes school and needs counselling. Kate is ultimately held responsible for her own victimization.<sup>257</sup> The victim blaming tendency is also apparent in the educational resources that accompany the video. Kate is portrayed as remorseful and coping with counselling. Like Kate, Jack also regrets his behaviour, but it would

---

<sup>254</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 83.

<sup>255</sup> "Tagged," *Office of the Children's eSafety Commissioner*, accessed 27 January 2017, [https://www.thinkuknow.co.uk/14\\_plus/Films/Exposed/](https://www.thinkuknow.co.uk/14_plus/Films/Exposed/).

<sup>256</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed."

<sup>257</sup> "Character Reflections," *Office of the Children's eSafety Commissioner*, accessed 3 February, 2017. <https://www.esafety.gov.au/education-resources/classroom-resources/tagged/character-reflections>.

seem his main concern is that he is in trouble rather than that he has caused harm to Kate. This message is problematic because it ignores the fact that, regardless of legal consequences, secondary sexting is inherently harmful. As one of my focus group participants pointed out, 'It's simply a crap thing to do.'

Another problem with many educational resources is that they subsume sexting under the banner of digital safety.<sup>258</sup> Digital citizenship campaigns advocate responsible use of the Internet, such as ensuring a clean digital footprint online, and implementing Information Communication Guidelines and Bring Your Own Device Contracts to outline where the boundaries are. Although this focus on personal safety is relevant, it tends to ignore the social aspect of sexting. It is also important to remember that taking a risk (through primary sexting) and causing harm (through secondary sexting) should not be conflated.<sup>259</sup> Information on digital citizenship should not only focus on keeping yourself safe but also on the need to keep other people's information safe, and how this relates to the wider issue of respectful relationships. As sexting is a relational issue, ideally education on the topic should be part of broader sexuality education.<sup>260</sup>

The available international programmes on sexting are therefore highly problematic. That is not to say they have no value in a New Zealand classroom. Students could be shown the videos and asked to identify and critique the harmful gender stereotypes that appear in them. Students could also be invited to make their own alternative resources. One suggestion would be to create two video clips, one focused on primary and the other on secondary sexting. The first clip could show a boy and girl exchanging intimate images which remain private to them; when their relationship breaks up, they both delete the images. The second video could show the same couple but this time both of them sharing the photos with friends. It could

---

<sup>258</sup> Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 136.

<sup>259</sup> Powell and Henry, "Blurred Lines? Responding to 'Sexting' and Gender-Based Violence among Young People," 120.

<sup>260</sup> Dobson and Ringrose, "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed," 18; Hasinoff, *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*, 156-57.

then track the subsequent distress caused and comment on the ongoing obligations of privacy, as well as any potential legal ramifications.

### *Educational Resources in New Zealand*

In 2015, the Ministry of Education released a new guide on sexuality education.<sup>261</sup> The guide takes a holistic approach and suggests the schools should explore sexuality in a variety of ways, including but not limited to human rights perspectives, understanding of gender, positive relationships and social media. The Guide does not mention sexting, but its references to sexual violence could be used as a launching pad for exploring secondary sexting. The guide stipulates that

Programmes for the prevention of sexual violence are an important part of health education. Issues of coercion, consent, and safety in intimate relationships are important aspects to explicitly teach in sexuality education programmes...Sexuality education should not, however, be framed by notions of risk and safety (this can lead to programmes that are driven by fear and blame).<sup>262</sup>

By examining issues of consent, coercion and safety with respect to secondary sexting, there is the potential to move beyond victim blaming and identify the potentially violent impact of secondary sexting.<sup>263</sup> The Guide also mentions the need to discuss current legislation related to sexual violence. It does not mention the need to inform students about the Harmful Digital Communications Act, however the importance of doing so cannot be overstated. Encouraging greater legal literacy may not only deter potential offenders,<sup>264</sup> it also helps to empower victims to seek help and redress when incidents occur. At present, students are largely unaware of the HDCA or that secondary sexting may result in legal consequences. As well as

---

<sup>261</sup> *Sexuality Education: A Guide for Principals, Boards of Trustees, and Teachers* ed. Ministry of Education (New Zealand: Ministry of Education 2015).

<sup>262</sup> Ibid., 23.

<sup>263</sup> Salter, Crofts, and Lee, "Beyond Criminalisation and Responsibilisation: Sexting, Gender and Young People," 312.

<sup>264</sup> Strohmaier, Murphy, and DeMatteo, "Youth Sexting: Prevalence Rates, Driving Motivations, and the Deterrent Effect of Legal Consequences," 252.

learning about the Act, my informants stressed that it was also important to teach the values underlying the law.

It's not saying, 'Section 5 of the blah, blah, blah', it's about saying, 'You know, when you're in this situation, you're intimate with somebody, don't go taking pictures because it's all the stuff that lies behind it that is the deal.' And that's where the education message should be. *Parent*

The Harmful Digital Communications Act is particularly well suited to a values-based approach. Unlike much legislation, the HDCA is principle-based. It identifies ten communication principles to serve as a guide for how people should behave online.<sup>265</sup> Judge David Harvey describes them as 'rules for polite conversation.'<sup>266</sup> These principles would serve as a useful tool for discussing sexting in class, even though the legislation does not explicitly mention the practice. .

There is debate over whether sexuality education should be delivered by external providers.<sup>267</sup> Some researchers highlight the benefits of engaging with third parties, but the Ministry's Guide recommends that teachers should provide sex education as they have existing relationships with students. If sexting education is also to be handled internally, it is important that teachers are well-resourced to do so. Interestingly, students in my research were more favourable towards external providers. One focus group was remarkably precise, saying the programme should have a female facilitator, who was in her late twenties or early thirties.

In either case, educators should be encouraged to use restorative tools, such as circle processes, to examine the complexities of the topic. Due to the gender dynamics of sexting, it might be beneficial to have same-sex circles, then bring the

---

<sup>265</sup> This approach was discussed as a recommendation at the roundtable Cyber Aggression, Sexting and Restorative Responses, August 23, 2016.

<sup>266</sup> Judge David Harvey, "Setting the Harmful Digital Communication Scene in NZ" (presented at Netsafe -Confronting Online Harm Together, Auckland, New Zealand November 10 2016).

<sup>267</sup> Pound, Pandora, Rebecca Langford, and Rona Campbell. "What do young people think about their school-based sex and relationship education? A qualitative synthesis of young people's views and experiences." *BMJ open* 6, no. 9 (2016), 8-10, doi: 10.1136/bmjopen-2016-011329.

circles together to explore different understandings of topic. It must be remembered that sexting behaviours are common to both sexes, so the focus should not be solely on girls. One of the main benefits of restorative circles is that they give voice to students. It is perplexing, given the amount of concern sexting generates, that there has been hardly any direct engagement with youth on the issue. But campaigns need to be relevant to teenagers and to align with their values. One successful student initiative on bullying is 'Sticks'n'Stones.'<sup>268</sup> Founded in Central Otago, the group is student-led and relies on data from a student cohort to influence their practices. A similar approach would be helpful for confronting the harmful dimensions of sexting.

In addition to the Ministry's Guide, there are three other programmes in New Zealand that address sexting within the context of sexuality education, each sponsored by external agencies.

The first is the programme 'Mates and Dates', which is sponsored by ACC and was created in response to the 2013 Roast Busters scandal.<sup>269</sup> It calls itself a 'healthy relationship programme' and covers friends, family and intimate relationships, where it emphasises the issue of consent. The programme also looks at sexting and the non-consensual distribution of images in two videos, entitled *Uncool* and *Tagged*.<sup>270</sup> *Uncool* encourages students not to pressure others into sending images, but does not discuss what happens when images are sent or the importance to keep these images private. *Tagged* unfortunately perpetuates the victim blaming approach. While the overall programme is helpful for highlighting consent and the wider implications of the non-consensual distribution of images,

---

<sup>268</sup> "Sticks'n'Stones - About Us," *Sticks'n'Stones*, accessed January 27, 2017, <http://www.sticksnstones.co.nz/our-project/>.

<sup>269</sup> "TV3 Story Mates & Dates," ACC, accessed January 27, 2017, [http://www.acc.co.nz/PRD\\_EXT\\_CSMP/groups/external\\_communications/documents/reference\\_tools/wpc139082.pdf](http://www.acc.co.nz/PRD_EXT_CSMP/groups/external_communications/documents/reference_tools/wpc139082.pdf).

<sup>270</sup> ACC, email message to author, December 23, 2016.

and has had positive reviews from participants, it is unclear whether it has led to changes in behaviour.<sup>271</sup>

The second programme, 'Love-Me-Not,' is sponsored by the Police and the Sophie Elliot Foundation.<sup>272</sup> It focuses solely on intimate relationships. It views sexting to be abuse when it used to 'harass or blackmail.'<sup>273</sup> It is unclear whether consensual forms of sexting and the legal implications of the non-consensual distribution of images are covered in the delivery of the programme. It too has received positive reviews from students, although again it is too early to know whether it prevents or reduces harmful behaviours.

The goal of third programme, 'BodySafe,' is to reduce rape and sexual violence in teenage populations.<sup>274</sup> It has also had a positive reception and is reported to have made at least a short-term difference to the way teens perceive sexual violence.<sup>275</sup> The programme includes the issue of consent and the non-consensual distribution of sexual images.<sup>276</sup>

Mention should also be made of the *Bullying Prevention Guide*, which cites secondary sexting as an example of cyberbullying.<sup>277</sup> The guide is clear that when bullying involves an intimate image, and the image is easily replicable, schools should call Child, Youth and Family and the Police.<sup>278</sup> The guide does not discuss any

---

<sup>271</sup> *Mates & Dates 2016 Mid-Year Summary Survey Findings* (New Zealand: ACC, 2016).

<sup>272</sup> "Loves-Me-Not," *New Zealand Police*, accessed January 27, 2017, <http://www.police.govt.nz/advice/personal-and-community-advice/school-portal/resources/successful-relationships/loves-me-not>.

<sup>273</sup> "Loves-Me-Not Workshop Resources," *New Zealand Police*, accessed January 27, 2017, <http://www.police.govt.nz/sites/default/files/publications/lmn-resources-2017.pdf>.

<sup>274</sup> "Bodysafe," *Rape Prevention Education*, accessed January 27, 2017, <http://www.bodysafe.nz/#home>.

<sup>275</sup> Pauline Dickinson et al., *Bodysafe Programme Evaluation Report for Rape Prevention Education Whakati Mauri* (New Zealand: SHORE and Whariki Research Centre School of Public Health Massey University 2010).

