

## “Youth-Involved Sexual Imagery” – A Better Term to Challenge Blame Culture in Youth Sexting Cases?

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**Abstract:** Given that minors who generate and share sexual images of themselves are frequently blamed when images are spread further, terms such as ‘youth-produced’ and ‘self-generated’ do little to move the focus of responsibility away from the victim. While there is undoubtedly involvement by the victim in the generation of the image, these terms fail to acknowledge the production might have been as a result of, for example, pressure, coercion or extortion. We propose the term “youth involved sexual imagery” as a more realistic term and one that reflects the complexity of the context in which an image might be generated.

### ARTICLE

The modern-day phenomenon of “sexting” is something rarely out of the press – almost daily, news media issue reports of teenagers, and younger children, engaged in the exchange of sexual images. These reports are usually accompanied by salacious headlines highlighting the irresponsibility of those young people engaged in “sexting” practices, feeding the social anxiety and moral panic that pervades much of the media discourse on this phenomenon, for example<sup>1</sup>:

*“Police investigate children as young as SEVEN for sending x-rated pictures on their phones as sexting epidemic sweeps across Britain.”*

“Sexting” behaviours have attracted great concern from legislators, police and policy-makers alike, and continue to present a range of major challenges to law enforcement. Recent reports, based upon Ministry of Justice data, have suggested that “sexting” cases involving children have more than doubled in the last two years<sup>2</sup> and that increasing numbers of children and young adults are becoming engaged with the criminal justice system for offences involving “indecent images” of children<sup>3</sup>. However, over the same period, both the Crown Prosecution Service<sup>4</sup> and National College of Policing<sup>5</sup> have raised parallel concerns around the criminalisation of children who have engaged in these practices, with current policing and prosecutorial policies offering discretionary powers to law enforcement to avoid disproportionate law enforcement responses in

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<sup>1</sup> Hayward, E. (2017, April 12). Police investigate children as young as SEVEN for sending x-rated pictures on their phones as sexting epidemic sweeps across Britain. *Mail Online*. Retrieved from <http://www.dailymail.co.uk/news/article-4404024/Britain-facing-child-sexting-epidemic.html>

<sup>2</sup> Smith, H. (2017, November 6). Sexting cases involving children more than double in two years, police say. *Independent*. Retrieved from <http://www.independent.co.uk/news/uk/crime/sexting-cases-children-double-two-years-pornography-impact-police-nspcc-a8040156.html>

<sup>3</sup> Phippen, A. & Brennan, M. (2016). The New Normal? Young People, Technology & Online Behaviour, *NOTA News*, 80, 11-12. Retrieved from <http://www.nota.co.uk/media/1300/80-nota-news-newsletter-november-2016.pdf>

<sup>4</sup> Crown Prosecution Service (n.d.). *Guidelines on prosecuting cases involving communications sent via social media*. Retrieved from [http://www.cps.gov.uk/legal/a\\_to\\_c/communications\\_sent\\_via\\_social\\_media/](http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/)

<sup>5</sup> College of Policing. (2016). *Police action in response to youth produced sexual imagery (‘Sexting’): Briefing note*. Retrieved from [http://www.college.police.uk/News/College-news/Documents/Police\\_action\\_in\\_response\\_to\\_sexting\\_-\\_briefing\\_\(003\).pdf](http://www.college.police.uk/News/College-news/Documents/Police_action_in_response_to_sexting_-_briefing_(003).pdf)

such cases. Indeed, a judicial review<sup>6</sup> is currently underway into the Greater Manchester Police's refusal to remove a teenager's details from his record related to a "sexting" incident involving him at the age of 14.

### **Self-Generated Imagery?**

Our own empirical work, in schools and with law enforcement, would certainly reinforce the view that youth "sexting" behaviours have become an established facet of child and adolescent experiences, and are often associated with harmful outcomes – discussion with young people highlights that "sexting incidents" are regular, widely known and highly visible to pupils in school settings<sup>7</sup>. By the same token, law enforcement experience of investigations of sexual images of children speaks to the reality that so-called "self-generated" or "youth-produced" images and videos have become part of the wider corpus of child sexual abuse and exploitation material in circulation<sup>8</sup>.

The response of both policy makers and educators often emphasises the prohibition of "sexting" practice, and turns around the assumption that these behaviours are inherently harmful. Educational approaches and media messages tend to focus upon the illegality of "sexting" practice and emphasise the notion that young people are essentially breaking the law if they "self-generate," or produce a sexual image of themselves. Notwithstanding, we know from conversations with young people that prohibitive approaches do little to prevent imagery being generated, or distributed. More importantly, such messaging becomes counterproductive when victims of abuse and exploitation arising from the dissemination of their imagery are harmed, yet do not wish to disclose their experiences to those who might help them.

