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Cellphones, Sexting And Crime: An Examination Of College Student Practices

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CELLPHONES, SEXTING AND CRIME
AN EXAMINATION OF COLLEGE STUDENT PRACTICES

by

Melissa J. Spelchen
Bachelor of Science, Minot State University, 1999
Master of Science, Minot State University, 2004

A Dissertation

Submitted to the Graduate Faculty

of the

University of North Dakota

in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

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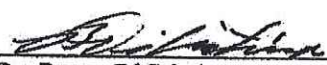
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This dissertation, submitted by Melissa J. Spelchen in partial fulfillment of the requirements for the Degree of Doctor of Philosophy from the University of North Dakota, has been read by the Faculty Advisory Committee under whom the work has been done and is hereby approved.


Dr. Wendelin Hume, Chairperson

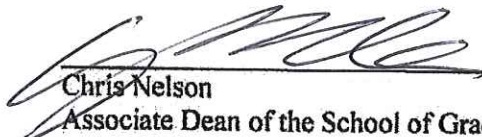

Dr. Michael Meyer


Dr. Martin Gottschalk


Dr. Bruce DiCristina


Dr. David Yearwood

This dissertation is being submitted by the appointed advisory committee as having met all of the requirements of the School of Graduate Studies at the University of North Dakota and is hereby approved.


Chris Nelson
Associate Dean of the School of Graduate Studies

1/6/20
Date

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Department Criminal Justice
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Melissa J. Spelchen
December 11, 2019

TABLE OF CONTENTS

LIST OF FIGURES	ix
LIST OF TABLES	x
ACKNOWLEDGEMENTS	xii
ABSTRACT	xiii
CHAPTER	
I. INTRODUCTION	1
Statement of the Problem	1
Purpose of the Study	3
II. REVIEW OF THE LITERATURE – CELLPHONES, SEXTING AND CRIME: HOW DID WE GET HERE?	6
Technological Changes in Communication	7
Telephone, Camera and Internet: The Chronological Evolution	8
Telephone	8
Camera	14
Internet	17
Sexting Definitions	23
Sexting Evolution	25
Technological Communication and Relationship Evolution	27

A Demographic Portrait of Those Who Sext.....	33
Age.....	35
Race.....	36
Gender.....	37
Relationship Status.....	38
Group Being Studied.....	38
Sexting Motivation.....	40
Revenge Porn: The Motivation to Harm.....	43
Victimization Transforms into Cybervictimization.....	46
Cybervictimization: Immediacy, Permanency, and Vastness.....	49
Immediacy.....	50
Permanency.....	51
Vastness.....	52
Legislation.....	54
Introduction.....	54
History.....	55
Forwarding Sexts for Revenge Identifies a Gap in Legislation.....	60
Current Laws.....	61
ND Specific.....	63
Need and Direction of the Study.....	67
III. METHODS.....	69
Study Population.....	70

Research Questions.....	70
Online Questionnaire	72
Sampling Method.....	76
Research Ethics.....	79
Demographics of the Survey Participants.....	80
Analytical Strategy.....	83
IV. FINDINGS	86
Research Question Results.....	86
Research Question 1	86
1a) Profiles of sexters v. non-sexters	86
Sexting activity	88
Those who do not sext	89
1b) The sexters	89
The conformists	90
Non-conformists	92
1c) The victims	93
Differences among profiles.....	96
Research Question 2	97
Research Question 3	100
Research Question 4	104
Motivations of all sexters.....	104
Motivations of conformists.....	106
Motivations of non-conformists.....	107

	Motivations of victims of non-conformist sexts.....	109
	Research Question 5a.....	110
	Research Question 5b	116
	Research Question 6	118
	Research Question 7	124
	Research Question 8	127
V.	CONCLUSIONS.....	129
	Discussion.....	129
	Limitations	144
	Findings and Directions for Future Research	147
	Conclusions.....	149
	APPENDIX: Survey	152
	REFERENCES	173

LIST OF FIGURES

Figure	Page
1. Impact of cell phone technology on sexting	100
2. Education about negative outcomes of cellphone use	117
3. North Dakota criminal and civil remedy awareness	126

