

2011

# Sexting as Moral Panic: An Exploratory Study into the Media's Construction of Sexting

Brandon Scott Marker  
*Eastern Kentucky University*

Follow this and additional works at: <https://encompass.eku.edu/etd>

 Part of the [Criminology and Criminal Justice Commons](#)

---

## Recommended Citation

Marker, Brandon Scott, "Sexting as Moral Panic: An Exploratory Study into the Media's Construction of Sexting" (2011). *Online Theses and Dissertations*. 12.  
<https://encompass.eku.edu/etd/12>

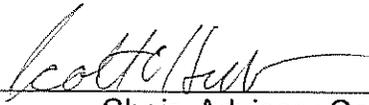
This Open Access Thesis is brought to you for free and open access by the Student Scholarship at Encompass. It has been accepted for inclusion in Online Theses and Dissertations by an authorized administrator of Encompass. For more information, please contact [Linda.Sizemore@eku.edu](mailto:Linda.Sizemore@eku.edu).

Sexting as Moral Panic:  
An Exploratory Study into the Media's Construction of Sexting

By

Brandon S. Marker

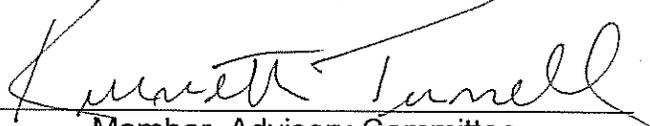
Thesis Approved:



Chair, Advisory Committee



Member, Advisory Committee



Member, Advisory Committee



Dean, Graduate School

## STATEMENT OF PERMISSION TO USE

In presenting this thesis in partial fulfillment of the requirements for a Masters degree at Eastern Kentucky University, I agree that the Library shall make it available to borrowers under rules of the Library. Brief quotations from this thesis are allowable without special permission, provided that accurate acknowledgment of the source is made. Permission for extensive quotation from or reproduction of this thesis may be granted by my major professor, or in [his/her] absence, by the Head of Interlibrary Services when, in the opinion of either, the proposed use of the material is for scholarly purposes. Any copying or use of the material in this thesis for financial gain shall not be allowed without my written permission.

Signature B. S. M. L.

Date 4-19-2011

Sexting as Moral Panic:  
An Exploratory Study into the Media's Construction of Sexting

By

Brandon S. Marker

Bachelors of Science  
Eastern Kentucky University  
Richmond, Kentucky  
2009

Submitted to the Faculty of the Graduate School of  
Eastern Kentucky University  
in partial fulfillment of the requirements  
for the degree of  
MASTERS OF SCIENCE  
May, 2011

Copyright © Brandon S. Marker, 2011.  
All rights reserved

## DEDICATION

This thesis is dedicated to my dad, Charles G. Marker, and my Grandparents, William E. and Ora M. Tucker for their unwavering support.

## ACKNOWLEDGMENTS

I would like to thank my chair, Dr. Scott Hunt for his guidance and patience over the course of this project. I would also like to thank my committee members, Dr. Ken Tunnell and Dr. Tom Barker for their comments and assistance over the course of this project. I give thanks to the other faculty members at Eastern Kentucky University for all of the guidance, support, and lessons over the course of my education at this institution. I would not be where I am today without their help. I thank my family for their support and staying positive during my years at Eastern Kentucky University. They encouraged me to push harder and helped keep me focused on the end goal. Finally, I would like to give thanks to all my friends who were there through it all. They helped keep my spirits up during times of darkness.

## Abstract

This paper presents a study of sexting as a socially constructed moral panic. Central to a social construction of moral panic perspective is the role the media plays in creating the panic. The purpose of this exploratory study was to make sense of the phenomenon of sexting by analyzing media reports for indication that sexting was constructed by the media as a moral panic. A content analysis was conducted on media reports for three concepts: Theme Setting, Sensational Stories, and Policy Changes. I conclude that sexting is constructed as a moral panic by the media.

## TABLE OF CONTENTS

CHAPTER	PAGE
I. Introduction	1
II. Literature Review	3
III. Methodology	17
IV. Data/Analysis	21
Theme Setting	22
Sensational Stories	26
Policy Changes	35
V. Conclusion	41
Bibliography	47
Appendix A: List of News Stories	49
Vita	55

## Chapter 1

### Introduction

“Sexting” is defined as “the sending of sexually explicit photographs or messages via mobile phone” (Oxford Dictionary). Sexting is a new phenomenon engaged in by both teens and adults. Despite being a new phenomenon, one survey found that 20% of teens in the U.S. are sexting (The National Campaign to Prevent Teen and Unplanned Pregnancy). Because sexting is relatively new there is not a lot of research literature on the subject matter.

The lack of empirical investigations of sexting suggests that an exploratory study is in order. As an exploratory study, this thesis analyzes sexting using the social construction of moral panic perspective (see: Kraska 2011, Kappeler and Potter 2005, Trubo 1974, Kappeler 2004, Cox 1998, Glassner 1999, Best 1991, King 2004, Gusfield 1964, Reinerman 1998, Coffin 1996, Cohen 2002, Jenkins 1998, Young 2009, Daniels 2002, Potter and Kappeler 1998, and Goode and Ben-Yehuda 1994). The purpose of this study is to answer the question: Is it useful to understand “sexting” by studying the phenomenon as a socially constructed moral panic?

My thesis first provides a review of the social construction of moral panic perspective. The literature review is followed by a chapter detailing the research setting and research methods employed during the course of the study. After the methodology chapter, there is a chapter presenting the data for the study and a

detailed analysis of the data. The analysis is structured around three concepts: Theme Setting, Sensational Stories, and Policy Changes. Concluding this study is a chapter providing details on significant findings from the study along with its limitations, avenues for future research and policy implications are also considered.

## Chapter 2

### Literature Review

Social construction of moral panic perspectives have provided numerous insights for research in criminal justice. This perspective allows the researcher to study how phenomena develop in the social world, keying into the meaning given to a phenomenon by society.

Kraska (2011) discusses the social construction of reality theoretical orientation. According to Kraska (2011:137), "our reality is the result of an intricate process of learning and constructing meanings and definitions of situations through language, symbols, and interactions with other people....reality is not a given: it's a human accomplishment." Kappeler and Potter (2005: 5) call many constructions about crime "myths," implying that a socially constructed phenomenon, such as "Halloween Sadism" (Trubo 1974) or the "Central Park Jogger," are fabrications about crime created by "the media, government, and reform groups with sufficient means to lobby for their interests." Television, radio, and other news mediums help to extend "myths" to the public. The media can use technology to blur the lines between crime myths and reality. Making society believe a crime myth, such as Halloween Sadism, is a problem found in every neighborhood on Halloween. Contemporary crime myths, thanks to modern technology, can be constructed and communicated globally in a matter of

minutes. “Graphic images of violence are projected minutes after an event or while the event is unfolding” (Kappeler and Potter 2005: 5). For a “plugged-in” society, the avenue of “mythmaking” (Kappeler and Potter 2005) follows a hyper-reality path. A local news reporter’s investigation of a local jail can arise after a national news story on the “good life” that prisoners have—complete with phone, television, and internet privileges. This can create an illusion that the national theme is a result of what is happening at the local level. However, not every crime is covered by the media. The crime problems presented to the public are chosen by the media with typically only the most sensational acts selected (Kappeler and Potter 2005).

Important to the notion of a socially constructed reality is the manipulation of statistics by government agencies and the media reporting on these official statistics. All of this results in the creation of false “realities” or myths about crime. “When we think of criminal justice, we usually don’t think of police officials falsifying crime statistics to secure resources or their agencies” (Kappeler 2004: 167), but, police departments in cities such as Philadelphia, New York, Atlanta, and Boca Raton, Florida, just to name a few, have falsely reported crime statistics (Kappeler and Potter 2005: 38). For example, Philadelphia Police Commissioner John Timoney explained the police had been “fudging” the crime statistics (Cox, 1998). Similarly, research by Glassner (1999) shows workplace violence statistics, that appeared in newspapers in 1994 and 1995, claiming that “2.2 million people were attacked and that murder was the leading cause of work-related death for women and the third leading cause for men” (Glassner 1999:

27). One journalist investigated these statistics and found they were grossly exaggerated. "The accurate statistics were that 1,000 people were murdered on the job each year (1 in 114,000); fewer than one in 20 homicides occurred at a work place...In addition, 90 percent of those murders were committed by outsiders in the course of a robbery" (Glassner 1999: 7). The media, with the exception of the lone journalist, did not investigate the statistics while continuing to report on the findings.

Often myths begin in a single newsroom and rapidly relay information, giving a false sense of the magnitude of a criminal event (Kappeler and Potter 2005:7). The key here is setting a newsworthy theme. Once a theme has found its place in the news other stories are chosen based upon the current newsworthy theme. Even events that are not related to the precursor incident that started them are fabricated to fit the current crime theme (Kappeler and Potter 2005: 7-8). Once something has been assigned a theme virtually any similar instance can be interpreted as an example of that theme. The theme is transmitted across multiple mediums, including local reports on a national theme, allowing the public to conjure up the belief of an epidemic.