<sup>276</sup> Bodysafe, email message to author, December 22, 2016.

<sup>277</sup> *Bullying Prevention and Response a Guide for Schools*, 13.

<sup>278</sup> *Ibid.*, 60-61.

of the complexities surrounding sexting and my informants were sceptical as to whether the police would want to be involved in such cases.

All the above programmes are useful for exploring issues of consent and the harm that comes from non-consensual sharing of intimate material. However, none of the programmes are compulsory for New Zealand schools, so their impact is limited. Furthermore, the programmes all need to be updated to include reference to the Harmful Digital Communications Act. There is also need for an evaluation of the extent to which these programmes help to prevent or reduce harmful incidents of sexting.

### **Educating Parents on Sexting**

Alongside educating teens about sexting, there is also a need to educate parents, particularly about the legal framework. In my interviews it became clear that parents had limited knowledge about the law. Parents would also benefit from education on how 'normal' sexting is for modern teenagers and how the message 'don't send pictures' may not resonate well with them. By being proactive in raising the subject, parents may have the opportunity to focus on issues of consent and pressure rather than sexting per se.<sup>279</sup>

Schools could potentially receive support from Netsafe and other external agencies to develop programmes for parents. Evening sessions with parents could outline how traditional measures, such as restricting access to technology or trying to monitor use do not work due to the easy accessibility of the internet.<sup>280</sup> Instead there should be an emphasis on issues of consent, respectful relationships, misogyny and harmful gender norms. Parents need to understand the complexities of sexting and the different forms it takes. I have concentrated on the non-consensual distribution of images within a relationship, but there is also a need to cover unwanted, unsolicited material, such as 'dick pics.'

---

<sup>279</sup> Ringrose et al., *A Qualitative Study of Children, Young People And 'sexting': A Report Prepared for the NSPCC*, 57.

<sup>280</sup> Ibid., 58.



One of the recurring themes in this thesis is that the harm caused by sexting is not due to the incident itself, but by harmful gender norms that support secondary sexting and tend to blame women for the consequences. There is a need to confront these attitudes in parents as well as in wider society. One campaign, 'My Body My Terms' shows potential for bringing these underlying issues into the spotlight.<sup>281</sup> However there is a need for more work in this area.

### **Summary**

Restorative practice is concerned with meeting the needs of past victims and also with preventing future victimization. As far as sexting is concerned, preventative strategies need to combine general education on healthy sexuality and respectful relationships with information specifically about sexting in all its forms and consequences.

Existing educational resources on sexting do not cohere well with the values of restorative practice. They tend to promote victim blaming and to stereotype girls as foolish and exonerate boys as 'just being boys.' They do little to address the wider impacts of sexting or challenge harmful gender norms. What is needed are programmes that are co-constructed with teenagers, that differentiate between different kinds and motivations for sexting, that teach the values of respect and responsibility and that offer ways of redressing harm when it occurs.

---

<sup>281</sup> "Mybodymyterms," *Villianesse*, accessed 27 January 2017, <http://www.villainesse.com/mybodymyterms>.

## Chapter 6

### Conclusion

This study began by noting the growing public alarm around the world about teenagers engaging in sexting and the sometimes draconian responses on the part of legislators and policy makers to the issue, including use of child pornography laws to prosecute both senders and receivers of sexts. One problem with such heavy-handed punitive responses is that they fail to differentiate between different types of sexting or to focus on where the harm of the practice lies. By lumping together what I have called consensual 'primary' sexting and non-consensual 'secondary' sexting, current responses often end up perpetuating the same victim blaming tendency that characterises common reactions to sexual assault. To prevent this, we need a more nuanced understanding of sexting and a more constructive way of dealing with its harmful dimensions. This thesis argues that we can start to achieve both aims by approaching the subject through a restorative justice lens.

To acquire a deeper understanding of sexting, I have reviewed existing research literature on the subject and surveyed a cohort of New Zealand secondary school students, their parents and teachers about their views on sexting and how best to respond to it. Schools are at the forefront of dealing with harmful digital communications, so the cohort for this study was drawn from a school aspiring to be a restorative school. To make the study manageable, I solicited reactions to one hypothetical case study of non-malicious or non-predatory secondary sexting in both the survey and follow up interviews; my research did not extend to issues such as revenge porn or sextortion. Although the research sample was relatively small, my findings provide useful insight into sexting behaviours amongst New Zealand secondary school students and the potential of restorative approaches to address them. First, we can draw the tentative conclusion that media reports on sexting and some international studies tend to overstate the size of the problem. Of my respondents, 34.7% admitted to having received a sext and 9.6% to have forwarded a sext without consent. However, this lower frequency of sexting does not diminish

the impact on those individuals of non-consensual secondary sexting. It is still a serious issue in need of attention.

The findings also confirm that most people accept that incidents of secondary sexting have the potential to cause a significant degree of harm. As anticipated at the outset of the study, the opinions of parents and staff members on sexting differed from those of students. The former viewed sexting as an inherently risky and harmful activity; the latter tended to normalise primary sexting and associate risk and harm with secondary sexting. When viewed through a restorative lens it quickly became clear that this harm is not limited to the victim. It extends to the offender, co-offenders and wider community. Furthermore, a restorative framework enables us to see that the harm of secondary sexting is not merely one of a privacy violation but is also a dignity violation; a direct attack on a person's inherent worth.

The restorative justice framework also provides a useful way to analyse formal responses to sexting. Most published research on the subject limits its consideration to criminal justice responses to the problem. A distinctive feature of my research is that it explores the uses of restorative justice in both the criminal and educational spheres. The secondary school that participated in the research has already been using restorative approaches to address incidents of sexting, and its experience of doing so provided helpful insights into the practice. Furthermore, it was interesting to find that most participants in the study saw restorative justice as a beneficial way to address secondary sexting. It was seen to enable students to have a voice, to hold the offender accountable and to strengthen relationships. As a relational approach to wrongdoing, most respondents thought that restorative practice allowed most of the harms discussed in Chapter 3 to be addressed.

However, respondents also recognised that sexting presents restorative justice with some unique challenges. Schools normally involve parents in restorative justice conferences and are legally obliged to notify parents of significant issues that affect their child's wellbeing or learning. The sensitive nature of sexting means that students might not want their parents involved. They were afraid of the potential embarrassment and apprehensive that parents might take over the conference.

There was also concern among some parents that restorative justice could be a soft option. At the same time, participants favoured the involvement of police in the conference as a way to signal the seriousness of the offence, rather than applying punitive sanctions to the offender. Overall there seems to be sound reasons for schools to develop restorative processes to deal with certain types of secondary sexting. It is not a perfect solution, but from available options it offers the most promise of providing a satisfying outcome for all parties and is more likely to avoid the victim blaming dynamic.

The victim blaming rhetoric of educational campaigns on sexting is something I have drawn attention to throughout this thesis. The notion that the simple act of sending an image foretells a damaging outcome is in tension with a restorative approach, which invites us to understand the practice within a relational setting. Primary sexting in the context of a healthy relationship is unlikely to cause harm on its own. The harm arises from the act of secondary sexting, which is a breach of relational trust. It also arises from prevailing social attitudes towards female sexuality. For educational campaigns to be effective, there needs to be a coherent message. The key message is that the person who disseminates the image (i.e., forwards the message on to others without permission) is the one at fault, not the person who created the image. In short, there is a need to move away from a digital safety approach towards a relational approach.

This study has highlighted the lack of information currently available in New Zealand schools on sexting and the need for better educational programmes on the topic. It has found that many international programmes are problematic. A few domestic programmes have been developed by specialist agencies, but there does not appear to be a clear policy on how sexting should be addressed. More work needs to be done to develop a consistent message on sexting that aligns with the New Zealand curriculum and has the flexibility to be adapted to the values of an individual school. There is also an urgent need to educate students about the harmful gender norms that pervade society. Interestingly, of the three stakeholder groups I talked to, it was the students who had the greatest understanding of the impact of sexist norms. They described such norms at work in the expectation they felt to engage in harassing a girl, even if they personally disagreed with it. Such

norms can only be effectively challenged by working across multiple levels in the system: with students, teachers, parents, schools, and in the wider community.

This study highlights the power of a restorative ethos, not just for responding to incidents of wrongdoing, but also for analysing the harmful nature of the conduct in the first place. I have found that asking the four simple restorative questions: ‘What happened? Who has been affected? How can things be repaired? How can repetition be prevented?’ can offer a powerful way to open up the subject and identify the needs and responsibilities of all parties. This approach underscores how educators and policy makers need to move away from victim blaming reflexes and focus on the real people and relationships at the centre of the harm. Furthermore, it can help formulate policy settings that will reduce real harm, rather than mitigate abstract risk.

## **Recommendations**

My research findings give rise to several recommendations for educators and policy makers to consider when addressing sexting.

### *Recommendation 1: Listen to teenagers*

There is a need to directly involve teenagers in designing policy on sexting. Only by working *with* students is it possible to develop educational resources that align with their values and experience. This will also help to highlight issues adults may overlook, such as the involvement of parents in restorative conferencing. This is not to say the student voice should be considered above all else, but experts on sexting agree that student participation in formulating policy is essential.

### *Recommendation 2: Stop using victim blaming campaigns*

Victim blaming campaigns reinforce harmful gender norms as well as commonly held beliefs about sexual assault. Existing programmes that may be construed as victim blaming should be avoided by New Zealand schools, or only used in order to highlight the harmful stereotypes they employ.

### *Recommendation 3: Increase legal literacy*

Students need to be informed about their legal rights and responsibilities and about the values undergirding legislation, such as the Harmful Digital Communication Act. By educating students about the law and rationale behind the law, schools may deter students from engaging in inappropriate behaviour, as well as empower victims to come forward when wrongdoing does occur.

*Recommendation 4: Explore the relationship between online and offline gendered harassment*

A common theme in this thesis is that the abusive impacts of sexting are rarely limited to the online world. In order to understand sexting, there is a need to explore the practice within the wider educational framework of gender harassment and violence against women.

*Recommendation 5: Educate the wider community*

Alongside educating students there is also the need to address all other stakeholders – students, teachers, parents/caregivers, schools and members of the wider community. This should not be the schools' responsibility alone but should be a joint effort between the Police, Netsafe, Ministry of Justice and the Ministry of Education.