LIST OF TABLES

Table	Page
1. Overall Sample Demographics vs. Minot State University Demographics.....	82
2. Demographics for Self-Reported Sexters v. Non-Sexters	87
3. Crosstabulation of Age and Sexting	89
4. Crosstabulation Relationship Status and Sexting	90
5. Demographics for Conformists, Non-Conformists, and Uncertain Sexters	91
6. Crosstabulation of Conformists/Non-Conformists/Uncertain Sexters and Gender.....	92
7. Demographics of Victims, Non-Victims and Uncertain Victims of Non-Conformist Sexts.....	94
8. Crosstabulation of Victimization and Gender.....	95
9. Crosstabulation of Victimization and Age.....	95
10. Sexters and Non-Sexters	98
11. Crosstabulation of Sexting and If Sexting is Common Among College Students.....	98
12. Crosstabulation of Age and Other Device	99
13. Non-Conformists or Uncertain Sexters.....	103
14. Self-Reporting of Acts That Would Violate Elements of the ND Century Code Prohibiting the Distribution of Intimate Images	103
15. Questions That Determine Victims of Violations of Criminal Elements According to the ND Century Code	104

16.	Motivations for Sending, Receiving, and Forwarding Sexts	105
17.	Motivations for Sending, Receiving and Forwarding Sexts for Conformist Sexters.....	107
18.	Motivations for Sending, Receiving and Forwarding Sexts for Non- Conformists.....	108
19.	Motivations for Sending, Receiving and Forwarding Sexts for Victims of Non-Conformist sexts	110
20.	Emotional Impact of Sexts.....	112
21.	Sexts Threatened, Shared or Posted Without Consent.....	114
22.	Crosstabulation of Victimization and Sexts Without Your Consent to Multiple People.....	115
23.	Crosstabulation of Victimization and Posted to a Website Without Your Consent	115
24.	Crosstabulation of Victimization and Education Given	117
25.	Perceptions of Legality of Sexting Acts in the Context of North Dakota Law 12.1-17-07.2. Distribution of Intimate Images Without or Against Consent	120
26.	Participation Likelihood for Conformist/Non-Conformist Sexters After ND Legislation Awareness	123
27.	Crosstabulation Victimization and Being Aware of Criminal Remedies Prior to being Shown ND Legislation.....	125
28.	Crosstabulation of Victimization and Being Aware of Civil Remedies Prior to Being Shown ND Legislation	126
29.	Past Reporting by College Students of Illegal Sexting.....	127
30.	Future Reporting by College Students of Illegal Sexting	128

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ABSTRACT

This exploratory dissertation research involves assessing the prevalence of sexting (sending, receiving and/or forwarding of sexually explicit images with your smart phone) that is taking place among young adults on a Midwest college campus. Other key findings include: a profile of those who sext whether in a conformist or non-conformist manner, and those who do not sext, profiles of and the toll on self-reported victims of the behavior, sexting motivations, and the possible connection to prevalent smart phone ownership. In addition, North Dakota is one of a few states that has a law prohibiting some forms of sexting; therefore, this research probes the perception of legality of sexting and its impact on sexting behavior. Of the 624 college student participants, 410 (65.7%) indicated that they have sent, received and/or forwarded sexts, while 214 (34.3%) do not sext. Of the 410 sexters, only 22 (5.4%) indicated sexting in a non-conformist way according to the North Dakota century code. There were 72 (17.6%) sexters who identified as victims of non-conformist sexting according to North Dakota century code. Of those who sext, most are motivated in a way that is sexual in nature or to provide a joke/fun. After being provided the language of the North Dakota century code which prevents the distribution of intimate images without or against consent, most indicated that they have not sexted in a non-conformist manner and will not in the future. In addition, most participants have not reported any illegal sexting to law enforcement or university officials, but the vast majority said they would so in the future.

CHAPTER I

INTRODUCTION

“Any social problem that exists at the intersection of adolescence, sex, technology and criminal law compels strong reactions from all sides” (Leary, 2010, p. 487).

Statement of the Problem

Data trends indicate that smart phone use has rapidly increased over the past decade (Pew Research Center, 2014). In 2017, smartphone ownership for American adults was 77%; and 92% of those who were aged 18-29 years old owned a smart phone (Pew Research Center, 2018). “For 2017, the number of smartphone users in the United States is estimated to reach 246.6 million, with the number of smartphone users worldwide forecast to exceed 2 billion users by that time” (Statista, n.d.-b, para. 1).