Another example of theme construction resulting in a pseudo-crime wave is illustrated by Best's (1991) examination of how "two unrelated shootings on L.A. freeways" were transformed by the media "into a crime of freeway violence" (Kappeler and Potter 2005:8). Two stories were run on these two shootings, after the second was run a feature article was written, but publishing was held for

several weeks. “Journalists have a rule of thumb: the third time something happens you have a trend” (Best 1991: 224). After the third story appeared, the feature article hit the paper; however, it shifted the focus from “reporting specific incidents to an analysis of freeway violence” (Kappeler and Potter 2005: 8). A couple of major newspapers ran multiple front page stories on this new crime. However, the crime had been constructed so broadly as to include such acts as throwing rocks at windshield as roadway violence (Kappeler and Potter 2005:8).

When a crime captures public attention because it has been constructed as an epidemic, new policies, laws, and organizations are formed to combat the “new crime.” For example, beginning in the 1980’s the missing children scare swept the nation after a six year old disappeared on his way to school. Kappeler and Potter (2005: 53) reported that Etan Patz became “the first child whose face appeared on the side of a milk carton” (King 2004), after his disappearance gained widespread media coverage. Unfortunately Etan was never found, which sparked public outcry that “helped create the national movement to publicize the cases of missing children and prompted policy changes such as allowing the FBI to intervene sooner in kidnapping cases” (Kappeler and Potter 2005: 53).

The fear of missing children became an epidemic after the public was continuously exposed to sensational cases that exemplify the problem. As Kappeler and Potter (2005:53) point out: “barely a week went by when the public was not exposed to photographs, stories, and debates on the issue of missing and abducted children. Virtually every form of media was used to circulate the

faces and stories of missing children.” Researchers, such as Glassner (1999: 61) pointed out that “three out of four parents say they fear their child will be kidnapped by a stranger.” Missing children was an unquestioned social “reality.”

The media, government and other corporations have capitalized on the fear of child abduction by creating such a fear that drastic policies seem reasonable and must become mandatory (Kappeler and Potter 2005: 54). For example, the National Center for Missing and Exploited Children, a nonprofit organization established in 1984, funded by the Office of Juvenile Justice and Delinquency Prevention, was formed as a result of the missing children panic during the early 1980’s. The mission of this organization is to be a resource on issues involving sexually exploited and missing children. There is a website and toll-free phone number allowing a person to obtain information and report an incident. Another hotline is the “Halloween Candy Hotline,” available to parents to report “tampered” candy, was also formed during the same time as the fear of missing children epidemic.

One of the sponsors of the “Halloween Candy Hotline” is the International Association of Chiefs of Police (Kappeler and Potter 2005: 19). This is important to note because it provides an example of an interest-group providing funding to support its own interest. The interest being is an inherent fear of deviants harming innocent people resulting in further support of the police by the public to fight the deviants.

Alcohol “problems” have also spawned social movements, ranging from Prohibition to Mothers Against Drunk Driving. Alcohol was the vehicle for politicizing status politics during the early twentieth century (Gusfield 1963). Prohibition became an issue as Americans confronted new political and economic conditions (Reinarman 1998: 195). More recently, alcohol has become the target of organizations formed to combat the behavior of drinking and driving.

One organization has become imminently recognizable in the political siege against alcohol, Mothers Against Drunk Driving (MADD). Reinarman (1998: 203) argues “that the remarkable rise of MADD must be understood as a product of the interaction between the strategic focus of claims by this moral-entrepreneurial movement and a historical context marked by a peculiar conjuncture of trends favorable to those claims in both the alcohol arena and the larger political culture.” MADD became a non-profit organization in August of 1980 after a thirteen year old girl was struck by a hit-and-run driver who was later found to be intoxicated. Candy Lightner, mother of the girl who was killed, became outraged at what she perceived to be extraordinary leniency with DUI offenses, after discovering the driver had prior DUI convictions and had been released a few days prior to her child’s death (Reinarman 1998: 199). As a result, Candy Lightner organized MADD. “In the past, without a visible moral entrepreneur to give human voice to these figures, drinking-driving tended to be treated matter-of-factly as episodic unconnected accidents. But with the rise of MADD, the media seemed willing to oblige in recounting such compelling statistics from a dramatic spokesperson such as Lightner” (Reinarman 1998:

200). MADD exploded in size, “by 1985 there were over 600,000 members and donors, 360 chapters in all fifty states, and a budget approaching \$10 million administered by a full-time professional staff of at least twenty” (Reinarman 1998: 200). There was not a week that would go by in 1985 without a MADD story appearing in most major magazines and newspapers (Reinarman 1998: 200). By 1985, the theme was set, and then events and stories similar in nature were constructed to align next to that theme. Sensational cases were presented to the public as exemplars. Policies and practices were soon being presented as amelioration.

The efforts of MADD and Lightner led to policies that reduced blood-alcohol-content for all licensed drivers from .10% to .08% and in some cases even as low as .05%. Also, higher minimum fines, mandatory jail sentences, and pre-sentence assessments were given to drunk drivers. There was a reclassification of alcohol-related injury and death accidents from misdemeanors to felonies. Seen throughout the country were “dram shop” (server) liability laws, roadblocks or highway “sobriety checkpoints” to stop vehicles randomly, and a nationwide minimum drinking age of 21 (Reinarman 1998:208). The courts and jails have received increased court cases as a result of the new policies and laws. The police have stepped up enforcement of the new laws and with these higher arrest rates come more people being processed in the justice system.

Similar to the social problem of alcohol, the War on Drugs is another substance abuse construction. Since the early twentieth century, much like

alcohol, drugs have become a vehicle for political maneuvering. The construction of a mythical link between crime and drugs has been one of the most effective strategies of those involved with the drug war. It is important to note there really is a link between crime and drugs, however, the link “drug warriors” propose is not always the correct link. These “drug warriors” have also painted a picture of drug users as being sociopaths claiming they must be stopped before they corrupt the innocent, “The evils of drug use are exaggerated, and drug users are demonized” (Kappeler and Potter 2005:176). The result of constructing drugs as a social problem of vast proportion with prohibition being the only plausible way to combat the enemy is an influx of nonviolent criminals arrested, tried, and jailed. Drugs became illegal for the first time in the U.S. in 1914, with the passage of the Harrison Act by the federal government (Kappeler and Potter 2005:175). In the 1970s came the “Rockefeller Drug Laws” that required mandatory minimum sentences more severe than federal minimums to be handed down by the judges (Kappeler and Potter 2005:1980). One myth about the drug war is that its purpose is to catch the kingpins and thereby crush the drug market. However, in 2001, 81 percent of drug arrests were for possession alone (Kappeler and Potter 2005: 181).

Drawing heavily upon Coffin (1996), Kappeler and Potter (2005) discuss the social construction of a “crack baby crisis” that came about after some early research in the mid 1980s about the effects of prenatal cocaine usages on fetal development, newborns’ health, and future development of a child. The media

took these findings and began providing the public with the impression that an epidemic of “crack babies” was being seen throughout the medical community. Naturally, after this filled the minds of the public and politicians, new laws came in response to the “crack baby crisis.” These laws included requirements for doctors and nurses to report drug usage cases found when examining pregnant females to child welfare authorities. “Other laws quickly passed that required child welfare agencies to take children away from mothers who had used drugs while pregnant, and many states criminalized drug use during pregnancy. The response to this myth about “crack babies” brought about more harm to the mothers and children than good. Children were removed from their mothers, social services had trouble finding homes for the babies labeled “crack babies,” pregnant mothers were refused prenatal treatment, which had damaging effects on the fetus, and the enforcement of the laws was racist to say the least with 80 percent of women subjected to prosecution being African Americans and Latina.

Similar to crime myths, scholars have discussed the social construction of social problems with the concept of moral panic. Moral panics exist throughout numerous facets of society. Societies appear to be subject, every now and then, to periods of moral panic (Cohen 2002: 1). The term moral panic is defined by Cohen (2002: 1) as:

A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, clergy, politicians and other right-thinking people; socially accredited experts pronounced their diagnoses and solutions; ways of coping

are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible.

Cohen's research into this began in the 1960s with his examination of a seaside town in England and two distinct groups of youth, the "Modernists" and "Rockers." During the beginning of the sixties decade the term "Modernist" referred simply to a style of dress; the term 'Rocker' was hardly known outside the small groups which indentified themselves this way" (Cohen 2002:2). Then by the mid-sixties the two terms took on completely different connotations. Rockers were referred to as "'retarded vain young hot-blooded paycocks' (Daily Sketch) and 'grubby hordes of louts and sluts' (Daily Telegraph)" (Cohen 2002:40).

A key aspect of moral panics is the transmission of information to the public. Mediated information received by the public is about the conditions and characteristics of moral panics. "That is, it arrives already processed by the mass media and this means that information has been subject to alternative definitions of what constitutes 'news'..."(Cohen 2002:7). The language employed by media agents can be the wind that advances moral panics, similar to that of the flames of an uncontrollable forest fire. Social control agencies (e.g. law enforcement, schools, courts, legislators, politicians, etc.) have autonomy to frame and promote particular versions of moral panics, even though their efforts too are mediated.