*Recommendation 6: Involve Stakeholders when developing responses*

Chapter 3 highlights the problems that need to be addressed when designing a response to sexting. By taking a whole-of-school approach and including all stakeholders, there is the potential to develop a suite of responses to the full range of sexting behaviours and to ensure that schools feel confident in their approach. It is particularly important that Netsafe, Police, Ministry of Education, Ministry of Justice and schools are on the same page in this regard.

*Recommendation 7: Employ restorative responses*

I have argued that restorative practices in schools have the greatest potential to address the harms caused by secondary sexting. It is crucial that these practices, which include the use of circles and Family Group Conferences, address the wrongdoing of the offender, not the responsibility of the victim for abetting the harm.

### *Recommendation 8: Measurement and monitoring of sexting incidents*

To enable learning across the wider system, Netsafe and/or the Police should be made aware of incidents where images of secondary sexting have occurred and what restorative responses have been used. A measurement and monitoring framework to continuously improve restorative practices should be considered as part of a school's commitment to employ restorative practices.

### **Limitations and Future Areas of Study**

As with any research undertaking, the limitations of this study need to be noted. Several factors restrict the generalisability of this study's findings.

First, the study was limited to one secondary school, so caution needs to be taken when applying research findings to schools in different contexts. Second, the fact that all participants opted into the study may have skewed the results. For example, parents, staff or students who were ambivalent about restorative practice or sexting may have chosen not to participate in the study.

The survey itself also had several limitations. The definition of sexting it supplied did not resonate with some students. It might have been helpful to pilot the survey first, and receive feedback from students. However, due to time constraints this was not possible.

Fourth, although the survey was anonymous, it was not conducted in a controlled setting. Therefore it is unknown whether students completed the survey together or were influenced by others close to them, which may have affected the results. Furthermore, as sexting is considered by some to be a deviant behaviour, social desirability may have affected student's responses to questions on prevalence.

Another potential limitation of the interviews and focus groups was the use of a hypothetical scenario. This meant that participants only commented on how they thought they might respond to such a situation, rather than reflecting on their own experience. On the other hand the sensitive nature of the topic meant the hypothetical scenario was beneficial, as it allowed discussion of a sensitive topic without putting people at undue risk. Similarly, views expressed in focus groups may have been affected by peer pressure, although it was the case that a variety of

opinions were discussed openly and the quantitative survey provided evidential support for the spread of student opinion.

A final limitation is that the scope of this thesis is limited to consensual primary sexting within a relationship and non-consensual secondary sexting. It is important not to generalise findings to other sexting scenarios. For example, in the case of non-consensual primary sexting, there would be different harms than those experienced from non-consensual secondary sexting. Furthermore, if secondary sexting occurs in a same-sex relationship, the implications may be different, especially in regards to informing parents. Future studies should extend their scope to non-consensual incidents of primary sexting, secondary sexting when males are the victim, and LGBTQ students' experience of sexting.

### *Implications for future research*

The existing research literature on sexting is confusing and inconclusive; more work is needed to create nuanced definitions and measurements for sexting. There is also a need for more research in the New Zealand context. To date, there has not been a nationwide survey on this behaviour so it is difficult to know the prevalence and extent of the harm caused by sexting.

Future research also needs to assess how successful restorative practice is at addressing incidents of sexting. My study looked at a hypothetical scenario; the next step should be the use of real life scenarios. Since restorative responses are already being used in an ad hoc way by schools to address these issues, research on outcomes and on best practice standards would be beneficial.

Finally, there is a need to undertake research on young people's perspectives on these issues. This study has begun this process, however, much more needs to be done. The need for teenage voices to be heard is crucial in trying to combat the harmful dimensions of sexting.

While this thesis is exploratory, it still presents a challenge to educators and policy makers to expand their understanding of, and responses to, secondary sexting by secondary school students in a school environment. Restorative practice is only



as strong as the environment it finds itself in. In New Zealand we have a unique opportunity to change the script on sexting, from a victim blaming narrative to one that focuses on respectful relationships and the obligations that go with them. I firmly believe restorative responses provide an opportunity to do this. Of greatest importance is that restorative practice enables adults to hear and respect the stories of teenagers, rather than telling the story for them.

## **Appendices**

## Appendix A: Participant Information Sheet - Parents



### Participant Information Sheet:

#### Parent Interviews

Please read this information sheet before deciding whether to participate in this research project. If you decide to take part, thank you. If you decide not to participate, thank you for considering my request.

**Project Title:** 'Responding to Sexting and Cyber Aggression at a Restorative Secondary School.'

**Researcher:** Emma Wicks. I am a Masters student in Public Policy at Victoria University of Wellington. This research project is work towards my thesis.

#### What is the aim of the project?

The purpose of this project is to investigate stakeholder opinions about how restorative secondary schools should respond to incidents of cyber aggression and secondary sexting.

The interview will ask questions about your understanding of bullying policies at the school your child attends, your opinion of these procedures and whether or not you think some forms of aggressive online behaviour should be illegal.

This research has been approved by the Victoria University of Wellington Human Ethics Committee 22861.

#### How can you help?

If you agree to take part, I will interview you at the school at a mutually convenient time. The interview will take approximately 45 minutes. The interview will be recorded and transcribed for research purposes.

The interview is confidential. You will not be named in the thesis, and research reports will not include any information that would identify you. Only my university supervisor and the transcriber will see the transcriptions of the interview and will sign a confidentiality agreement.

The interview recordings, transcripts and summaries will be stored securely and be password protected, and will be destroyed three years after the research ends.

### **What will the project achieve?**

The information from this research will be used in my Master's thesis, which will be publically available. The results may also be used for conference presentations and academic publications. The research may assist schools in deciding on how best to respond to incidents of cyber aggression.

### **What are your rights as a research participant?**

If you do decide to participate, you have the right to:

- choose not to answer any question;
- ask for the recorder to be turned off at any time during the interview;
- withdraw from the study up until four weeks after the interview;
- ask any questions about the study at any time;
- receive a copy of your interview recording;
- receive any reports of this research by emailing the researcher to request a copy.

### **If you have any questions or problems, who can you contact?**

If you have any questions, either now or in the future, please feel free to contact either:

#### **Student:**

Name: Emma Wicks  
University email address:  
Emma.wicks@vuw.ac.nz

#### **Supervisor:**

Name: Professor Chris  
Marshall  
Role: **Diana Unwin Chair in  
Restorative Justice**  
School: School of  
Government  
Phone: 04 463 7421  
Chris.marshall@vuw.ac.nz

### **Human Ethics Committee information**

If you have any concerns about the ethical conduct of the research you may contact the Victoria University HEC Convener: Associate Professor Susan Corbett. Email [susan.corbett@vuw.ac.nz](mailto:susan.corbett@vuw.ac.nz) or telephone +64-4-463 5480.

## Appendix B: Participant Information Sheet - Staff



### Participant Information Sheet:

#### Staff Member Interviews

Please read this information sheet before deciding whether to participate in this research project. If you decide to take part, thank you. If you decide not to participate, thank you for considering my request.

**Project Title:** 'Responding to Sexting and Cyber Aggression at a Restorative Secondary School.'

**Researcher:** Emma Wicks. I am a Masters student in Public Policy at Victoria University of Wellington. This research project is work towards my thesis.

#### What is the aim of the project?

The purpose of this project is to investigate stakeholder opinions about how restorative secondary schools should respond to incidents of cyber aggression and secondary sexting.

The interview will ask questions about your understanding of bullying policies at the school you work at, your opinion of these procedures and whether or not you think some forms of aggressive online behaviour should be illegal.

This research has been approved by the Victoria University of Wellington Human Ethics Committee 22861.

#### How can you help?

If you agree to take part, I will interview you at the school at a mutually convenient time. The interview will take approximately 45 minutes. The interview will be recorded and transcribed for research purposes.

The interview is confidential. You will not be named in the thesis, and research reports will not include any information that would identify you. Only my university supervisor and the transcriber will see the transcriptions of the interview and will sign a confidentiality agreement.

The interview recordings, transcripts and summaries will be stored securely and be password protected, and will be destroyed three years after the research ends.

### **What will the project achieve?**

The information from this research will be used in my Master's thesis, which will be publically available. The results may also be used for conference presentations and academic publications. The research may assist schools in deciding on how best to respond to incidents of cyber aggression.

### **What are your rights as a research participant?**

If you decide to participate, you have the right to:

- choose not to answer any question;
- ask for the recorder to be turned off at any time during the interview;
- withdraw from the study up until four weeks after the interview;
- ask any questions about the study at any time;
- receive a copy of your interview recording;
- receive any reports of this research by emailing the researcher to request a copy.

### **If you have any questions or problems, who can you contact?**

If you have any questions, either now or in the future, please feel free to contact either:

#### **Student:**

Name: Emma Wicks  
University email address:  
Emma.wicks@vuw.ac.nz

#### **Supervisor:**

Name: Professor Chris  
Marshall  
Role: **Diana Unwin Chair in  
Restorative Justice**  
School: School of  
Government  
Phone: 04 463 7421  
Chris.Marshall@vuw.ac.nz

### **Human Ethics Committee information**

If you have any concerns about the ethical conduct of the research you may contact the Victoria University HEC Convener: Associate Professor Susan Corbett. Email [susan.corbett@vuw.ac.nz](mailto:susan.corbett@vuw.ac.nz) or telephone +64-4-463 5480.



## Appendix C: Participant Information Sheet - Students



### **Participant Information Sheet: Student Survey and Focus Group**

Hi there,

My name is Emma Wicks. I am a Masters student at Victoria University and writing a thesis on 'Responding to Sexting and Cyber Aggression at a Restorative Secondary School.'

The aim of my research is to investigate how secondary schools should respond to cyber bullying and sexting. The research has two stages: an anonymous online survey, and a focus group discussion.

If you are over 16 yrs, you can sign the consent form and return it to your form teacher. If you are under 16 you will need to obtain parental consent. A form is attached for you to give to them.

Please note, you don't have to participate in both phases of the research. You may choose to take part only in the online survey, or only in the focus group, or not to participate at all.

#### **What are the benefits?**

The research project is an opportunity to learn more about the legal issues surrounding cyber aggression and sexting and to express your opinions on how this behaviour should be dealt with by schools.

#### **What are the risks?**

As the research is of a sensitive nature, if you think you will find it stressful or uncomfortable to discuss these issues, it may be wise not to participate in the project.

#### **First Phase – Anonymous Online Survey**

The aim of the survey is to find out about your own experiences of cyber aggression and sexting and whether you think they should be illegal or not.