### **Responsibility for a Self-Generated Image**

Many young people maintain the belief that "responsibility" for sexual imagery, and any harm arising from its dissemination, lies with the person who produced it. In surveys of teens from both 2009<sup>9</sup> and 2017<sup>10</sup>, approximately 70% of young people stated that responsibility in such cases lies with the producer (and therefore, in many incidents, the subject of the image or video). Thus, children tell us, if harm results from the sharing of sexual imagery – for example, if the recipient of a "self-generated" sexual image distributes it widely, resulting in bullying of the victim – the child who generated the image is at fault. Given the serious physical and psychosocial harms that can result in these scenarios<sup>11</sup>, it should be the case that affected young

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<sup>6</sup> Dearden, L. (2017, November 10). Police face legal challenge over refusing to delete teenage boy's details for 'sexting'. *Independent*. Retrieved from <http://www.independent.co.uk/news/uk/crime/police-teenage-boy-sexting-details-legal-challenge-greater-manchester-high-court-penis-photo-a8048741.html>

<sup>7</sup> Phippen, A. (2012). *Sexting: An Exploration of Practices, Attitudes and Influences*. Retrieved from <https://www.nspcc.org.uk/globalassets/documents/research-reports/sexting-exploration-practices-attitudes-influences-report-2012.pdf>

<sup>8</sup> *Federal Child Pornography Offenses: Hearings before the U.S. Sentencing Commission* (2012) (Testimony of Michelle Collins). Retrieved from [https://www.uscc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20120215-16/Testimony\\_15\\_Collins.pdf](https://www.uscc.gov/sites/default/files/pdf/amendment-process/public-hearings-and-meetings/20120215-16/Testimony_15_Collins.pdf)

<sup>9</sup> Phippen, A. (2017). *Children's Online Behaviour and Safety: Policy and Rights Challenges*. London: Palgrave Macmillan.

<sup>10</sup> *Young People and Sexting – Attitudes and Behaviours* (2017). Retrieved from [https://www.esafety.gov.au/-/media/cesc/documents/corporate-office/young\\_people\\_and\\_sexting\\_attitudes\\_and\\_behaviours\\_pdf.pdf](https://www.esafety.gov.au/-/media/cesc/documents/corporate-office/young_people_and_sexting_attitudes_and_behaviours_pdf.pdf)

<sup>11</sup> Perhaps one of the most well-known examples of this is Amanda Todd, who was coerced into sending an abuser an image at the age of 12, after a year of demands from this person. When she refused to send other images, the abuser posted the image online; the resultant bullying and blaming she was subjected to contributed to her suicide three years after her initial abuse. <https://www.newyorker.com/culture/culture-desk/the-story-of-amanda-todd>

people feel confident that they might disclose their abuse or exploitation without prejudice and access support, rather than suffering in silence. However, the victim-blaming attitudes towards those implicated in “sexting” cases that prevail amongst young people, coupled with educational responses that emphasise the illegality of “sexting” practices, and attendant tendencies for self-blaming at the level of victims, act as a considerable barrier to victim awareness, reporting and help-seeking.

As noted above, while image generation might be entirely self-motivated and voluntary, it might also arise as a result of external pressure, coercion, exploitation, or extortion. In some cases, while the subject of the image might have produced it, the motivation for this production might be as a result of, for example, coercion from a peer or adult abuser with some form of control over the victim. For example, 19-year-old Zeeshan Aqsar<sup>12</sup> used an indecent image he had pressured his 15-year-old victim into sharing with him to try to extort further images and money from her. Harry Sloan<sup>13</sup> adopted a similar approach, while further compounding the exploitation of his victims by posing as a teenage girl to deceive and coerce young boys into producing and sending indecent images to him, as well as money.