Cohen explains that disproportionality is implied when the term moral panic is mentioned. That is, "the reaction is always *more* severe (hence exaggerated, irrational, unjustified) than the condition (event, threat, behaviour,

risk) warrants” (Cohen 2002:xxviii). Jenkins (1998:171) provides an example of this when he describes families as being too scared to send their children to preschools and daycares after numerous places experienced scandals based upon rumors that provoked a mindset that “any adult who worked with small children might be guilty of abuse.” Reinforcing this view, Young (2009: 4) explained the origins of moral panics: “Moral panics involve cultural conflict...there is a great deal of emotional energy involved on both sides; the police pursue the deviant with zeal, the media thrive on the controversy, the public avidly follow the outrage and deviants are galvanized and sometimes reconstituted by the response. There is energy; there is fascination and something edging on enjoyment: moral panics, like crime, are seductive events.”

One can see how a moral panic can become seductive, alluring the public interest by creating fear and loathing for the deviancy at hand (Katz 1990). For example, Jenkins (1998: 157) discussed an intense crackdown on pedophiles and child pornography throughout the 1970’s with the public voicing relatively no outrage against raids on these pedophiles and child pornographers. The media described child pornographers in such a sensationalistic style that the public was outraged against these deviants that were in their society. For example, “the *Chicago Tribune* suggested that kiddie porn was organized through ‘sex rackets’ which ‘operated on a national and international scale involving thousands of adult perverts often working with one another exchanging child victims” (Jenkins 1998: 154). It is easy to see why families mentioned were terrified to send their children to daycares and preschools.

Young's (2009) research into moral panics centers on the moral panic of drugs. One of Young's findings was that "the moral panic was not against the drugs per se but the people who used the drugs and the reasons that the drugs were used" (Young 2009). Moral panics are a collection of narratives that primarily focus on individuals or groups and not actions per se.

There are parallels with this and the Zoot Suit riots of 1943 where American seamen and African-American and Latino males clashed in Los Angeles (Daniels 2002). The press lauded the navy personnel for the actions in scouring the city in search of and upon discovery of the Latinos and African-American beating them very harshly. Zoot Suits were banned not because of the manner of the suit itself, but because of the persons associated with these threads, the Latino and the African-American population. The white, citizens of Los Angeles who were wearing zoot suits were spared (Daniels 2002).

After the initial event happened in Los Angeles, the media began publishing stories, which inspired similar reactions to flare up in other American cities such as Chicago and New York. It is important to note that "the importance of the media lies not in their role as transmitters of moral panics nor as campaigners but in the way they reproduce and sustain the dominant ideology" (Cohen 2002: xxix). Referring back to the zoot suit instances, the media provided "news" for residents on the east coast and the midwest about what happened, while aligning itself with the racist ideology of the times by praising the sailors and striking down the minorities. The ideological alignment is an important aspect

when discussing moral panics, because “the media operate the same ideological arena as do the educational system, religious institutions, and the family,” (Potter & Kappeler 1998: 17). Therefore, it comes as no surprise that a student of moral panics must take into consideration the involvement of media through every institution available during their research.

Another contribution to our understanding of moral panics comes from Goode and Ben-Yehuda (1994). They focus on “the reaction of five segments of society: the press, the public, agents of social control, or law enforcement, lawmakers and politicians, and action groups” (Goode & BenYehuda 1994: 24). The emphasis is on the over-reaction taken by these groups during the course of a moral panic. For example, the press distorted many images during the Mods and Rockers study Cohen produced. “If one ‘boat’ was overturned, reports claimed that ‘boats’ were overturned” (Goode & Ben-Yehuda 1994: 25). The public react to the event and stories published in an exaggerated way because the morals of the society, are “threatened, questioned, or challenged” thereby providing the source of “moral panic”. Without a public reaction a moral panic cannot take place. “If the media is infused with hysteria about a particular issue or condition which does not generate public concern, then we do not have a moral panic on our hands” (Goode & Ben-Yehuda 1994: 26).

Law enforcement also have some part in the panic. Typically their part involves cracking down on the behavior at-hand and their expanding these powers. Politicians and legislators are key in expanding law enforcement powers.

Cohen (2002) showed how the Member's of Parliament met with police chiefs to discuss these youthful crimes. When the politicians and legislators pit themselves against the deviants they can produce policies, laws, and legislation that is the foundation for the police to have greater powers. These increased or enhanced powers are often unnecessary and typically produce unintended consequences. Along with law enforcement and policy-makers, action groups "arise to cope with the newly existing threat," (Goode & Ben-Yehuda 1994:28).

## Chapter 3

### Methodology

Informed by the social construction of moral panic perspectives, I designed an exploratory study to analyze sexting. In this chapter I discuss the methods of research utilized in this thesis. I describe and discuss my qualitative research design. Furthermore, I discuss the steps I took to uncover and ultimately collect the data used in this study. From the analysis, three concepts emerged: Theme Setting, Sensationalism, and Policy Changes. During the course of a moral panic, a newsworthy theme is established. After this establishment, virtually any story similar to the theme can be claimed to fit such a theme type. This includes sensational stories that can be linked to the original theme by a minor aspect, but are reported as such theme based on sensational characteristics. I chose to analyze policy changes last even though this concept is discussed throughout the data. It was best to finish with this concept in order to show how moral panics lead to policies and practices.

Central to a social construction of moral panic perspective is the role media play in theme setting, sensational case portrayal, and policy discussion. In order to analyze the media coverage of “sexting”, I conducted an analysis of newspaper stories on sexting.

Newspaper accounts were identified using Google Alerts and Newsbank, an electronic news database. I set up two Google Alerts for my E-mail, one

“sexting” the other “sexting in Kentucky”, from February 2009 to February 2011. Google Alerts posed a problem because most of the stories were from local news sources and they were only available online for a short period of time. It was therefore not an option to go back a few months in my Google Alerts to revisit a story. I received 700 Email alerts with each Email containing one to seven stories. Newsbank organizes news sources from around the world, by country, region, state, and type of source. From the database I selected only newspapers with a national focus and a few major news sources across four regions of the country; East Coast, Midwest, West Coast, and South. The selected sources include: *Associated Press Archive, CBS, CBS-27 Lexington, Ky, Chicago Tribune, CNBC, CNN, FOX News Channel, Los Angeles Times – Washington Post News Service, MSNBC, MTV News, NBC, The New York Times, U.S. News and World Report, and USA Today*. I searched for news stories from these sources from January 1 2005 – December 31 2010. I started with 2005 because that was when the term first originated in an Australian tabloid in a story written by Oliver James. I recorded 375 hits during my Newsbank search. The Google alerts and Newsbank Searches yielded 70 stories that were about sexting. These stories were recorded and subjected to content analysis (See Appendix A: List of Stories).

Three themes emerged from my content analysis: Theme Setting, Sensationalism, and Policy Change. *Theme Setting* is the establishment of a newsworthy theme. This means the media have found some aspect(s) of a current issue in society and have set those specific aspects as guidelines for

reporting. For example, in media reports on sexting the theme: *sexting as a crime of child pornography* is established. *Sensationalism* is the notion that the media choose stories that have shock value attached to them and report heavily on these stories. Similar to Theme Setting the media identify some aspect of a story that has shock value and uses this as the crux of the story. It is intended to grab the attention of the public and draw them to a story they otherwise might not have read. A story involving one adult sexting another and being accused of sending unwanted explicit text is not flashy or very appealing, but when the media adds in the headline the offender is a standing District Attorney the public's attention has been secured. The reason being the District Attorney is a position of public trust, thus such a story is providing details that the DA has violated this trust is sensational. The same goes for stories involving principals, superintendents, teachers, etc because of the trust given to these people. Not only does the breach of trust involve sensational components, but the status of the individual does as well. Another shock value factor is celebrities. The public is interested in any story that reports on some celebrity who has been sexting another person, especially when that celebrity is married to someone else. *Policy Change* is fairly simple, it is when a law, policy, or procedure has been created or modified as a result of scrutiny toward an issue like sexting. For example, a story reporting on sexting involving teenagers being charged with child pornography where a discussion about changing the law is present and/or other states current laws regarding sexting would fall under the concept of policy change.

I analyzed the stories for these three concepts looking for attributes of each concept. Once I found the theme *sexting as a crime of child pornography* I analyzed stories for this theme. After this theme was identified and analyzed I began analyzing stories for their sensational characteristics looking for what was keeping these stories in the news. I analyzed the stories for the status of the offender - i.e. District Attorney, NFL quarterback - and status of victim - i.e. client, student, etc., age, i.e. Was the offender an adult and victim a minor? Or were all parties involved minors? Also, I analyzed for any words or phrases in the title or body of the story that carried shock value. When I studied the concept of *Policy Changes* I analyzed for any mention of a current policy and potential change, current policies that have been changed, and punishments regarding the new and old policies.