It is important to understand that participation is entirely voluntary. You may withdraw from the survey at any time. If you do not complete the survey, none of your responses will be recorded.

The survey is anonymous. It will not be possible for anyone to identify you from your answers.

If you decide to participate and discover that a question has made you feel stressed or uncomfortable, you can stop the survey and talk to an adult you can trust.

### **Second stage – Focus Group**

For the second part of the research, you will be invited to participate in a focus group (group discussion) with 3-5 other students.

The focus group will take approximately 60 minutes and will occur at a time which is convenient for you and the school. Food and drink will be provided. Discussion will cover a range of topics, including:

- Bullying procedures at the College
- Perspectives on whether or not online behaviour should be illegal
- Cyber aggression,
- Sexting, in particular secondary sexting

You will **NOT** be asked to provide examples of your own experiences of cyber aggression or sexting, but how frequently you think these behaviours occur at school and your opinion about them.

You will also be provided with two hypothetical scenarios, the first involving the sharing of a sext, the second involving the use of harmful language.

Participation in the focus group is entirely voluntary and you do not have to answer any questions you don't want to. You can also withdraw from the group at any time (you do not have to provide a reason). However, once the focus groups have been completed, it will not be possible to withdraw your answers.

### **How will my identity be protected?**

To make sure I capture all the information provided, the focus group will be recorded and someone will type the recording out for me. The only people who will hear the discussion are me, my university supervisor and the person who will transcribe the discussion.

We are all bound by confidentiality agreements and will not disclose any information that will personally identify you, unless we have real concerns for your personal safety.

If you agree to participate, you must agree to keep all information confidential. This means you cannot talk to other people about what was said during the focus group. As this is a focus group, if there is something you do not want other people to know, it is best not to share it.

To protect the identity of those in the group, members will not receive copies of the typed up notes.

All transcripts and discussion notes will be stored electronically and be password protected. Three years after the research has ended all notes and transcripts will be destroyed.

If you would like to receive a report of this research project, please complete the address field on the consent form. The school or individual students will NOT be able to be identified by this research.

If something is raised in the focus group that makes feel upset or uncomfortable, you can talk with me or my supervisor or with an adult you can trust or you can contact someone listed on the support sheet we'll provide.

**If you have any questions or problems, who can you contact?**

If you have any questions, either now or in the future, please feel free to contact either:

**Student:**

Name: Emma Wicks  
University email address:  
Emma.wicks@vuw.ac.nz

**Supervisor:**

Name: Professor Chris  
Marshall  
Role: **Diana Unwin Chair in  
Restorative Justice**  
School: School of  
Government  
Phone: 04 463 7421  
Chris.marshall@vuw.ac.nz

**Human Ethics Committee information**

If you have any concerns about the ethical conduct of the research you may contact the Victoria University HEC Convener: Associate Professor Susan Corbett. Email susan.corbett@vuw.ac.nz or telephone +64-4-463 5480.

## **Appendix D: Participant Information Sheet – Parents and Caregivers of Students under 16 years of age.**



### **Participant Information Sheet:**

#### **Parents and Caregivers of Students Under 16 years of age**

Please read this information sheet before deciding whether to participate in this research project. If you decide to take part, thank you. If you decide not to participate, thank you for considering my request.

**Project Title:** 'Responding to Sexting and Cyber Aggression at a Restorative Secondary School.'

**Researcher:** Emma Wicks. I am a Masters student in Public Policy at Victoria University of Wellington. This research project is work towards my thesis.

#### **What is the aim of the project?**

The purpose of this project is to investigate stakeholder opinions about how restorative secondary schools should respond to incidents of cyber aggression and secondary sexting.

The interview will ask questions about your understanding of bullying policies at the school your child attends, your opinion of these procedures and whether or not you think some forms of aggressive online behaviour should be illegal.

This research has been approved by the Victoria University of Wellington Human Ethics Committee 22861.

#### **What is involved in the research?**

The research has two stages: an anonymous online survey and a confidential group discussion.

##### **a) First phase – Online Survey:**

The aim of the survey is to find out about your child's experiences of cyber aggression and sexting and opinions about whether they should be illegal.

Participation is entirely voluntary. Your child does not have to answer all the questions and may withdraw from the survey at any time.

The survey is anonymous and confidential. It will not be possible for anyone to identify your child's answers.

If you think your child may find it stressful or uncomfortable to answer questions on the behaviours of cyber aggression and sexting, we recommend your child does not to participate in the survey.

If your child does participate and discovers that a question causes them stress or discomfort, they can end the survey at any point and should talk to an adult they can trust.

### **b) Second Phase – Focus Groups:**

The group discussion will take approximately 60 minutes and will occur at a time which is convenient for the student and the school. Food and drink will be provided.

The group will involve 3-5 students talking about their views on cyber aggression and sexting. Participants need to be between 15 -17 years old and fluent speakers of English. The group discussion will cover the following topics:

- Bullying procedures at the College
- Perspectives on whether or not online behaviour should be illegal
- Cyber-aggression,
- Sexting, in particular secondary sexting

Your child will **NOT** be asked to provide accounts of their personal experiences of cyber aggression and sexting, but to share their perspectives on these behaviours and there prevalence at school.

During the discussion, the group will discuss two hypothetical scenarios, the first involving the sharing of an intimate image, the second involving the use of harmful language.

The group discussion will be recorded and transcribed. Only my supervisor, the transcriber and I will see the transcripts. The only reason information about your child will be shared with anyone else is where my supervisor has concerns about your child's personal safety.

All transcripts and group discussion notes will be stored electronically and be password protected. Three year after the research has ended, all group discussion notes and transcripts will be destroyed.

**What are the benefits?**

The group discussion is an opportunity for your child to learn more about the legal issues surrounding cyber aggression and sexting and to express their own opinions on how this behaviour should be dealt with.

**What are the risks?**

As the research is of a sensitive nature, if you think your child will find it stressful to talk about cyber aggression or sexting, you should carefully consider whether their participation is appropriate.

If something is raised in the focus group that makes your child upset or uncomfortable, they will be encouraged to talk to an adult they can trust. A list of support services for your child and/or yourself will be available.

**What are your child's rights as a research participant?**

At the start of the discussion, members of the group will be reminded that:

- Their participation is voluntary
- They may withdraw from the group at any time, without giving a reason (though after the group discussion is complete, they may not withdraw their answers).
- The discussion is confidential; no one will be able to identify the school or any individuals in the school from the research report. Participants must agree to respect confidentiality.
- Transcripts will not be provided to group members, in order to protect the identity of participants.
- No one has to answer any question they do not want to. No one should not share information they do not want others in the group to hear
- If anyone becomes worried or concerned about something said in the group, they can talk to the facilitator or her supervisor or an adult they trust.
- If participants or their parents/caregivers wish to receive a report of this research project, they may request it by signing the consent form (below).

**If you have any questions or problems, who can you contact?**

If you have any questions, either now or in the future, please feel free to contact either:

**Student:**

Name: Emma Wicks  
University email address:  
Emma.wicks@vuw.ac.nz

**Supervisor:**

Name: Professor Chris Marshall  
Role: **Diana Unwin Chair in  
Restorative Justice**  
School: School of Government  
Phone: 04 463 7421  
Chris.marshall@vuw.ac.nz

**Human Ethics Committee information**

If you have any concerns about the ethical conduct of the research you may contact the Victoria University HEC Convener: Associate Professor Susan Corbett. Email [susan.corbett@vuw.ac.nz](mailto:susan.corbett@vuw.ac.nz) or telephone +64-4-463 5480.

## Appendix E: Participant Consent Sheet - Students



### Consent Form for Focus Group: Students

**Project Title:** 'Responding to Sexting and Cyber Aggression at a Restorative Secondary School.'

**Researcher:** Emma Wicks. I am a Masters student in Public Policy at Victoria University of Wellington. This research project is work towards my thesis.

Thank you for considering whether to participate in this focus group. Please read the Information Sheet provided about the research project.

If you have any questions you would like answered before deciding whether to be involved, you may contact me at [Emma.Wicks@vuw.ac.nz](mailto:Emma.Wicks@vuw.ac.nz).

If you wish to take part, please tick 'Yes' on this consent form and sign it. By signing this form, you agree to the following.

- ☐ I have read and understood the information sheet telling me what will happen in this study and why it is important.
- ☐ I have been able to ask questions and to have them answered.
- ☐ I understand that notes will be taken during the group discussion and that they will also be recorded and typed up by someone who has signed a confidentiality agreement.
- ☐ I understand that during the group discussion, other group members will hear my comments. If there is something I would prefer the group not to know, I will not share this information.
- ☐ I understand that the identity of my fellow participants and our discussions in the focus group are confidential to the group and I agree to keep this information confidential.



- I understand that if I am concerned or worried about anything said in the group, I can talk to an adult I trust (including guidance counsellors or other staff members), the researchers or one of the support services provided at the interview.
- I understand that while the information is being collected, I can stop being part of this study whenever I want and that it is perfectly ok for me to do this.
- If I stop being involved in the project, I understand that due to the nature of group discussions, I will not be able to withdraw my material.

- ☐ **YES**, I agree to take part in a Focus Group.
- ☐ **NO**, I do not agree to take part of a Focus Group

**Participant's signature:**

.....

**Participant's name:**

.....

**Date:** .....

**Address (if you want a copy of the written report based on this research:**

.....

.....

## Appendix F: Participant Consent Sheet – Staff and Parents



### Consent Sheet:

#### Staff and Parents

**Project Title:** 'Responding to Sexting and Cyber Aggression at a Restorative Secondary School.'

**Researcher:** Emma Wicks. I am a Masters student in Public Policy at Victoria University of Wellington. This research project is work towards my thesis.

Thank you for considering whether to participate in this interview. Please read the Information Sheet provided about the research project.

If you have any questions you would like answered before deciding whether to be involved, you may contact me at [Emma.Wicks@vuw.ac.nz](mailto:Emma.Wicks@vuw.ac.nz).

For your participation to occur we need you to sign a consent form, which indicates that:

- ☐ I have read and understood the Information Sheet about this research project.
- ☐ I have had an opportunity to ask questions and to have them answered.
- ☐ I understand that notes will be taken during the interviews and that they will also be recorded and transcribed by someone who has signed a confidentiality agreement.
- ☐ I understand I will not be identifiable from any reports produced from this research.
- ☐ I understand that I may withdraw myself or any information I have provided for this project at any time prior to completion of data collection, without being disadvantaged in any way.
- ☐ If I withdraw, I understand that all relevant information, including tapes and transcripts, or parts thereof, will be destroyed.
- ☐ I agree to take part in this research.