In our recent survey work, over 65% of youth respondents reported that “pressure” was one of the main reasons that young people send “nudes”<sup>14</sup>. Arguably, for most children, the motivation to produce and send sexual imagery is not voluntary, rather it may be attributed to coercive, external influences. This situation is exacerbated somewhat by the normalization of coercive practice in the elicitation of sexual imagery amongst youth peers. By way of illustration, a quote from a 15-year-old boy consulted in our own research<sup>15</sup> shows the blasé approach to coercion by some minors:

*Its like “...don’t try and mug me off or anything, cos I’ve got something against you”.*

Notwithstanding these complexities, current professional discourse often serves to confuse, rather than clarify the distinction between voluntary and coercive “sexting” practices. For example, in a recent Europol report into online sexual coercion and extortion<sup>16</sup>, the reader was alerted to the importance of the distinction between voluntary and coercive engagement by youth with sexing behaviour:

*“It is critical to differentiate between those children and young people who sext, or produce and send self-generated sexually explicit material (SGSEM) of their own volition, and those who are*

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<sup>12</sup> Dunn, J. (2015, October 17). Law student, 19, convinced teenage girl to send him an X-rated picture then used it to blackmail her for more photos and money. *Mail Online*. Retrieved from <http://www.dailymail.co.uk/news/article-3277297/Law-student-19-convicted-teenage-girl-send-X-rated-picture-used-blackmail-photos-money.html>

<sup>13</sup> Madden, S. & Mortimer, C. (2017, September 20). Jailed: Four years for 'dangerous' teenager who posed as a girl then threatened boys over indecent images. *Shropshire Star*. Retrieved from <https://www.shropshirestar.com/news/crime/2017/09/20/jailed-four-years-for-dangerous-teenager-who-posed-as-a-girl-then-threatened-boys-over-indecent-images/>

<sup>14</sup> *Young People and Sexting – Attitudes and Behaviours* (2017). Retrieved from [https://www.esafety.gov.au/media/cesc/documents/corporate-office/young\\_people\\_and\\_sexting\\_attitudes\\_and\\_behaviours\\_pdf.pdf](https://www.esafety.gov.au/media/cesc/documents/corporate-office/young_people_and_sexting_attitudes_and_behaviours_pdf.pdf)

<sup>15</sup> Phippen, A., & Kennedy, C. (2017). Sexting and sexting behaviour - "Oh you're all children, children do silly things. You'll be fine. Get over it!". *Entertainment Law Review*, 28(6), 191-197.

<sup>16</sup> Europol. (2017). *Online Sexual Coercion and Extortion as a Form of Crime Affecting Children: Law Enforcement Perspective*. Retrieved from <https://www.europol.europa.eu/publications-documents/online-sexual-coercion-and-extortion-form-of-crime-affecting-children-law-enforcement-perspective>

*coerced into such behaviours.” (p.10)*

However, the report still uses the term “self-generated” to refer to coerced imagery, even though the construction of the sexually explicit material as “self-generated” implies production of the child’s own volition.

### **Refocusing the Blame and Responsibility**

Clearly the focus of blame, and any subsequent punishment, should reside with those who abuse or exploit sexual imagery depicting children and therefore the subjects of this imagery, not those who are victimised in these cases. Yet this does not always seem to be the case in youth “sexting” scenarios. Problematically, responses consistent with a victim-blaming framing of these cases are not limited to children. It is known that law enforcement have resorted to threatened prosecution of victims in cases where parents of children, coerced into producing and sharing sexual images of themselves, have contacted law enforcement for assistance and support<sup>17</sup>. Similarly, prosecutions of image subjects continue to proceed without due consideration to the developmental and psychosocial vulnerabilities that render certain children especially vulnerable to the influence of coercive, deceptive and exploitative requests to produce and share sexual imagery of themselves<sup>18</sup>. This observation is not intended to undermine law enforcement efforts to keep pace with this major, contemporary risk to child protection and wellbeing – rather it reflects the complexities these stakeholders face in determining where thresholds of criminal harm and criminal responsibility lie in these cases, and underscores the need to develop more nuanced approaches to case assessment and prosecutorial intervention in cases where children are implicated in the production of sexual imagery<sup>19</sup>. Clearly however, there remains a need to advance better understanding of these issues with some professionals, particularly those charged with a duty of care to identify and respond appropriately to victims of exploitation and abuse.

Evidently, victim-blaming and responses which emphasise the prosecution of image subjects play a major role in victims’ reluctance to report and seek support. Notwithstanding, we would also argue that the terminology used to describe such imagery is inherently problematic; reinforcing victim-blaming culture and mischaracterising the issues that present for children in harmful “sexting” cases. The most common terms used in professional parlance to describe images and videos implicated in these cases are either “youth-produced”<sup>20</sup> or “self-generated”<sup>21</sup>. Problematically, both these descriptors carry the connotation that young people maintain exclusive responsibility for image production, or that the subject of the image has produced and

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<sup>17</sup> Baynes, C. (2017, September 17). Girl, 12, could face charges after sending topless photo to paedophile who groomed her online. *Independent*. Retrieved from <http://www.independent.co.uk/news/uk/crime/paedophile-instagram-national-crime-agency-child-exploitation-online-protection-unit-a7951381.html>

<sup>18</sup> Phippen, A., Brennan, M., Agate, J., & Leward, J. *Sexting and Revenge Pornography: Legal and Social Dimensions of a Modern Digital Phenomenon*. London: Routledge. Forthcoming 2018.