## Chapter 4

### Data/Analysis

On July 2<sup>nd</sup>, 2005 *The Daily Telegraph* an Australian tabloid, ran a story about a man infected with the “Affluenza Virus” by a British Journalist Oliver James. The man infected with this pseudo-illness was Shane Warne. James a clinical psychologist, journalist, and author wrote this story after reading about “Shane’s lewd communication” <sup>1</sup>with three women from different continents. “A telling aspect of his sexual farragos is the use of his mobile for sexting (texting).” (James, O. 2005 Daily Telegraph) This is one of the first times the term “sexting” appeared in the news. Oliver James is one of the first persons to coin the term “sexting” and it was a few years later before the term was seen in the media again. I corresponded with James via E-mail several times to determine what he meant by the new term. James gave me a brief description of his background and thoughts about “sexting”. “As a man in his early fifties, I had not really got my head around texting at that point....Anyway, also probably because of my antiquity, the potential of this medium for sexually arousing someone else had never occurred to me and I was suddenly struck by just how effective it could be for this purpose when I read about Shane’s lewd communications.” I asked what sparked him to use the term sexting and sexts. What meaning did he attach to it? Are people using the term in the same way he intended? James pointed out the tendency of post-modern writers to “fool around with language.” James gave two

---

<sup>1</sup> Unless otherwise noted quotes are from the E-Mails exchanged with James.

examples, “Winterson’s use of the noun sex as a verb in ‘sexing’, and the PC use of plural for masculinity—masculinities.” James went on to say “I felt that here was a legitimate way of evoking the immediacy that might arise were one to receive a message of that kind.” He indicated that words can have an effect immediately; they can evoke an emotion or visual image when heard or read. James said he did not give too deep of thought about the term; he wanted to offer “a slick journalistic condensation of meaning to save space.” He also felt that “sexting was a way to convey strong meaning—almost onomatopoeic. It is a way of doing something to another person, as well as of communicating.” The term now carries a strong meaning whereas James was merely being clever in his writing.

### Theme Setting

Societies appear to be subject, every now and then, to periods of moral panic (Cohen, 2002). Moral panics are constructed through the media with mediated information being transmitted to the public for consumption. There must be a theme set by the media that other stories are chosen by. In the case of sexting the initial theme set is what is sexting? A second theme quickly assembles after a sensational news story involving teens: sexting as a crime of child pornography and finally expanding to encompass sexual harassment. About 64% of the stories analyzed were related to theme setting with about 49% involving an adult perpetrator, about 42% involving a minor perpetrator, 40% involving adult victim, and about 44% involving a minor as a victim.

Three years after James' article, a survey published by The National Campaign to Prevent Teen and Unplanned Pregnancy in December 2008 found that 1 in 5 teens ( 22% of teen girls and 18% of teen boys) have electronically sent, or posted online, nude or semi-nude photos of themselves. This survey is important to note because it was published before any stories about sexting were covered in the U.S. and it is referenced in numerous news articles on sexting. The media is using the survey findings coupled with local and national news stories as evidence that sexting is a large problem. Even though the survey could be challenged on conceptual and methodological grounds, the media refer to its findings as established fact.

One of the first to utilize findings from the survey by the National Campaign for Teen and Unplanned Pregnancy was the Los Angeles Times which, ran a story on December 18, 2008 entitled: "The Middle Ages: The Young and the Sexting". The story begins: "Here's another conversation parents didn't know they had to have with their kids: Don't send nude photos of yourself out into cyberspace....Too late. They are" (Los Angeles Times December 18, 2008). This story defines "sexting" as "sending raunchy messages via text, email or instant message to each other." This story sets a theme by defining sexting and it shows up in virtually every story from there forward.

The article goes on to say: "Most often it is between boyfriends and girlfriends, but sometimes it is about letting someone know you are interested in hooking up." This describes a motivational theme, explaining why teens and

adults sext. “Girls think it is flirty and fun. Guys think it is hot, and they share it with their buddies.” The boys are seen as the offender and the girls the victim even if the girl sent a photo of herself to her boyfriend. The reason the boys are the offenders is a result of the boys showing the photographs to others.

However, in some cases, a boy is the offender when he sends an unwanted photo of himself to a girl and she in turn reports him. “Everybody agrees that it ratchets up sexual expectations when the two parties meet in person” (Reimer LA Times 2008). This article raises the question of whether sexting is a way to be flirtatious or a criminal offense.

It took less than a month for the theme of sexting as child pornography to emerge in the media. This theme begins with a sensational case involving teenagers in a Pennsylvania high school caught up in the first criminal case regarding sexting. Important to note is this is the first story to report on an actual incident of sexting; it sets the theme because of the shock value associated with the story. During January 2009, MSNBC reported on six Pennsylvania high school students facing child pornography charges stemming from sexting (MSNBC January 15, 2009). The girls, all fourteen or fifteen years old, were facing charges of manufacturing, disseminating or possessing child pornography. The boys, sixteen and seventeen years old, faced possession of child pornography charges. The incident took place in October of 2008 after school officials confiscated a male student’s cell phone and a nude photograph was discovered on the cell phone. Police were then called and after an investigation there were more phones containing more nude photos. The police Captain

George Seranko “indicated that authorities decided to file the child pornography charges to send a strong message to other minors who might consider sending such photos to friends.” A Philadelphia defense attorney defends the teens saying “It’s clearly overkill.” Here we see the authorities defining sexting as a criminal offense using child pornography laws. This article goes on and cites last month’s survey of 1,280 teens and young adults found that 20% of the teens said they had sent or posted nude or semi-nude photos or videos of themselves, by the National Campaign to Prevent Teen and Unplanned Pregnancy.

The theme itself carries strong emotional baggage, a plus for the media. After all, according to Kappeler and Potter (2005), crime problems presented to the public are chosen by the media with typically only the most gruesome and bizarre acts selected. February 4<sup>th</sup>, 2009 the Associated Press ran a story entitled *Teens who ‘sext’ racy photos charged with porn*. Allen County, Ind. prosecutor Michael McAlexander said “hopefully we’ll get the message out to these kids,” in response to questions about charging teens with felonies (Associated Press February 4, 2009). The article indicated that there was a teenage boy facing felony obscenity charges for allegedly sending a photograph of his genitals to several female classmates. Another boy, in a separate but similar instance, was charged with child pornography. McAlexander went on to say “we don’t want to throw these kids in jail, but we want them to think.” It is evident that he, along with other public officials in this county, felt it was a criminal offense and the boys were the offenders. Charging teens with child

pornography was not only happening in these two states, Pennsylvania and Indiana.

By this point the theme went national. In a March 2009 story, USA Today reported that police have investigated more than two dozen teens in at least six states. In Spotsylvania, Va., two boys, ages 15 and 18, were charged with child porn after they were found to have sought nude photos from three juveniles, one who was in elementary school (USA Today March 12, 2009).

Not everyone felt teens who were sexting should be categorized as child porn pedophiles. In May of 2009, USA Today printed an article in its editorial section, advising extra discretion when handling sexting cases, “if there’s a lesson here, it’s that authorities should use discretion, and most teen sexting needn’t turn into a federal case” (USA Today May 5, 2009). This shows there are concerns about excessively punitive measures. However, a mere week later, USA Today ran an editorial on sexting, claiming the previous article “had rather fuzzy logic.” The article goes on to say: “the right answer is to make the law apply to everyone regardless of age who exchanges lewd images of someone younger than 18” (USA Today May 11, 2009). This opposing view points represents the tug-of-war between seeing sexting as a crime or a flirtatious behavior.

### Sensational Stories

The theme expanded to sexual harassment as a result of sensational stories. Sensational stories are a key ingredient in the media’s recipe for public

arousal, an attention grabber. What I mean by sensational stories are those stories that carry aspects of shock-value. There are a few factors that make a story sensational: status of the offender, status of the victim, and shocking results of a case. There have been sensational stories that have risen to the spotlight because of aggressive prosecutors such as the Pennsylvania prosecutor being sued by teenage girls for threatening to pursue child porn charges against them for not accepting his plea; perverted adults who drive a few thousand miles to have sex with a 17 year old, perverted public officials who harass clients through text messages, or suicide by victims of relentless harassment. About 53% of the stories analyzed contained some sensational characteristics. Of those that were sensational about 57% involved a sensational characteristic related to the status of the offender, about 62% involved sensational aspects other than the status of the offender and about 8% involved some mention of suicide as a result of a bullying from sexting.