- ☐ I wish to receive a copy of the report from the research (please tick one): Yes ☐ No ☐

**Participant's  
signature**.....

**Participant's name:**  
.....

**Date:** .....

**Address (if you want a copy of the written report based on this  
research:**  
.....  
.....

## Appendix G: Participant Consent Sheet – Students Under 16 years of age



### **Consent to Participate in Research:** Parents and Caregivers of Students Under 16 Years of Age

**Title:** Responding to Sexting and Cyber Aggression at a Restorative School

**Researcher:** Emma Wicks

Thank you for considering the participation of your child in this survey and/or focus group. For participation to occur your written consent is required and we need you to sign a consent form.

If you sign this form and tick the box 'Yes, my child may participate in this survey,' you understand and agree to the following:

- ☐ I have read and understood the information provided about this research project in the Information Sheet.
- ☐ I have had an opportunity to ask questions and to have them answered.
- ☐ I understand this survey will be anonymous, and no personal identifying details will be collected about my child.
- ☐ I understand that due to the survey being anonymous, I will not be able to request any specific responses from my child.
- ☐ I understand my child can withdraw at any time during or after the survey.

If you sign this form AND you tick the box 'Yes, my child may participate in this Focus Group,' you understand and agree to the following:

- ☐ I have read and understood the information provided about this research project in the Information Sheet.
- ☐ I have had an opportunity to ask questions and to have them answered.
- ☐ I understand that notes will be taken during the focus group and that they will also be audio-taped and transcribed by someone who has signed a confidentiality agreement.

- I understand that identifying features of my child will be changed so they will not be identifiable from any reports produced from this research.
  - I understand that during the focus group, other group members will hear the comments from my child – if there is something she/he would prefer not to share, she/he will be reminded not to share this information with the group.
  - I understand that if my child agrees that they will not discuss any of the group members' comments with anyone other than the focus group participants. However, if my child is concerned or worried about anything said in the groups, they can talk to an adult they trust (including guidance counsellors, or other staff at school), the researchers or support services (details of some support services will be provided at the interview).
  - I understand due to the confidential nature of this focus group, I will not be able to request any specific responses from my child.
  - I understand that my child is free to withdraw from the focus group at any time before or during the focus group, without giving a reason.
  - I understand that due to the nature of group discussions, if my child does withdraw during the session, it will not be possible to withdraw their interview material from the transcript once the interview has taken place.
- ☐ **YES**, I agree my child can take part in this survey and Focus Group.

**Parent or Caregiver's Name:** .....

**Date:** .....

**Signature:** .....

**Name of child in your care:** .....

**Address (if you want a copy of the written report based on this research):**

.....  
 .....

## **Appendix H: Interview Guide**

### **General Interview Guide**

#### **Section One: Introduction**

1. What do you think bullying is?
2. Do you know what the process is if someone is bullied at school? What is the process? What do you think of the process?
3. If your child were bullied how would you want the conflict to be resolved?
4. If your child was the bully, how would you want the conflict to be resolved?
5. Restorative practice is a process that brings together all the parties involved in an episode of wrongdoing in a circle to discuss what happened, how they have been affected and to reach an agreement about what should be done to put things right.

#### **Section Two: Cyber aggression**

Cyber aggression is any behaviour that is aimed at harming another person using electronic communications, and is unwanted by the target. Examples include but are not limited to:

- Posting mean and hurtful comments online
- Posting mean or harmful videos or pictures online
- Making a harmful web page about someone
- Threatening to hurt someone online or by text
- Pretending to be someone online and acted in a way that is mean or hurtful.

Cyber aggression can be sexual in nature. For example, when a person forwards an intimate image to another person without consent ('secondary sexting').

6. What can you tell me about cyber aggression at the school?
7. Does the school do anything to address or prevent the problem?

8. Do you think the school should be responsible for resolving cyber aggression? Does it matter if it occurs inside or outside school hours? Should someone else be responsible (e.g., the police)?

### Section Three: Two Hypothetical Case Studies

**Example 1:** Katie and Tom are in a romantic relationship. During the relationship, Katie sent Tom intimate pictures of herself (a sext), as she was under the impression Tom would keep them private. A few days later Katie discovers Tom had sent the pictures to his friends, and they had forwarded the pictures around the school. Everyone is talking about the pictures and making inappropriate comments to Katie.

9. What do you think of Katie's actions?
10. What do you think of Tom's actions?
11. If you were Katie or her parent/teacher, how would you feel? What would you want done? Would you want to use restorative practice? Do you think it was appropriate for Katie to send the photos in the first place?
12. Is this an example of cyber aggression? If so why so, if not, why not?
13. If you were Tom's parents, how would you feel? What would you want done? Would you want to use restorative practice?
14. If a restorative process were to be used, who should be involved? What would be the most difficult part about it?
15. Since the pictures have been distributed, Katie is avoiding school and showing signs of depression. Knowing the impact of Tom's actions, would you respond differently to the above questions?
16. How can you make sure Katie doesn't suffer any extra harm?

**Example 2:** Sophie and Bella have had a falling out at school. Sophie starts sending Bella harmful text messages, and isolating her from her group of friends at school. Sophie ends most messages with jjk.

17. What do you think of Sophie's actions? Why would she do this? Is this an example of cyber aggression? If not, why not?

Is there any way Sophie's actions can be seen as a joke?

18. If you were Bella or her parents/teacher, how would you feel? What would you want done? Would you want to use restorative practice?

19. If you were Sophie or her parents/teacher, how would you feel? What would you want done? Would you want to use restorative practice?

20. If a restorative process were to be used, who should be involved? What would be the most difficult part about it? Is this a form of cyber aggression, if so, why so? If not, why not?

21. Since the fight, Bella has been avoiding school, and seems withdrawn. Knowing the serious impact of Sophie's behaviour, would you change your answers to the above questions?

#### **Section Four: The Harmful Digital Communications Act (HDCA)**

Under new laws Katie and Bella could lay a complaint with an agency that deals with cyber aggression. They could also contact the Police. The case could go to court and Tom and Sophie could get charged for their actions. Knowing that what Tom and Sophie did was illegal:

22. If you were the victim/victim's parents/ teacher, would you report it to the police or want the agency involved?

23. If you were the parents of the children who sent the harmful material, would you report it to the police or want the agency involved?



24. Knowing the behaviour is illegal, how do you think the situation should be resolved? Through a restorative process or in some other way?

**Section Five: Concluding Questions**

25. What do you know about the law on cyber aggression and sexting?
26. Do you think certain kinds of cyber aggression should be a crime? Should it be dealt with differently than other forms of bullying?
27. Do you think students should be informed about the law? Do you think it would change their behaviour?
28. Is there anything else you would like to say about the subject?

## **Appendix I: Survey**

### **Survey: Sexting and Cyber Aggression**

Dear student,

You are invited to participate in a survey being run by Victoria University of Wellington about cyber bullying (or cyber aggression) and sexting.

The aim of the survey is to find out about your experiences of cyber aggression and sexting and whether you think they should be illegal or not.

An information sheet about the survey is attached to this email. It is important you read this sheet before deciding to participate.

Participation is entirely voluntary. You may withdraw from the survey at any time. If you do not complete the survey, none of your responses will be recorded.

All responses will be anonymous. No one will be able to identify you or how you answered the questions.

If you have any questions you would like answered before deciding whether to be involved, you may contact me at [Emma.Wicks@vuw.ac.nz](mailto:Emma.Wicks@vuw.ac.nz)

By clicking the 'next' button, you are agreeing to take part in the survey and indicate the following:

- I have read and understood the Information Sheet provided about this research project.
- I have had an opportunity to ask questions and to have them answered.
- I understand this survey will be anonymous, and no personal identifying details will be collected about me.
- I understand that I can withdraw from the research project at any time during or after the survey.

Thank you for considering this invitation.

Kind regards,

Emma Wicks

## Instructions

The purpose of this survey is to gather information about your experiences of 'cyber aggression' and 'sexting,' which are defined below.

It is important you read these definitions and answer the questions as truthfully as possible. All responses will be anonymous.

## Definitions

**Cyber aggression** is any behaviour that is aimed at harming or humiliating another person using electronic communications, such as computers, tablets or cell phones, and is unwanted by the target. Examples include sending harmful text or email or Facebook messages, pretending to be someone else in a way that is mean or hurtful, or sharing humiliating pictures of the person.

**Sexting** is sending or receiving an image of someone who is naked or semi-naked. There are two types of sexting:

'Primary sexting' is when you freely choose to send a sext of yourself to someone else (e.g., your boyfriend or girlfriend).

'Secondary sexting' is when you forward a sext you have received to someone else, without the person's permission (e.g., a boy shows a sext from his girlfriend to his friends.)

**Online** refers to the internet and social media sites including but not limited to Facebook, Snapchat, Ask.FM, twitter, Instagram.

Q1 What year are you in?

- ☐ Year 10 (1)
- ☐ Year 11 (2)
- ☐ Year 12 (3)
- ☐ Year 13 (4)

Q2 How long have you attended the College

- ☐ 6 months (1)
- ☐ 1 year (2)
- ☐ 1.5 years (3)
- ☐ 2 years (4)
- ☐ 2.5 years (5)
- ☐ 3 years (6)
- ☐ longer than 3 years (7)

Q3 What is your gender?

- ☐ Male (1)
- ☐ Female (2)

Q4 In the last 30 days, I have experienced cyber aggression in the following ways:

	Yes (1)	No (2)
Someone posted mean or sent hurtful comments about me online or via cell phone. (1)	<input type="radio"/>	<input type="radio"/>
Someone posted or sent mean or hurtful pictures or video of to me online or via cell phone (2)	<input type="radio"/>	<input type="radio"/>
Someone pretended to be me online and acted in a way that was mean or harmful. (3)	<input type="radio"/>	<input type="radio"/>

Q5 In the last 30 days, I have experienced cyber aggression:

- ☐ During school hours (1)
- ☐ Outside of school hours (2)
- ☐ Both during school hours and outside of school hours. (3)
- ☐ I have not experienced cyber aggression (4)

Q6 In the last 30 days I have participated in cyber aggression in the following ways:

	Yes (1)	No (2)
I posted or sent mean or hurtful comments about someone online or via cell phone (1)	<input type="radio"/>	<input type="radio"/>
I sent or posted mean or harmful or video to someone online or via cell phone (2)	<input type="radio"/>	<input type="radio"/>
I pretended to be someone online and acted in a way that was mean or hurtful (3)	<input type="radio"/>	<input type="radio"/>

Q7 In the last 30 days, I have participated in cyber aggression:

- ☐ During school hours (1)
- ☐ Outside of school hours (2)
- ☐ Both during school hours and outside of school hours. (3)
- ☐ I have not participated in cyber aggression (4)

Q8 In the last 30 days I am aware of someone else experiencing cyber aggression:

	Yes (1)	No (2)
Someone posted or sent mean or hurtful comments about someone else online (1)	<input type="radio"/>	<input type="radio"/>
Someone posted mean or sent hurtful pictures or video of someone else online (2)	<input type="radio"/>	<input type="radio"/>
Someone pretended to be someone else online and acted in a way that was mean or hurtful (3)	<input type="radio"/>	<input type="radio"/>

Q9 Certain types of cyber aggression should be a crime?