Such growth in smartphone usage facilitates economic activities like fingertip banking, communicative activities like texting rather than calling, and increased interaction with your social network. As cell phone technology was advancing at a more rapid pace than our North Dakota state laws, with no education on the potential negative outcomes of sexting in place, a segment of the population began using cell phone technology in a way that had the potential to victimize others. The behavior was sexting: sending, receiving and/or forwarding sexually explicit photos.

The following tragic death motivated the current dissertation research. In March 2008, 18-year-old Jessica Logan, from Cincinnati, Ohio, sent a nude image of herself to her boyfriend via her cell phone. Once the relationship ended, her then ex-boyfriend, 18-year-old Ryan Salyers sent the photo to a few of his classmates and friends through email and sext forwarding. Those students then continued to forward the image, which ended up in the hands of many students at four different high schools. Jessica asked her high school guidance counselor, who had helped a minor previously who was a victim of a sext that had been sent, for help. However, neither he nor law enforcement could offer any real assistance because there was no law to help her since she was 18, and now technically considered an adult in the United States legal system. In addition, it had been her choice to send the initial photo. Harassment of Jessica continued, and she received an onslaught of name calling including “slut” and “whore” in person, on the phone and on the internet. Jessica’s initial choice was sending the explicit photo of herself to her boyfriend at the time (known as primary sexting; where the person depicted in the photo is actually the originator). Jessica graduated from high school in May of 2008, and at her own graduation ceremony and various parties, she had items thrown at her. The barrage of negativity and bullying as a result of the shared photos led to Jessica’s severe depression. In July of that same year, Jessica hung herself in her bedroom, just four months after the original sext was sent by her (Klemack & Kandel, 2014; Richards & Calvert, 2009; Ryan, 2010).

As a result of this case and others, the part of the sexting behavior that many states recognized as criminal was in the intent of the original recipient who later forwards the nude picture without the consent of the person in the image. If the original purpose of

sending a nude photo of one's self was to satisfy a relationship request or desire, it is implied that the photo would remain within the privacy of that relationship. If the person who has the sexually explicit image shares it with others without consent of the person in the image, it has the potential to hurt someone's feelings and essentially harm someone's future. The new laws strive to protect that person in the image no matter whom originally took or sent the photo. The sexting legislation which has been created by various legislators across the nation tends to focus on when persons forward sexually expressive images without the consent of the individual in the image, violating one's reasonable expectation of privacy, and to cause actual emotional distress or harm.

Purpose of the Study

The purpose of this study is to explore college student's sexting behaviors using their cell phones. The study will examine the prevalence of sexting behavior; the influence of cell phone features on sexting behavior; the education provided to respondents on possible negative outcomes of certain types of use of the capabilities of a cell phone; the demographics of those that are sexting compared with those who are not sexting; the reasons for sexting; who is being victimized by potentially illegal sexting; the perceived positive or negative outcomes of sexting; the prevalence of conformist and non-conformist sexting according to the relevant North Dakota statute; and respondents' legality perceptions of the North Dakota statute and of criminal and civil remedies. A survey was made available online, hosted by the North Dakota University System Qualtrics software program. It incorporated quantitative questions, likert scale questions, yes/no questions and a few qualitative options for the survey participants. The data for this research was gathered from a convenience sample of Minot State University students

ages 18 or older. This dissertation consists of five chapters, beginning with chapter one which provides the statement of the problem and purpose of the study.

Chapter two provides a literature review on the existing information regarding the phenomenon of sexting. To properly address how sexting originated, a historical look will be presented of the development of the telephone to the smartphone, the development of the stand-alone camera to the camera being placed within the mobile cell phone, and internet capabilities within the smartphone. An examination of various published definitions of sexting will take place and a working definition of sexting for this research will be created. An analysis of the origination of messaging, to instant messaging, to sexting will be included. This will lead to the possible impact of technology on this type of communication and how that may influence relationship development.

Age, race, gender, and relationship status of those who sext is presented along with information on the group being studied. The motivations for sexting are provided along with literature on revenge porn, the specific type of sexting that many states have addressed in a legal manner. Victimization is discussed in general terms and then a focus on cybervictimization is more specifically covered including the sexting and smartphone aspects of immediacy, permanency and vastness.