In July 2008, Jessica Logan, an 18 year old high school graduate, committed suicide as a result of relentless tormenting by fellow classmates. The harassment came after Logan's ex-boyfriend circulated nude photos she had sent him prior to their break-up. The story did not receive attention until March of 2009, after sexting had been established as a problem theme. The first time Jessica Logan's suicide was mentioned was in May of 2009 in a Los Angeles Times story (Los Angeles Times May 7, 2009). Jessica Logan was mentioned again in June 2009 by the Los Angeles Times and again in December 2009 by the Associated Press along with a 13 year old Hope Witsell of Tampa, Florida

who committed suicide after relentless taunting at her school (Associated Press December 3, 2009). The various mentionings of Jessica's suicide is important because of the sensationalism of her story. Parents will see this reference to a suicide case involving sexting and in turn become afraid that if their child is sexting something similar could happen to them. Jessica's parents filed a wrongful death suit against several people, including the ex-boyfriend who disseminated the photos, the high school, and the city of Montgomery. These were sensational stories where only a brief mentioning was made about them in various news articles on sexting. The reason they were mentioned at all was because of the emotional baggage accompanied with suicide and it warned parents and students about sexting by giving one of the most extreme examples of the end result.

The sensational stories are what helped the media broaden what types of sexting stories could be reported on. It would be boring to read a story involving two average middle aged adults with one adult filing harassment charges against the other. However, when there is a story involving two adults, one being an NFL superstar and the other being an NFL sideline reporter, then the public's attention has been captured (Associated Press December 9, 2010). This is exactly what happened with Brett Favre and Jenn Sterger. Sterger reported Favre's photos of his genitals to the NFL as a violation of the NFL's personal conduct policy. Three factors make this story sensational: the status of the offender and the status of the victim as well as Favre being fined \$50,000 for failing to cooperate in the investigation of alleged sexting (Associated Press December 29, 2010). Given

both of their celebrity status there is no question why the media reported heavily on this incident.

Another celebrity got caught up in sexting allegations which came up during other allegations about cheating on his wife. Tiger Woods was allegedly sexting Joslyn James, an adult entertainment star (CNN March 22, 2010). Not only was Woods a celebrity that alone would have been enough for the case to be a sensational story, but with James being an adult entertainment star the sensationalism was ratcheted up. These cases involved celebrities, but they were also role models to children which also did not help the sensational elements of the story.

Another sensational story that appeared in the Associated Press involves a Canadian man and a 17 year old girl in California. According to the story, a Canadian military man drove 3,000 miles to have sex with a 17 year old California teen after the two exchanged sexually graphic text messages and photographs (Associated Press April 12, 2010). There are a variety of reasons this story was sensational. The status of the offender; not only was he an adult, but he was part of the Canadian military. His status of being in the military carries with it public trust and respect. The victim was a minor and that coupled with him an adult gives sensational elements to the story. Finally, the man drove 3,000 miles to have sex with her. The media could have said the Canadian man drove from Canada to California, which would have been shocking; instead, they chose to put the distance in perspective by giving an approximate number of

miles he drove. Also in California, a 45 year old, William Atwood, father of a 17 year old girl, was ordered to stand trial for allegedly tying up Justin Moore and using a stun gun on him for sexting his daughter (Associated Press October 15, 2010). During a preliminary hearing Moore said that Atwood fired a shotgun in the air, ordered him to strip down to his boxers, tied him up and shocked him with a stun gun. Moore also testified that Atwood threatened to bury Moore on an Indian Reservation. This case is sensational because of what Atwood did and said to Moore. The case only involves sexting because Moore sent a racy photo to the Atwood's daughter. It is an example of a sensational story keeping sexting in the media.

The ex-District Attorney in Wisconsin was busted for sexting a client during the prosecution of her ex-boyfriend for domestic abuse (Associated Press September 16, 2010). According to police reports the Calumet County District Attorney Ken Kratz was sending sexually suggestive text messages to a victim in a domestic abuse case he was trying in October of 2009. In one message he called the woman "a hot, young nymph" according to police reports obtained by the Associated Press he also tried to spark a relationship in these messages. In another message he asked whether she's "the kind of girl that likes secret contact with an older married elected DA." The story that Stephanie Van Groll, the client of Kratz, reported the messages to the police after three days of what she called sexual harassment. Van Groll claimed she felt pressure to start a relationship with Kratz out of fear that if she did not he would drop the charges against her ex-boyfriend in the domestic violence abuse case he was trying or

that he would retaliate against her in some other way. The District Attorney position is regarded as a position of high trust. It is an elected position by the public, therefore a high degree of public trust is given to the person who holds that position. The prosecutor is there to put criminals behind bars and protect the safety and rights of the victim of a case, not violate the victim's rights by making sexual advances via text messaging.

The Wisconsin Coalition Against Domestic Violence had this to say, "His repeated attempts to minimize his behavior show he either is in denial or only concerned for his personal interests....This pattern would be expected from criminal defendants, but not a sitting district attorney." Unfortunately for Kratz, Van Groll was not the only female he had harassed via text messages. In another story, a woman came forward about Kratz seeking a relationship with her (Associated Press September 20, 2010). This article once again gave the same excerpts from some of the text messages he sent Van Groll calling her a "talk, young, hot nymph" and asking if she was "the kind of girl that likes secret contact with an older married elected DA."

Doyle also made public a letter sent from a second woman who claimed Kratz abused his position in seeking a relationship with her earlier in the year. The woman said Kratz gave confidential details about a high-profile missing woman investigation. She claimed he continued to give her developments in the case even inviting her to the slain woman's autopsy under the conditions that she act as his girlfriend and was to wear a skirt with high heels. Governor Doyle

called Kratz's behavior regarding the autopsy invitation the most troubling and "unimaginable," if it were true. State law gives the Governor the power to remove elected officials, but according to the Secretary of State, Doug La Follette, he had never heard of a removal from office. According to records obtained by the Associated Press, Kratz began text messaging Van Groll minutes after he told her he was considering reducing the charges against her ex-boyfriend.

Another woman came forward, Maria Ruskiewicz, a law student in Oklahoma told the Associated Press that same week, she had received similar messages from Kratz in 2008 (Associated Press September 22, 2010). These messages, according to her, came shortly after receiving Kratz's support for the pardon of an old drug conviction. Governor Doyle had pardoned the woman in August and was outraged that Kratz tried to use his position to strike up a relationship with her.

The case involving Kratz carries strong sensational elements that would no doubt grab the public's attention. The status of the offender and victims are the two main elements that make this story sensational. Kratz not only violated public trust by sexting the three females, but also took advantage of his position and abused his power. Another sensational element of this story is the excerpts of the text messages provided in each news article covering the story. Words and phrases like: "a hot, young nymph" and "the kind of girl that likes secret contact with an older married elected DA" certainly spark an emotion by the

reader. When an elected official commits a crime or misconduct, especially one involving sexual harassment allegations the public is going to be outraged. These types of cases carry a high degree of emotional baggage with them. The theme broadened from just sexting as a crime of child porn to sexting as a crime of sexual harassment which only makes the problem get bigger. When the scope gets broadened more incidents fit the theme especially those not directly related to the original theme.

Other stories, also sensational, but filled with different sensational elements as the other stories in this thesis, also helped keep sexting alive in the media (Associated Press March 25, 2009). The story that involved a Pennsylvania prosecutor, George Skumanick Jr., threatening three girls with sexual abuse of a minor charges who did not accept his plea follows along the theme of sexting as child porn. It is sensational because the girls who did not accept his plea brought a lawsuit against the prosecutor arguing that Skumanick had threatened them out of retaliation since they did not accept his deal. In October 2008, photos surfaced of two 13 year olds from Tunkhannock, Pa. in white bras. They were found after school officials confiscated five cell phones and found that boys had been trading photos of semi-nude or nude girls. The District Attorney George Skumanick Jr. met with 20 students and their parents and offered the teens a deal. If they took a class on gender roles, sexual harassment, and sexual violence they wouldn't be prosecuted. Seventeen students accepted his offer. Skumanick considered the photos "provocative" enough that if the three girls did not accept his deal he was considering filing a

charge of sexual abuse of a minor. The story became headline news after the girls who did not accept the offer and their parents filed a suit against the prosecutor with the ACLU as their representative. A lawyer with the ACLU, Witold J. Walczak, said: "Prosecutors should not be using a nuclear-weapon-type charge like child pornography against kids who have no criminal intent and are merely doing stupid things."

A U.S. appeals court ruled the prosecutor could not pursue felony charges against a teenager for a racy cell phone photo (Associated Press March 17, 2009). The court stated charging the student with felony charges violated the teen's constitutional right to be free from compelled speech and it also infringed on her parents' right to decide how to raise their daughter. The court agreed with the girls and their parents that the prosecutor's threat to charge the topless teen was "retaliation" for her not accepting the deal. The New York Times ran a story following this decision entitled, *Prosecutors Gone Wild* (New York Times March 25, 2010).

After the U.S. appeals court decision one girl involved in the case was not satisfied and sued the school district for illegally confiscating her phone and searching through the photos to find the nude images she had taken of herself. This suit brought the school district back into the spotlight. The girl said: "Those pictures were extremely private and not meant for anyone else's eyes. What they did is the equivalent of spying on me through my bedroom window." The lawsuit was seeking damages against the school district, the county, the prosecutors, a

detective and the Tunkhannock Area High School Principal, Gregory Ellsworth. Also the lawsuit was seeking to have any image in possession of law enforcement to be destroyed (Associated Press May 20, 2010). By September 2010, the school district had settled the lawsuit with the student and her lawyers. The Tunkhannock Area School District agreed to pay the student and her lawyers \$33,000 to settle the case, even though they denied any wrongdoing (Associated Press September 15, 2010).