	Strongly Agree (1)	Agree (2)	Neither agree nor disagree (3)	Disagree (4)	Strongly disagree (5)
Sending or posting mean or hurtful comments about someone else online or via text messages (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sending or posting a mean or hurtful picture or video about someone else online or via text messages (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Telling someone to harm themselves online or via text messages (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pretending to be someone else online and acted in a way that was mean or hurtful (4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q10 Please explain why you think some forms of cyber aggression should or shouldn't be a crime?

Q11 How often in the last 30 days have you engaged in primary sexting in an online environment or via your cell phone?

	Never (1)	Once (2)	A few times (3)	Many times (4)	Everyday (5)
Someone asked you to send a sext (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Someone sent you a sext (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You sent a sext (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
You asked someone to send a sext (4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q12 In the last 30 days, I have participated in primary sexting:

- ☐ Outside of school hours (1)
- ☐ Inside of school hours (2)
- ☐ Both inside of school hours and outside school hours (3)
- ☐ I have not participated in primary sexting (4)

Q13 How often in the last 30 days have you participated in secondary sexting?

	Never (1)	Once (2)	A few times (3)	Many times (8)	Everyday (9)
Asked someone to send you a sext from someone else (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Someone sent you a sext that was not meant for you (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Someone showed you a sext that was not meant for you (3)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Asked someone to show you a sext, that was not meant for you (4)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Q14 In the last 30 days, I have participated in secondary sexting:

- ☐ During school hours (1)
- ☐ Outside of school hours (2)
- ☐ Both inside schools hours and outside school hours (3)
- ☐ I have not participated in secondary sexting (4)

Q15 Do you think sexting should be a crime?

	Strongly agree (1)	Agree (2)	Neither agree nor disagree (3)	Disagree (4)	Strongly disagree (5)
Primary sexting (1)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Secondary sexting (2)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



Q16 Please explain why you think primary and/or secondary sexting should be a crime?

## References

- A.H., a child v. State of Florida*, 949 So. 2d 234 (January 19, 2007).
- Ahmed, Eliza, and John Braithwaite. "Forgiveness, Shaming, Shame and Bullying." *Australian & New Zealand Journal of Criminology* 38, no. 3 (2005): 298-323.
- Albury, Kath, and Kate Crawford. "Sexting, Consent and Young People's Ethics: Beyond Megan's Story." *Continuum* 26, no. 3 (2012): 463-73. doi: 10.1080/10304312.2012.665840.
- Albury, Kath, Kate Crawford, Paul Byron, and Ben Mathews. *Young People and Sexting in Australia Ethics, Representation, and the Law*. New South Wales, Australia: University of New South Wales, 2013.
- Angelides, Steven. "'Technology, Hormones, and Stupidity': The Affective Politics of Teenage Sexting." *Sexualities* 16, no. 5-6 (2013): 665-89. doi: 10.1177/1363460713487289.
- Bauman, Sheri "When Sexting Becomes Cyberbullying: Helping Victims." In *National Conference Against Bullying, 2016*. Melbourne, Australia, 2016.
- Bauman, Sheri, and Cindy Hurley. "Teachers' Attitudes and Beliefs About Bullying: Two Exploratory Studies." *Journal of School Violence* 4, no. 3 (2005): 49-61. doi: 10.1300/J202v04n03\_05.
- Bauman, Sheri, Russell B Toomey, and Jenny L Walker. "Associations among Bullying, Cyberbullying, and Suicide in High School Students." *Journal of adolescence* 36, no. 2 (2013): 341-350. doi: 10.1016/j.adolescence.2012.12.001.
- "'Before You Text' Sexting Prevention Course." *Texas School Safety Centre*. Accessed November 02, 2016. <https://txssc.txstate.edu/tools/courses/before-you-text/>.
- Bilby, Lynley. "Cyberbullying: Retiring Judge Leads New Centre to Assess Laws." *New Zealand Herald*. Accessed January 27, 2016. [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11657976](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11657976).
- . "Naked Photos Shared Against Their Will." *New Zealand Herald*. Accessed January 29, 2017. [http://m.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11656514](http://m.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11656514).
- . "Warnings over Roast Busters II." *New Zealand Herald*. Accessed January 27, 2017. [http://www.nzherald.co.nz/nz/news/article.cfm?c\\_id=1&objectid=11541781](http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11541781).
- "Bodysafe." *Rape Prevention Education*. Accessed January 27, 2017. <http://www.bodysafe.nz/#home>.

- Braun, Virginia, and Victoria Clarke. *Successful Qualitative Research: A Practical Guide for Beginners*. London: Sage, 2013.
- Broekman v R* [2012] NZCA 213.
- Bullying Prevention and Response a Guide for Schools*. Wellington, New Zealand: Ministry of Education, 2015.
- Calvert, Clay. "Sex, Cell Phones, Privacy, and the First Amendment: When Children Become Child Pornographers and the Lolita Effect Undermines the Law." *CommLaw Conspectus* 18 (2009).
- "Cameraman Convicted." *Taranaki Daily News Online*. Accessed Janaury 29, 2017. <http://www.stuff.co.nz/taranaki-daily-news/news/9632289/Cameraman-convicted>.
- Carroll-Lind, Janis. *School Safety: An Inquiry into the Safety of Students at School*. New Zealand: Office of the Children's Commissioner, 2009.
- Celizic, Mike. "Her Teen Committed Suicide over 'Sexting'." *today.com*. Accessed May 4, 2016. <http://www.today.com/parents/her-teen-committed-suicide-over-sexting-2D80555048>.
- Chambers, Deborah, Joost Van Loon and Estella Tincknell. "'Teachers' views of teenage sexual morality." *British Journal of Sociology of Education* 25, no. 5 (2004): 563-576. doi: 10.1080/0142569042000252053.
- "Character Reflections." *Office of the Children's eSafety Commissioner*. Accessed February 3, 2017. <https://www.esafety.gov.au/education-resources/classroom-resources/tagged/character-reflections>.
- Clark, T.C. , E. Moselen, R. Dixon, and S. Lewycka. *Sexual and Reproductive Health & Sexual Violence among New Zealand Secondary School Students: Findings from the Youth'12 National Youth Health and Wellbeing Survey*. Auckland, New Zealand: The University of Auckland, 2015.
- Cooper, Karen, Ethel Quayle, Linda Jonsson, and Carl Göran Svedin. "Adolescents and Self-Taken Sexual Images: A Review of the Literature." *Computers in Human Behavior* 55 (2016): 706-716. doi: 10.1016/j.chb.2015.10.003.
- Cremin, Hilary. "Critical Perspectives on Restorative Justice/Restorative Approaches in Educational Settings." Chap. 11 In *Restorative Approaches to Conflict in Schools: Interdisciplinary Perspectives on Whole School Approaches to Managing Relationships*, edited by Edward Selman, Hilary Cremin and Gilleen McCluskey, 109-22. New York: Routledge, 2013.
- Creswell, John W, and Vicki L. Plano Clark. *Designing and Conducting Mixed Methods Research*. California: Thousand Oaks, 2007.

- Crofts, Thomas, and Murray Lee. "Sexting, Children and Child Pornography." *Sydney Law Review* 35, no. 1 (2013): 85-106.
- Crotty, Michael. *The Foundations of Social Research: Meaning and Perspective in the Research Process*. New South Wales, Australia: Allen and Unwin, 1998.
- # Cybermisogyny: *Using and Strengthening Canadian Legal Responses to Gendered Hate and Harassment Online*. Canada: West Coast LEAF, 2014.
- Dake, Joseph A, James H. Price, Lauren Maziarz, and Britney Ward. "Prevalence and Correlates of Sexting Behavior in Adolescents." *American Journal of Sexuality Education* 7, no. 1 (2012): 1-15. doi: 10.1080/15546128.2012.650959.
- Day, Terri. "The New Digital Dating Behavior-Sexting: Teens' Explicit Love Letters: Criminal Justice or Civil Liability." *Hastings Communications and Entertainment Law Journal* 33, no. 1 (2010).
- Dickinson, Pauline, Penelope Carroll, Hector Kaiwai, and Amanda Gregory. *Bodysafe Programme Evaluation Report for Rape Prevention Education Whakati Mauri*. New Zealand: SHORE and Whariki Research Centre School of Public Health Massey University, 2010.
- Dobson, Amy Shields, and Jessica Ringrose. "Sext Education: Pedagogies of Sex, Gender and Shame in the Schoolyards of Tagged and Exposed." *Sex Education* 16, no. 1 (2016): 8-21. doi: 10.1080/14681811.2015.1050486
- Döring, Nicola. "Consensual Sexting among Adolescents: Risk Prevention through Abstinence Education or Safer Sexting." *Cyberpsychology* 8, no. 1 (2014). doi: 10.5817/CP2014-1-9.
- Drewery, Wendy. "Restorative Approaches in New Zealand Schools: A Developmental Approach." Chap. 5 In *Restorative Approaches to Conflict in Schools: Interdisciplinary Perspectives on Whole School Approaches to Managing Relationships*, edited by Edward Selman, Hilary Cremin and Gillean McCluskey, 40-50. New York: Routledge, 2013.
- Drewery, Wendy, and Maria Kecskemeti. "Restorative Practice and Behaviour Management in Schools: Discipline Meets Care." *Waikato Journal of Education* 15, no. 3 (2010): 101-14.
- Drewery, Wendy, and John Winslade. "Developing Restorative Practices in Schools: Some Reflections." *New Zealand Journal of Counselling* 26, no. 1 (2005): 16-32.
- Edelstein, Ken. "Teens Face More Consequences from Sexting Than Congressmen Do." *Juvenile Justice Information Exchange*. Accessed January 29, 2017. <http://jjie.org/2011/06/13/teens-face-more-consequences-from-sexting-than-congressmen-do/>.
- Education Act 1989.