<sup>19</sup> Phippen, A., & Brennan, M. (2017). “Doing more” to end sexting - facts, fictions and challenges in the policy debate on young people’s sexting behaviour. *Entertainment Law Review*, 28(3), 91-96.

<sup>20</sup> Europol. (2017). *Online Sexual Coercion and Extortion as a Form of Crime Affecting Children: Law Enforcement Perspective*. Retrieved from <https://www.europol.europa.eu/publications-documents/online-sexual-coercion-and-extortion-form-of-crime-affecting-children-law-enforcement-perspective>

<sup>21</sup> Internet Watch Foundation. (2012). *Study of Self-Generated Sexually Explicit Images & Videos Featuring Young People Online*. Retrieved from [https://www.iwf.org.uk/sites/default/files/inline-files/IWF\\_study\\_self\\_generated\\_content\\_online\\_011112.pdf](https://www.iwf.org.uk/sites/default/files/inline-files/IWF_study_self_generated_content_online_011112.pdf)

shared the image themselves. This situation is problematic for an array of reasons, with many parallels to the rationale that moved the international child protection community away from use of the term “child pornography” to the use of more accurate descriptors, such as “child sexual abuse material” or “child sexual exploitation material”<sup>22</sup>. Widespread use of terms such as “self-generated” or “youth-produced” can help to justify notions commonly held by adults with a sexual interest in children about the legitimacy and legality of their interests; because this terminology suggests consent and compliance on the part of the featured victim, it exaggerates the sexual agency of children and young people in this context, evoking images of children as being capable of giving full consent, and legitimises the actions of those who promote the sexual abuse and exploitation of children by engaging with this material. These terms do not appropriately or adequately describe the severe abuse and exploitation of children that may be implicated in some of the imagery produced in “sexting” scenarios, or its dissemination. For this reason, using descriptors such as “self-generated” and “youth-produced” mischaracterises sexual representations where children are involved in, but not (solely) responsible for, the production or dissemination of the imagery – and this continued use causes misunderstanding. It impedes our ability to understand the real harm that is experienced by young victims and the seriousness of the activities of those who sexually abuse and exploit children in these cases. As we have already seen, this misunderstanding can compromise common understanding of the issue, and the effectiveness of our efforts to protect children from sexual abuse and exploitation in these cases.

### **Youth-Involved Sexual Imagery**

Blame culture, victim blaming and self-blaming are rife among young people – while the impact of the sharing of sexual imagery might vary depending upon the resilience and popularity of a young person, some can suffer serious, long-term harm as a result. Notwithstanding, many young people tell us that the best advice they could give a friend who had shared a “nude” is to “try not to worry about it” and to “hope people will lose interest quickly.” We need to be in a position to reassure young people involved in sexting incidents that if they are harmed, they can disclose without risk of additional victimisation or even criminalisation. We need to be able to reassure these youth that they can disclose because those discharged with a duty of care for these children understand that the blame does not lie solely with them; rather it lies with their abuser, or the person who exploited their imagery. Persistent use of terms such as “youth-produced” and “self-generated” does little to move blame away from the victim and fails to acknowledge the complex, coercive, abusive or exploitative dimensions of situations that might lead a minor to “self-produce” an indecent image. While these images clearly *involve* the subject, the assumption that the depicted child is the sole player in the generation of the image is one that we need to move away from – urgently – particularly if we are to more accurately characterise those cases which are of concern to law enforcement. We have a duty to ensure that our professional discourse and educational programmes use language that reassures young people that they can disclose harmful experiences without fear of blame or reprisal, and makes stakeholders responsible for their safeguarding and protection more aware of the complex circumstances that might lead to sexual imagery being generated and shared amongst youth. We propose wider use the term *youth-involved sexual imagery* as a fairer and more accurate characterisation of

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<sup>22</sup> Frangez, D., Klančnik, A. T., Karer, M. Z., Ludvigsen, B. E., Konczyk, J., Perez, F. R., & Lewin, M. (2015). The importance of terminology related to child sexual exploitation — Revija za Kriminološko. *Kriminologija*, 66(4), 291-299.

“sexting” cases, where youth may be involved in the production of sexual imagery, but are not solely or necessarily responsible for the production, distribution or exploitation of this content.