This case grabbed peoples' attention nationwide for almost two years. The school district gained the title as the Pennsylvania "sexting district" for the sensationalism of the events surrounding the sexting case. This case was sensational because of the lawsuit brought against a prosecutor and the outcome of the case. A federal appeals court ruled against the prosecutor and blocked his ability to bring felony charges against the girls. It is a good example of sensational story; one that would make the public excited to read that a "corrupt system" was stopped before harm was done to "innocent" teenagers.

### Policy Changes

Initially, when sexting cases began popping up around the country there was no law on the book that outlawed sexting and the punishment(s) for such crime. The authorities and prosecutors only had one option if a minor was involved (even if it were only minors involved), Child Pornography charges would be filed. A felony in all states, if convicted, conviction would require, as a result of Meghan's Law, to be registered as a sex offender for a period of time sometimes

for the rest of the offender's life thanks to Adam Walsh Child Protection and Safety Act. Obviously, to prevent children being charged with violating child pornography laws there had to be some changes made to the existing legislation. 40% of the stories analyzed contained mentioning of current policy and/or changing of policy regarding sexting.

The issue of having sexting legislation had been discussed since the beginning of the phenomenon. A Philadelphia defense attorney, Patrick Artur, in January 2009, said this was running counter to the purpose of child pornography laws that were in place to prevent sexual abuse of children by "dirty old men in raincoats" (MSNBC January 15, 2009). In March 2009, the USA Today noted that the Utah Legislature reduced penalties from a felony to a misdemeanor for sexting. This marks the first policy change in the United States regarding sexting (USA Today March 12, 2009). A Juvenile Court Judge in Ohio, Thomas O'Malley, struggled to figure out what he should do with eight teens sexting, and eventually he required each to do community service by asking their peers if they knew sexting was a crime, as reported by USA Today. The USA Today reported in May, that it is overkill to charge a teen who is sexting with child pornography charges and require them to register as a sex offender (USA Today May 9, 2009). USA Today went on to say that legislatures should follow the lead of those states (Utah, Vermont, Nebraska), that were moving toward treating teen sexting as juvenile-law misdemeanors. However, John Facella of Westford, Massachusetts did not agree with that; he felt that regardless of the offender's

age anyone who exchanges lewd images of someone under 18 has engaged in activities that violate child pornography laws (USA Today May 11, 2009).

The Los Angeles Times reported in May 2009, in Vermont and Ohio lawmakers have drafted bills regarding sexting. The Times went on to report in Fairfax Virginia, a Commonwealth Attorney, Raymond Morrogh, described “sexting” as “juvenile bad judgement”, and he also said he is “not keen on lumping school kids in with child pornographers” (Los Angeles Times May 7, 2009). At that time in Virginia sexting photos were considered child porn by the law, but Morrogh felt there needed to be some legislative change to protect kids from the all encompassing adult child pornography laws. Morrogh went on to say that “obviously we are not going to lock up two teens for doing this to each other, but we do want them to understand it’s a crime and a dangerous activity.” By the end of 2009, lawmakers had drafted bills to tackle sexting among minors and one state, Utah, passed a bill to reduce the penalty.

In January 2010, the Chicago Tribune discussed two middle school students in Valparaiso, Indiana that were charged with child exploitation and possession of child pornography, and if they were convicted could be required to register as sex offenders (Chicago Tribune January 29, 2010). The Porter County Indiana Prosecutor, Brian Gensel said: “I think there has always been a sort of, you show me yours and I’ll show you mine, and curiosity there.... The problem now is the stakes are so much higher because if a juvenile sends a picture of themselves to someone else, well, that can be disseminated now to the

entire world within minutes.” The Tribune went on to say that Ohio had a program that required juveniles who were charged in sexting cases to give up their cell phones and attend classes on the emotional and legal consequences of sexting. The Associated press reported that in Pennsylvania it is a felony to possess or disseminate photos of a minor engaged in sexual activity, but in March, a U.S. appeals court ruled that Skumanick, the Pennsylvania prosecutor, may not pursue felony charges against a teenage girl. The article concluded by saying there was a bill moving through the state House intended to reduce to penalty of sexting and make it less serious for teenagers than adults.

Also in March 2010, the Illinois Senate mandated an examination of the sexting phenomenon. According to the Chicago Tribune, offenders would not face criminal charges, but would get juvenile court supervision that could result in community service or counseling Chicago Tribune March 19, 2010). January 1, 2011, the Illinois sexting bill went into effect (House Bill 4583/PA 96-1087). The new law eliminates the felony charge for a minor caught sexting, but the minor is still brought into juvenile court (La Grange Patch January 3, 2011). The minor is brought there for a proceeding to determine if they are a minor in need of supervision. If the minor is found to be in need of supervision, he or she could be ordered into counseling or other supportive services. The minor may also be ordered to complete community service. There is no incarceration time waiting for a minor who is sexting nor is there a requirement for registration as a sex offender. This is drastically different than charging them with a felony as the adult child pornography law demanded. According to the National Conference of

State Legislatures, along with Illinois, other states that have adopted similar sexting laws include; Arizona, California, Connecticut, Louisiana, and Rhode Island.

Also in January 2011, Kentucky's General Assembly considered for the second straight year legislation aimed at sexting. Kentucky House Bill 126 would modify an existing law that pertained to what is officially known as video voyeurism, which made it illegal to record or transmit sexually explicit images of one's self or others taken without consent (BG Daily News January 16, 2011). As it stands video voyeurism is a Class D felony and in addition to time in prison those convicted are ordered to register as sex offenders. Kentucky House Bill 126 calls for lighter penalties for juvenile offenders given it is their first offense. If it passes the punishment for a first-time juvenile offender convicted of sexting would be a fine and community service.

However, not all of these law and policy changes come for the better. In some instances the policy actually gets stricter. Take for instance one school district in Washington State. The Kelso School District in February 2011 voted to amend its existing cell phone policy (KGW February 8, 2011). The revised policy bans explicit text messages, pictures, and e-mails on school property, during school hours and at school related functions. The school district now has the right to confiscate a student's cell phone and search the phone for the offending content. Students caught sexting face police and parent notification, suspension, and expulsion after a third offense. The Kelso school added that it does not

intend to perform random searches of its students' cell phones. It claimed it will instead only respond to cases reported or witnessed by school staff. In a final note on the Kelso School District, it can only cite one case of sexting among its students.

## Chapter 5

### Conclusion

Several news stories have been explored to consider how sexting is a media construction of a moral panic. This phenomenon has been consistently reported since the Pennsylvania case in January 2009, although the focus of the stories shifted from the initial teens getting caught up in the act of “sexting” to more sensational cases. More recent stories, aside from the occasional sensational story, are policy focused. It is not surprising that multiple states and school districts have crafted new policies to handle sexting. After all, one key component that characterizes a moral panic is that policy changes result from the hysteria surrounding a particular panic.

One limitation of my study, is that it focused on only three key concepts that emerged from the data and which were suggested by extant research. Identifying and elaborating on other concepts would have produced a fuller understanding of sexting as a moral panic. Future research could take the data collected and analyze it for a variety of other concepts found in the literature. For example, future research could examine the manipulation of statistics. Another possible concept a researcher could look at is organizations that have been formed as a result of the “sexting” scare. Another limitation is that this study was limited to news stories. This focus prevents an analysis of how views on sexting have penetrated the culture via other media.

Addressing the limitation of only using online news stories future research could look at a variety of other sources for data. A researcher could examine the entire electronic news media. For example, one could include video stories or documentaries on “sexting” and compare the data to online newspapers. Another possible avenue of future research could be examining the reference of “sexting” in popular culture. The researcher could look at television programs such as sitcoms and reality shows. For instance, *Law and Order: Special Victims Unit* ran an episode in 2009 titled “Crush” in which a case of “sexting” was referenced many times. Other shows have capitalized on the phenomenon of sexting *Degrassi: The Next Generation* episode titled “Shoot to Thrill”, *Glee* episode titled “Hairgraphy”, *Chuck* episode titled “Chuck Versus the Anniversary”, and *90210* episode titled “To Sext or Not to Sext”. Popular music provides another medium to examine. Ludacris, an American rapper and actor, released a bonus track titled “Sexting,” on his more recent release. Also, a future researcher could analyze movies looking for references to “sexting.” Another limitation is that this study only used national news sources/papers and major regional news papers. This focus limits what my analysis of sexting to what is found in the sources used.

Future research could use a more representative sample to assess the variation by regions of the country in their attitudes about sexting. Another idea is for the researcher to only collect a local sample to get a finer-grained case study. Future research could conduct a case study of policy formation. For example, a researcher could take the policy change the Kelso School District in

Kelso, Washington created. Or perhaps two or more cases could be used in a comparative analysis. My research only looked at what was happening in parts of the United States, but future research could conduct an international comparison between multiple countries, analyzing for similarities and differences in how sexting is reported on and/or handled.