- Englander, Elizabeth. *Low Risk Associated with Most Teenage Sexting: A Study of 617 18-Year-Olds*. Massachusetts: Bridgewater State University, 2012.
- "Exposed." *ThinkUKnow – UK*. Accessed 27 January, 2017.  
[https://www.thinkuknow.co.uk/14\\_plus/Films/Exposed/](https://www.thinkuknow.co.uk/14_plus/Films/Exposed/).
- Fenaughty, John Joseph. "Challenging Risk: NZ High-School Students' Activity, Challenge, Distress, and Resiliency, within Cyberspace." PhD diss. University of Auckland 2010. <https://researchspace.auckland.ac.nz/handle/2292/6775>.
- Feyerick, Deborah , and Sheila Steffen. "'Sexting' Lands Teen on Sex Offender List." *CNN*. Accessed 4 December, 2016.  
<http://edition.cnn.com/2009/CRIME/04/07/sexting.busts/index.html?iref=nextin>.
- Funnell, Nina "Exclusive: Students from 71 Australian Schools Targeted by Sick Pornography Ring." *news.com.au*. Accessed August 18, 2016.  
<http://www.news.com.au/lifestyle/real-life/news-life/students-from-70-australian-schools-targeted-by-sick-pornography-ring/news-story/53288536e0ce3bba7955e92c7f7fa8da>.
- Gibb, Francis. "Keep Sexting Cases out of Court, Urges Top QC." *The Times*. Accessed 27 January, 2017. <http://www.thetimes.co.uk/article/keep-sexting-cases-out-of-court-urges-top-qc-5mr53t7d9>.
- Hanley Duncan, Susan "Child Pornography Statutes and New Legislation." Chap. 8 In *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, edited by Todd C Hiestand and W Jesse Weins, 177-201. Durham, North Carolina: Carolina Academic Press, 2014.
- Harcourt, Susan, Marieke Jasperse, and Vanessa A Green. "'We Were Sad and We Were Angry': A Systematic Review of Parents' Perspectives on Bullying." *Child & Youth Care Forum* 43 (2014): 373-391. doi: 10.1007/s10566-014-9243-4.
- Harmful Digital Communications Act, 2015.
- Harmful Digital Communications: The Adequacy of the Current Sanctions and Remedies*. Wellington, New Zealand: Law Commission, 2012.
- Harris, Andrew J., Judith Davidson, Elizabeth Letourneau, Carl Paternite, and Karin Tusinski Miofsky. *Building a Prevention Framework to Address Teen "Sexting" Behaviors*. United States of America: Sponsored by the Department of Justice, 2013.
- Harvey, Judge David. "Setting the Harmful Digital Communication Scene in NZ." Presentation at *Netsafe - Confronting Online Harm Together*, Auckland, New Zealand November 10, 2016.

- Hasinoff, Amy Adele. *Sexting Panic: Rethinking Criminalization, Privacy, and Consent*. Illinois: University of Illinois Press, 2015.  
<http://www.jstor.org/stable/10.5406/j.ctt13x1kx6>. Accessed January 29, 2017.
- Hinduja, Sameer, and Justin W. Patchin. "Sexting Laws Across America." *Cyberbullying Research Centre*. Accessed December 4, 2016.  
<http://cyberbullying.org/sexting-laws>.
- . *School Climate 2.0: Preventing Cyberbullying and Sexting One Classroom at a Time*. California: Corwin Press, 2012.
- Hume, Myles "Rack Appreciation Society Founder Unrepentant." *Stuff.co.nz*. Accessed December 12, 2016. <http://www.stuff.co.nz/national/64451449/rack-appreciation-society-founder-unrepentant>.
- Humphreys, Lyn "Victim in Sex Video Case Says Her Life Ruined." *Taranaki Daily News*. Accessed January 29, 2017. <http://www.stuff.co.nz/taranaki-daily-news/news/9634827/Victim-in-video-sex-case-says-her-life-ruined>.
- Hunt, Tom "Sexting Like 'Drug Addiction' for Kiwi Teens, with Kids as Young as 11 Taking Part." *Stuff.co.nz*. Accessed January 29, 2017.  
<http://www.stuff.co.nz/national/health/76672892/Sexting-like-drug-addiction-for-Kiwi-teens-with-kids-as-young-as-11-taking-part>
- Karaian, Lara. "Lolita Speaks: 'Sexting,' Teenage Girls and the Law." *Crime, Media, Culture* 8, no. 1 (2012): 57-73. doi: 10.1177/1741659011429868.
- Kashner, Sam "Both Huntress and Prey." *Vanity Fair*. Accessed December 14, 2016.  
<http://www.vanityfair.com/hollywood/2014/10/jennifer-lawrence-photo-hacking-privacy>.
- Kaye, Randi. "How a Cell Phone Picture Led to Girl's Suicide." *CNN*. Accessed May 4, 2016. <http://edition.cnn.com/2010/LIVING/10/07/hope.witsells.story/>.
- Klettke, Bianca, David J Hallford, and David J Mellor. "Sexting Prevalence and Correlates: A Systematic Literature Review." *Clinical Psychology Review* 34, no. 1 (2014): 44-53. doi: 10.1016/j.cpr.2013.10.007.
- Lamphere, Renee "Prevalence and Research Methodology." Chap. 2 In *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, edited by Todd C. Hiestand and W. Jesse Weins, 33-60. Durham, North Carolina: Carolina Academic Press, 2014.
- Lenhart, Amanda. *Teens and Sexting: How and Why Minor Teens Are Sending Sexually Suggestive Nude or Nearly Nude Images Via Text Messaging*. United States of America: Pew Research Centre, 2009.

- Llewellyn, Jennifer, Jacob Macisaac, and Melissa MacKay. *Report from the Restorative Justice Process at the Dalhousie University Faculty of Dentistry*. Halifax, Nova Scotia, Canada: Dalhousie University Faculty of Dentistry, 2015.
- Lounsbury, Kaitlin, Kimberly J Mitchell, and David Finkelhor. *The True Prevalence of "Sexting."* United States of America: University of New Hampshire, 2011.
- "Loves-Me-Not." *New Zealand Police*. Accessed January 27, 2017.  
<http://www.police.govt.nz/advice/personal-and-community-advice/school-portal/resources/successful-relationships/loves-me-not>.
- "Loves-Me-Not Workshop Resources." *New Zealand Police*. Accessed January 27, 2017. <http://www.police.govt.nz/sites/default/files/publications/lmn-resources-2017.pdf>.
- Maas, Amy. "More Firms Pull Radio Live Ads." *Stuff.co.nz*. Accessed December 12, 2016. <http://www.stuff.co.nz/business/industries/9378508/More-firms-pull-Radio-Live-ads>.
- MacRae, Allan, and Howard Zehr. *The Little Book of Family Group Conferences: New Zealand Style*. United states of America: Good Books, 2004.
- Marshall, Christopher D. *Compassionate Justice: An Interdisciplinary Dialogue with Two Gospel Parables on Law, Crime, and Restorative Justice*. Vol. 15, Eugene, Oregon: Cascade Books, 2012.
- . "Restoring What? The Practice, Promise and Perils of Restorative Justice in New Zealand." *Policy Quarterly* 10, no. 2 (May 2014 2014): 3-11.
- Mates & Dates 2016 Mid-Year Summary Survey Findings*. Wellington, New Zealand: ACC, 2016.
- Mather, Mike. "Man Jailed for a Year for 'Spiteful' Revenge Porn Facebook Post." *Stuff.co.nz*. Accessed January 29, 2017.  
<http://www.stuff.co.nz/national/crime/80275390/years-jail-for-spiteful-underage-revenge-porn-facebook-post>.
- Maxwell, Gabrielle M, and James Hou-fu Liu. *Restorative Justice and Practices in New Zealand: Towards a Restorative Society*. Wellington, New Zealand: Victoria University of Wellington-Institute of Policy Studies, 2007.
- Maxwell, Gabrielle, and Allison Morris. "Family Group Conferences: Perspectives on Policy and Practice." In *Family Group Conferences: Perspectives on Policy and Practice*, edited by Joe Hudson, Allison Morris, Gabrielle Maxwell and Burt Galaway, 88-110. New South Wales, Australia: Federation Press, 1996.
- McCluskey, Gillean, G. Lloyd, J. Stead, J. Kane, S. Riddell, and E. Weedon. "'I Was Dead Restorative Today': From Restorative Justice to Restorative Approaches in

- School." *Cambridge Journal of Education* 38, no. 2 (2008): 199-216. doi: 10.1080/03057640802063262.
- "Megan's Story." *ThinkUKnow*. Accessed January 27, 2017. <https://www.youtube.com/watch?v=DwKgg35YbC4&t=6s>.
- Miller v. Skumanick* 605 F. Supp. 2d 634 (March 30, 2009).
- Mitchell, Anne, Kent Patrick, Wendy Heywood, Pamela Blackman, and Marian Pitts. *National Survey of Australian Secondary Students and Sexual Health 2013*. Melbourne, Australia: Australian Research Centre in Sex Health and Society & La Trobe University, 2014.
- Mitchell, Kimberly J, David Finkelhor, Lisa M Jones, and Janis Wolak. "Prevalence and Characteristics of Youth Sexting: A National Study." *Pediatrics* 129, no. 1 (2012): 13-20. doi: 10.1542/peds.2011-1730.
- Morrison, Brenda. "School Bullying and Restorative Justice: Toward a Theoretical Understanding of the Role of Respect, Pride, and Shame." *Journal of Social Issues* 62, no. 2 (2006): 371-392.
- Mostrous, Alexi , and Elizabeth Rigby. "School Hit by Sexting Epidemic." *The Times*. Accessed January 29, 2017. <http://www.thetimes.co.uk/tto/education/article4711540.ece>.
- "Mybodymyterms." Villianesse. Accessed January 27, 2017. <http://www.villianesse.com/mybodymyterms>.
- "Naked Photo Sends Jilted Lover to Jail." *The Dominion Post*. Accessed January 29, 2017. <http://www.stuff.co.nz/national/crime/4341191/Naked-photo-sends-jilted-lover-to-jail>.
- "Netsafe Appointed to Cyberbullying Role." *beehive.govt.nz*. Accessed January 20, 2017. <https://www.beehive.govt.nz/release/netsafe-appointed-cyberbullying-role>.
- "Norton Study Shows Online Harassment at Epidemic Proportions for Young New Zealand Women." *Symantec*. Accessed January 29, 2017. [https://www.symantec.com/en/au/about/newsroom/press-releases/2016/symantec\\_0720\\_01](https://www.symantec.com/en/au/about/newsroom/press-releases/2016/symantec_0720_01).
- Pellegrino, Nicky "Trolls & Tribulations." *New Zealand Listener*. April 9 -15 2016. 14-24.
- Phippen, Andy. *Sharing Personal Images and Videos among Young People*. United Kingdom: Southwest Grid for Learning, 2009.
- Podlas, Kimberlianne "Media Activity and Impact." Chap. 6 In *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, edited by Todd C.