Future research could seek to discover stories of sexting that vary from the typically male-offender/female victim in a heterosexual context. If sexting stories of female-offender/male victim, or homosexual context, were identified, they could present a comparative analysis.

Another limitation is that this study focused only on the phenomenon of sexting per se, rather than analyzing it as part of a broader sexualization of society. Sexting could be situated in the extant analysis of the sex culture, such as pornography or sexual advertising, etc. Another consideration is looking at the cyber sex scene and compare and or contrast “sexting” with it.

Another limitation is that this study used only social artifacts as data sources. This focus prevents an analysis on those directly involved in sexting. Being that I only used secondary sources, online news papers, I only received a secondhand written account of an event that in all likelihood was edited and revised before published. I had no firsthand information on those who were “sexting” and no firsthand data on the victims. I did not interview those who were involved in each case such as the police, District Attorneys, victims, offenders, school officials, parents, journalists, etc. Future research might take the route of

gaining firsthand data on the issue of “sexting” by conducting interviews with police agencies, school district officials, government officials, etc. Also the research could gather firsthand information on the offenders and victims and see how their opinions compare with various officials. This type of research would have to be at the local level following a similar fashion as the consideration regarding the researcher conducting the research locally. Research could also gather information on teens/adults attitudes about sexting, comparing and contrasting these attitudes.

Currently several states such as Arizona, California, Connecticut, Louisiana, Rhode Island, Illinois, Kentucky; are drafting, have drafted and some have passed legislation related to “sexting” regarding a minor. These are important to note in the final remarks of this study. Such legislation has taken the act of “sexting” for a minor and lessened the seriousness of the offense from a felony to a misdemeanor. Vital to our society is the safety and security of our youth. Thus, the states that have this new legislation are taking steps forward in the protection of society’s youth. The other states are taking note and perhaps following the example. There seems to be agreement that, a minor should not be charged with a felony for flirting by way of “sexting” another minor. Now the other side of the coin is that if a minor takes a photo of another minor and uses it to purposefully exploit, harass, or embarrass him or her, then he/she could be punished relatively harshly.

There are considerations that can be taken into account when making new policies. Child pornography laws are designed to protect minors from adult perpetrators, not punish minors for sharing sexually explicit photos between one another. Yet, there are instances where a minor utilizes a nude photo for exploitation, tormenting, or embarrassing the minor in the picture. When creating legislation one factor that could be considered is that the original child pornography law is not affected by the new legislation. Another factor that could be considered is to make sure the legislation is appropriate for minors. The legislatures could keep in mind that minors are immature and relatively unaware of future consequences of their actions.

There seems to be some agreement that minors should not be subjected to the same laws, treatments, and punishments of which adult offenders are subjected. With that being said, legislatures might consider that the punishment of the minor should not potentially ruin the rest of his/her life by subjecting them to the same draconian punishment adults receive, i.e, felony label, prison sentences, and sex offender registry. After all, who wants to make a thirteen year old boy register as a sex offender for twenty-five years for having a nude photograph of his girlfriend on his cell phone?

It appears that legislation such as the House Bill Kentucky is trying to pass is the most appropriate for handling “sexting” cases involving minors who are innocently engaging in the act. Kentucky’s legislation proposes that a first-time offender convicted of “sexting” would receive community service and a fine. This

might teach a lesson to someone caught “sexting” and steer them away from engaging in the act again. The punishment is not so severe that the juvenile will have his/her life ruined, but it is enough that he/she might think twice about “sexting” again. Besides the formal punishment from the state there would be in all likelihood a relatively harsh informal punishment handed down by the minor’s parents.

School Districts who want to craft a cell phone policy that addresses “sexting” have a consideration to look at as well. The ultimate consideration is the privacy of the minor. The Kelso school has decided that its new policy allows school officials to search the phone of a suspected student for obscene material. This is not how incidents should be handled, nor is it how the policy should be written. If privacy is to be protected, then the schools might take in consideration when a confiscated phone is handed over to a cyber crimes expert from the police department. This could ensure that no school official would have access to see the obscene material because after all it only takes one student who feels his or her privacy has been infringed upon to file a lawsuit against a school district. That was seen in the Pennsylvania case in the data/analysis chapter.

Sexting is constructed as a moral panic by the media. The future of this phenomenon is unclear at this time. However, following the ideas behind moral panics, it is likely sexting will disappear from media reports. It could in the future resurface as a result of some sensational incident.

## Bibliography

- Best, J. (1991). "Road Warriors" on "Hair Trigger Highways": Cultural Resources and the Media's Constructions of the 1987 Freeway Shootings Problem. In G. W. Potter & V. E. Kappeler (1998) *Constructing Crime* (pp. 221-240). Prospect Heights, IL: Waveland Press.
- Coffin, P. (1996). *Cocaine and Pregnancy: The truth about crack babies*. New York: The Lindesmith Center. In V. E. Kappeler & G. W. Potter (2005). *The Mythology of Crime and Criminal Justice* (4<sup>th</sup> ed.). Long Grove, IL: Waveland Press.
- Cohen, S. (2002). *Folk Devils and Moral Panics* (3<sup>rd</sup> ed.). New York: Routledge.
- Cox, M. (1998, December 9). Philly police admit they fudged on crime stats. *Lexington Herald-Leader*. In V. E. Kappeler & G. W. Potter (2005). *The Mythology of Crime and Criminal Justice* (4<sup>th</sup> ed.). Long Grove, IL: Waveland Press.
- Daniels, D. H. (2002). Los Angeles Zoot: Race 'Riot,' The Pachuco, and The Black Music Culture. *Journal of African America History*, 87(1), 98.
- Glassner, B. (1999). *The culture of fear: Why Americans are afraid of the wrong things*. New York: Basic Books. In V. E. Kappeler & G. W. Potter (2005). *The Mythology of Crime and Criminal Justice* (4<sup>th</sup> ed.). Long Grove, IL: Waveland Press.
- Goode, E. & Ben-Yehuda N. (1994). *Moral Panics: The Social Construction of Deviance*. Cambridge, MA: Blackwell.
- Gusfield, J. (1963). *Symbolic Crusade: Status Politics and the American Temperance movement*. Urbana: University of Illinois Press.
- Jenkins, P. (1998). *Moral Panic: Changing Concepts of the Child Molester in Modern America*. New Haven, CT: Yale University Press.
- Kappeler, V. E. & Potter, G. W. (2005) *The Mythology of Crime and Criminal Justice* (4<sup>th</sup> ed.). Long Grove, IL: Waveland Press.
- Kappeler, V. E. (2004). Inventing Criminal Justice: Myth and Social Construction. In P. B. Kraska (2011). *Theorizing Criminal Justice* (2<sup>nd</sup> ed.). Long Grove, IL: Waveland Press.

- Katz, J. (1990). *Seductions of Crime: Moral and Sensual Attractions In Doing Evil*. New York: Basic Books.
- King, J. (2004, May 4). Judge: Child molester responsible for Patz death. Reuters News Service. In V. E. Kappeler & G. W. Potter (2005). *The Mythology of Crime and Criminal Justice* (4<sup>th</sup> ed.). Long Grove, IL: Waveland Press.
- Kraska, P. B. & Brent, J. J. (2011). *Theorizing Criminal Justice* (2<sup>nd</sup> ed.). Long Grove, IL: Waveland Press.
- National Campaign to Prevent Teen and Unplanned Pregnancy & Cosmogirl.com. (2008) *Sex and Tech Survey*. Retrieved on August 23, 2010 from [http://www.thenationalcampaign.org/sextech/PDF/SexTech\\_Summary.pdf](http://www.thenationalcampaign.org/sextech/PDF/SexTech_Summary.pdf).
- Potter G. W. & V. E. Kappeler (1998) *Constructing Crime*. Prospect Heights, IL: Waveland Press.
- Reinarman, C. (1988). The Social Construction of an Alcohol Problem: The Case of Mothers against Drunk Drivers and Social Control in the 1980s. In G. W. Potter & V. E. Kappeler (1998) *Constructing Crime* (pp. 193-220). Prospect Heights, IL: Waveland Press.
- Sexting. (2010). *Oxforddictionaries.com*. Oxford University Press. Retrieved April 28, 2010, from <http://oxforddictionaries.com/definition/sexting>
- Trubo, R. (1974). Holiday for Sadists. *PTA Magazine*, 69, 28-9.
- Young, J. (2009). Moral Panic: Its Origins in Resistance, Ressentiment and the Translation of Fantasy into Reality. *British Journal of Criminology*, 49(1), 4-16.

APPENDIX A:  
List of News Stories

Antlfinger, C. (September 27, 2010). *Attorney says 'sexting' Wis. prosecutor to resign*. Associated Press Archive.

Associated Press. (December 29, 2010). *NFL fines Brett Favre \$50,000 for failing to cooperate in investigation of alleged sexting*. Associated Press Archive.