- Hiestand and W. Jesse Weins, 123-151. Durham, North Carolina: Carolina Academic Press, 2014.
- "Porn Charges Dropped after Laval Boys Complete Programs." *CTV Montreal*. Accessed January 29, 2017. <http://montreal.ctvnews.ca/porn-charges-dropped-after-laval-boys-complete-programs-1.2244402?autoplay=true>.
- Powell, Anastasia, and Nicola Henry. "Blurred Lines? Responding to 'Sexting' and Gender-Based Violence among Young People." *Children Australia* 39, no. 02 (2014): 119-124. doi: 10.1017/cha.2014.9.
- Pound, Pandora, Rebecca Langford, and Rona Campbell. "What do young people think about their school-based sex and relationship education? A qualitative synthesis of young people's views and experiences." *BMJ open* 6, no. 9 (2016), 1-14, doi: 10.1136/bmjopen-2016-011329.
- Prichard, Jeremy. "Parent-Child Dynamics in Community Conferences—Some Questions for Reintegrative Shaming, Practice and Restorative Justice." *Australian & New Zealand Journal of Criminology* 35, no. 3 (2002): 330-346.
- Restorative Kete: Book Four Restorative Conferences*. edited by Ministry of Education. New Zealand, 2015.
- Revenge Porn - What You Need to Know*. edited by South West Grid for Learning. United Kingdom: South West Grid for Learning, 2015.
- Riesterberg, Nancy. "Restorative Group Conferencing and Sexting: Repairing Harm in Wright County." *Cyberbullying Research Centre*. Accessed January 5, 2016. <http://cyberbullying.org/restorative-group-conferencing-and-sexting>.
- Ringrose, Jessica, Rosalind Gill, Sonia Livingstone, and Laura Harvey. *A Qualitative Study of Children, Young People And'sexting': A Report Prepared for the NSPCC*. United Kingdom: NSCPC, 2012.
- Ringrose, Jessica, Laura Harvey, Rosalind Gill, and Sonia Livingstone. "Teen Girls, Sexual Double Standards and 'Sexting': Gendered Value in Digital Image Exchange." *Feminist Theory* 14, no. 3 (2013): 305-323. doi: 10.1177/1464700113499853.
- Ryan, Elizabeth M. "Sexting: How the State Can Prevent a Moment of Indiscretion from Leading to a Lifetime of Unintended Consequences for Minors and Young Adults." *Iowa L. Rev.* 96, no. 1 (2010): 357-383.
- Salter, Michael, Thomas Crofts, and Murray Lee. "Beyond Criminalisation and Responsibilisation: Sexting, Gender and Young People." *Current Issues in Criminal Justice* 24, no. 3 (2013): 301-316.

- "Sample 'Alcohol & Other Drugs' Intervention." *New Zealand Police*. Accessed December 16, 2016. <http://www.police.govt.nz/advice/personal-and-community-advice/school-portal/latest-news/sample-alcohol-other-drugs>.
- "Sexting." Victoria Government. Accessed November 14, 2016. <http://www.vic.gov.au/news/sexting.html>.
- Sexualisation of Children and Young People* (Report 2/56). New South Wales, Australia: Parliament of New South Wales, 2016.
- Sexuality Education: A Guide for Principals, Boards of Trustees, and Teachers*. Wellington, New Zealand: Ministry of Education 2015.
- Shariff, Shaheen. *Sexting and Cyberbullying: Defining the Line for Digitally Empowered Kids*. New York: Cambridge University Press, 2014.
- Sills, Sophie, Chelsea Pickens, Karishma Beach, Lloyd Jones, Octavia Calder-Dawe, Paulette Benton-Greig, and Nicola Gavey. "Rape Culture and Social Media: Young Critics and a Feminist Counterpublic." *Feminist Media Studies* 16, no. 6 (2016): 935-951. doi: 10.1080/14680777.2015.1137962.
- Skinns, Layla, Mike Hough, and Natasha Du Rose. *An Evaluation of Bristol Rais*. . London: Institute for Criminal Policy Research, King's College, 2009.
- Slonje, Robert, and Peter K Smith. "Cyberbullying: Another Main Type of Bullying?". *Scandinavian Journal of Psychology* 49, no. 2 (2008): 147-154. doi: 10.1111/j.1467-9450.2007.00611.x.
- Spears, Barbara, Matthew Keeley, Shona Bates, and Ilan Katz. *Research on Youth Exposure to, and Management of, Cyberbullying Incidents in Australia Part A - Literature Review on the Estimated Prevalence of Cyberbullying Involving Australian Minors* (Sprc Report 9/2014). Australia: Social Policy Research Centre, University New South Wales 2014.
- Steward, Ian , and Kelly Dennett. "Roast Busters Case: No Charges to Be Laid." *Stuff.co.nz*. Accessed December 12, 2016. <http://www.stuff.co.nz/national/crime/10674764/Roast-Busters-case-No-charges-to-be-laid>.
- "Sticks'n'Stones - About Us." *Sticks'n'Stones*. Accessed January 27, 2017. <http://www.sticksnstones.co.nz/our-project/>.
- Strohmaier, Heidi, Megan Murphy, and David DeMatteo. "Youth Sexting: Prevalence Rates, Driving Motivations, and the Deterrent Effect of Legal Consequences." *Sexuality Research and Social Policy* 11, no. 3 (2014): 245-55. doi: 10.1007/s13178-014-0162-9.
- Sullivan, Keith. *The Anti-Bullying Handbook* – 2<sup>nd</sup> ed. London: Sage, 2010.

- "Tagged." *Office of the Children's eSafety Commissioner*. Accessed January 27, 2017.  
[https://www.thinkuknow.co.uk/14\\_plus/Films/Exposed/](https://www.thinkuknow.co.uk/14_plus/Films/Exposed/).
- Temple, Jeff R., Vi Donna Le, Patricia van den Berg, Yan Ling, Jonathan A. Paul, and Brian W. Temple. "Brief Report: Teen Sexting and Psychosocial Health." *Journal of Adolescence* 37, no. 1 (2014): 33-36. doi: 10.1016/j.adolescence.2013.10.008.
- Thorsborne, Margaret, and Peta Blood. *Implementing Restorative Practice in Schools: A Practical Guide to Transforming School Communities*. London: Jessica Kingsley Publishers, 2013.
- "TV3 Story Mates & Dates." ACC. Accessed January 27, 2017.  
[http://www.acc.co.nz/PRD\\_EXT\\_CSMP/groups/external\\_communications/documents/reference\\_tools/wpc139082.pdf](http://www.acc.co.nz/PRD_EXT_CSMP/groups/external_communications/documents/reference_tools/wpc139082.pdf).
- Van Ouytsel, Joris, Ellen Van Gool, Koen Ponnet, and Michel Walrave. "Brief Report: The Association between Adolescents' Characteristics and Engagement in Sexting." *Journal of Adolescence* 37, no. 8 (2014): 1387-1391. doi: 10.1016/j.adolescence.2014.10.004.
- Vance, Andrea. "Police Shut 30 Stations in Efort to Combat Budget Cuts." *Stuff.co.nz*. Accessed February 1, 2017.  
<http://www.stuff.co.nz/national/67617030/police-shut-30-stations-in-effort-to-combat-budget-cuts>.
- Walsh, Shahra. "Teuila Blakely Still 'Persecuted' by Following Konrad Hurrell Sex Tape Scandal." *Stuff.co.nz*. Accessed January 29, 2017.  
<http://www.stuff.co.nz/entertainment/celebrities/77826508/Teuila-Blakely-still-persecuted-by-following-Konrad-Hurrell-sex-tape-scandal>.
- Weins, W. Jesse. "Concepts and Context." Chap. 1 In *Sexting and Youth: A Multidisciplinary Examination of Research, Theory, and Law*, edited by Todd C. Hiestand and W. Jesse Weins, 3-32. Durham, North Carolina: Carolina Academic Press, 2014.
- Willard, Nancy E. "Sexting and Youth: Achieving a Rational Response." *Journal of Social Sciences* 6, no. 4 (2010): 542-562.
- Wolak, Janis, and David Finkelhor. *Sexting: A Typology*. New Hampshire: University of New Hampshire, 2011.
- Wood, Marsha, Christine Barter, Nicky Stanley, Nadia Aghtaie, and Cath Larkins. "Images across Europe: The Sending and Receiving of Sexual Images and Associations with Interpersonal Violence in Young People's Relationships." *Children and Youth Services Review* 59 (2015): 149-160. doi: 10.1016/j.childyouth.2015.11.005.

Ybarra, Michele L, and Kimberly J Mitchell. "'Sexting' and Its Relation to Sexual Activity and Sexual Risk Behavior in a National Survey of Adolescents." *Journal of Adolescent Health* 55, no. 6 (2014): 757-764. doi: 10.1016/j.jadohealth.2014.07.012.

Yorke, Harry "Boarder at One of UK's Best Private Schools Used Facebook Revenge Porn Threats to Blackmail Girls into Sleeping with Him." *The Telegraph*. Accessed January 27, 2017. <http://www.telegraph.co.uk/news/2017/01/10/boarder-one-uks-best-private-schools-used-facebook-revenge-porn/>.

Zehr, Howard. *Changing Lenses: Restorative Justice for Our Times*. 25th ed. Harrisonburg, Virginia: Herald Press, 2015. Kindle Edition.

———. *The Little Book of Restorative Justice: Revised and Updated*. United States of America: Good Books, 2015.

Zetter, Kim "Parents of Dead Teen Sue School over Sexting Images." *Wired*. Accessed January 29, 2017. <https://www.wired.com/2009/12/sexting-suit/>.