Associated Press. (April 12, 2010). *Canadian man arrested after 'sexting' Calif. teen*. Associated Press Archive.

Associated Press. (April 16, 2009). *Vt. gov.: No to Decriminalizing teen sexting*. Associated Press Archive.

Associated Press. (April 21, 2010). *TechBits package – Teenagers have embraced text messaging as their main form of communication, but mobile phones are often a source of tension with parents and schools, a new survey finds*. Associated Press Archive.

Associated Press. (December 4, 2009). *Let's talk about 'sext'*. Chicago Tribune.

Associated Press. (February 5, 2010). *Prosecutors review CO middle school 'sexting' case*. Associated Press Archive.

Associated Press. (June 27, 2009). *Vermont to California, new laws take effect July 1*. Associated Press Archive.

Associated Press. (October 15, 2010). *Cali. father to stand trial in 'sexting' case*. Associated Press Archive.

Associated Press. (September 15, 2010). *Pa. school district settles 'sexting' lawsuit*. Associated Press Archive.

Associated Press. (September 17, 2010). *AP News in Brief*. Associated Press Archive.

Basu, R. (February 12, 2009). *Wake-Up Call: Some tangents can diminish meaning of sex crimes*. USA Today.

Bauer, S. (December 2, 2010). *State won't represent sexting ex-DA*. Associated Press Archive.

Bauer, S. (December 3, 2010). *Wis. Governor appoints replacement for sexting DA*. Associated Press Archive.

Behar, J. (March 22, 2010). *Tiger Opens Up?*. CNN.

Brunker, M. (January 15, 2009). *'Sexting' surprise: Teens face child porn charges*. MSNBC.

Burton, S. (February 8, 2011). *Kelso School District Bans Sexting*. KGW.com

CBS. (December 16, 2009). *College student pleads guilty in "sexting" crime*. CBS.

CBS. (February 25, 2010). *House committee passes bill to outlaw "Sexting"*. CBS.

Chicago Tribune. (April 15, 2009). *Nation to World*. Chicago Tribune.

Chicago Tribune. (February 5, 2009). *Beware of sexy text messaging*. Chicago Tribune.

Chicago Tribune. (March 27, 2010). *Sense on sexting*. Chicago Tribune.

Curran, J. (September 3, 2009). *Vt. teen sentenced to prison in 'sexting' case*. Associated Press Archive.

Dahlberg, T. (October 9, 2010). *Favre starring in one drama he wants no role in*. Associated Press Archive.

Dale, M. (January 15, 2010). *US court on 'sexting': Child porn or child's play?* Associated Press Archive.

DeFalco, B. (March 26, 2009). *NJ, 14, arrested after posting nude pics*. Associated Press Archive.

Ferguson, D. (November 23, 2010). *One year after scandal, Woods tries to move on*. Associated Press Archive.

Foley, R. J. (September 16, 2010). *Wis. prosecutor tried to keep 'sexting' case quiet*. Associated Press Archive.

Foley, R. J. (September 17, 2010). *'Sexting' Wis. prosecutor says he'll get therapy*. Associated Press Archive.

Foley, R. J. (September 20, 2010). *Wisconsin governor considers removing 'sexting' DA*. Associated Press Archive.

Foley, R. J. (September 22, 2010). *3<sup>rd</sup> woman says Wis. DA harassed her*. Associated Press Archive.

Foley, R. J. (September 24, 2010). *Wis. regulators reopen 'sexting DA' investigation*. Associated Press Archive.

Gram, D. (April 14, 2009). *Vt. may set aside harshest penalties for 'sexting'*. Associated Press Archive.

Hamill, S. D. (March 26, 2009). *Students Sue Prosecutor in Cellphone Photos Case*. New York Times.

Hamill, S. D. (March 31, 2009). *Pennsylvania: Judge Blocks Charges in Cell Phone Case*. New York Times.

Hammer, A. J. & Anderson B. (January 4, 2011). *Gone Too Favre?*. CNN.

Hammer, A. J. & Anderson, B. (October 12, 2010). *Favre Fallout*. CNN.

Hiestand, M. (October 25, 2010). *Talkers side with NFL on hard hits*. USA Today.

Irvine, M. (February 4, 2009). *Teens who 'sext' racy photos charged with porn*. Associated Press Archive.

James, O. (July 2, 2005). *He's Clean bowled by a sick need for pleasure*. Daily Telegraph.

Koch, W. (March 12, 2009). *More teens caught up on 'sexting' – Many don't realize they can be charged with porn*. USA Today.

Los Angeles Times (June, 1, 2009). *Keeping an Eye on 'Sexting'*. Los Angeles Times.

Manchir, M. (March 19, 2010). *No heavy penalties in sexting measure – Minors wouldn't face criminal case*. Chicago Tribune.

Myers, A. L. (June 4, 2009). *Man accused of posting sex assault live on Web*. Associated Press Archive.

New York Times. (March 25, 2010). *Prosecutors Gone Wild*. New York Times.

O'Reilly, B. (January 14, 2009). *Children at Risk*. Fox News Channel.

O'Reilly, B. (March, 15, 2010). *Eighth Grader Sells Nude Pictures of Girlfriend; Students in Trouble for Sexting*. Fox News Channel.

O'Reilly, B. (May 26, 2010). *Teacher Accused of Molesting Teen Boys*. Fox News Channel.

O'Reilly, B. (May 27, 2009). *Technology Increasing Sexual Behavior from Kids?*. Fox News Channel.

O'Reilly, B., Carlson, G., Hoover, M. (December 17, 2009). *Sexting a Growing Problem Among Teens*. Fox News Channel.

Palmer, B. (January 3, 2011). *State Legislature Tackles Pensions, Sexting, Blagojevich Portraits*. La Grange Patch.

Quiad, L. (December 3, 2009). *'Sexting' is more common than you might think*. Associated Press Archive.

Reimer, S. (December 18, 2008). *The Middle Ages: The Young and Sexting*. Los Angeles Times.

Richmond, T. (October 4, 2010). *Wis. prosecutor quits after 'sexting' abuse victim*. Associated Press Archive.

Rodriguez, M., Smith, H., Doane, S., Cordes, N., Gibson, K. (October 12, 2010). *CBS The Early Show*. CBS.

Rubinkam, M. (March 25, 2009). *Girls threatened with porn charge sue prosecutor*. Associated Press Archive.

Rubinkam, M. (March 30, 2009). *Federal Judge blocks charges in Pa. 'sexting' case*. Associated Press Archive.

Rubinkam, M. (March, 17, 2010). *Court: Pa. DA can't bring 'sexting' charges*. Associated Press Archive.

Rubinkam, M. (May 20, 2010). *Suit returns Pa. 'sexting' district to spotlight*. Associated Press Archive.

Schmadeke, S. (December 24, 2009). *Plainfield East engulfed in sexting – Student sent her nude photo to boy; then it went viral, cops say*. Chicago Tribune.

Scorsch, K. (January 29, 2010). *Sexting may spell court for children – Kids trading photos seen as child porn, which is a felony*. Chicago Tribune.

Scott, A. O. (July 11, 2010). *They Grow Up So Quickly, Don't They?*. New York Times.

St. George, D. (December 15, 2009). *In study, 1 in 7 U.S. Teens Say They're Recipients of 'Sexting'*. Los Angeles Times.

St. George, D. (February 22, 2009). *Texting Changes Life for Teens, Families*. Los Angeles Times.

St. George, D. (May 7, 2009). *Sending of Explicit Photos Can Land Teens in Legal Fix*. Los Angeles Times.

Steinberg, S. (July 21, 2010). *'Sexting' surges nationwide, and its not just teens doing it – Young people must be careful, experts say*. USA Today.

Stevens, H. (January 4, 2009). *'Sext' education for parent, daughter*. Chicago Tribune.

Story, J. (January 16, 2011). *Flirting with a felony*. BGDailyNews.com.

USA Today. (May 11, 2009). *Create consistent laws on 'sexting'*. USA Today.

USA Today. (May 5, 2009). *To deal with 'sexting' XXXtra discretion is advised*. USA Today.

Velez-Mitchell, J. (October 20, 2010). *Girl Pleads for Help Against Abuser on Facebook; Are Drugs Key to Finding Missing Girl?*. CNN.

## Vita

Brandon S. Marker  
Eastern Kentucky University  
Department of Criminal Justice  
Brandon\_Marker@mymail.eku.edu  
270-723-2963

### Education

May 2011 Eastern Kentucky University - Masters of Science in Criminal Justice.  
Thesis: *Sexting as Moral Panic: An Exploratory Study into the Media's Construction of Sexting*

May 2009 Eastern Kentucky University – Bachelors of Science in Criminal Justice.

### Academic Employment

May 2010 – Present. Graduate Assistant – Dr. Victor Kappeler

January 2010 – May 2010. Graduate Assistant – Dr. Terry Cox & Dr. Bill Nixon

### Areas of Specialization

Sexual Deviance, Social Construction, Qualitative Research Methods

### Conference Participation

2010 Participant. The American Society of Criminology – San Francisco, California.