Also, in Chapter two is the history of legislation as it applies to sexting including the first amendment, obscenity laws and caselaw, sexting caselaw, and the North Dakota century code on obscenity. More specificity is provided on forwarding sexts for revenge as the premise for changing legislation. The North Dakota laws on sexting are chronicled including the initial legislation in 2009, the amendment in 2011 and the current law of

2015 that provides criminal and civil remedies. Finally, the need and direction of the study is presented at the conclusion of the chapter.

Chapter three will cover the research questions and methods including the reasons for the chosen study population, the presentation of the research questions, the formation of the online questionnaire, the sampling method, research ethics, the demographics of the survey participants and the analytical strategy.

Chapter four provides the results and analysis of the data collected. The analysis is related to the eight research questions. This analysis will address topics from the survey including: role of the smartphone, sexting prevalence, sexting behavior and its conformity, perceived sexting victimization, motivations of sexting, perception of sexting behaviors as criminal, sexting behavior change after awareness of the statute, and reporting practices.

Chapter Five discusses broader conclusions, contribution to the emerging empirical picture of the sexting phenomenon and ideas for future research.

CHAPTER II

REVIEW OF THE LITERATURE – CELLPHONES, SEXTING AND CRIME:

HOW DID WE GET HERE?

Sexting has evolved from a form of sexual relationship development, to potential criminal activity with real victims. Prior studies have focused on the prevalence of sexting behaviors as well as providing an overall discussion of the slowness of criminal laws to properly address these actions (Gordon-Messer, Bauermeister, Grodzinski, & Zimmerman, 2013; Leary, 2010). This study will create a profile of who is sexting at one North Dakota university, measure the overall prevalence of the sending, receiving and forwarding of sexts among those college students, and examine their motivations for sexting. In addition, it will assess the specific amount of sexting that possibly violates the North Dakota century code prohibiting aspects of the behavior and gauge the student's awareness of these laws and remedies. Many states have created new laws for adults specifically addressing the forwarding of sexts, wherein some laws include the illegal elements of violating one's reasonable expectation of privacy, without consent, and to cause actual emotional distress or harm. This study will measure conformist and non-conformist sexting prevalence and motives in a state where new legislation has been created providing criminal and civil remedies addressing aspects of sexting behavior. This literature review begins with the historical development of the phone, camera and internet and their impact on communication.

The sexting definition for this study will be determined in addition to discussion on the evolution of sexting. Technological communication and its impact on relationship evolution will be examined, a demographic portrait (age, race, gender, relationship status) of those who sext according to previous studies will be presented as well as a description of the groups being studied. Sexting motivations will be reviewed and the reasons for the revenge porn upsurge and its definition will be examined. An analysis of victimization transforming into cybervictimization as well as the aspects of immediacy, permanency and vastness leading to cybervictimization will be discussed. The history of legislation related to sexting and revenge porn is discussed and detail on current laws specifically those in North Dakota are provided. The need and direction of the study will conclude Chapter 2.

Technological Changes in Communication

Three key inventions in the past century that have changed the way people interact are: the telephone, the camera and the internet (Ahn, 2011; Beaver, Knox, & Zusman, 2010; Chalfen, 2009). The combination of these three inventions has resulted in the behavior known as "sexting".

Country music artist, Miranda Lambert recorded a song in part about relationships and communication entitled "Automatic" in which she says, "if you had something to say you'd write it on a piece of paper, then you put a stamp on it, and they'd get it three days later." Letter writing was an early means of relationship development when in person interaction was challenging due to the physical distance between two persons. In many situations, it took numerous days for a letter to be received by the intended recipient. Letters being sent overseas during the World Wars would take weeks, even months, to be

received. Typically, unless you were in a jail, prison or a military platoon (where communications are monitored), the likelihood of a letter being read by someone other than the intended recipient was highly unlikely. Letters were private, between the writer and the receiver. In addition, letters were a lifeline for the relationship between two people, whether the content of the letters was prosaic or provocative. Letter writing was not available to everyone because it was impacted by literacy and the ability to purchase the materials to write a letter: paper, envelopes, pens and stamps. Therefore, letter writing was useful to those with the means to accumulate the items to produce the letters, as well as to those who were educated and could read and write (Lambert, Galyon, & Hemby, 2014).

Telephone, Camera and Internet: The Chronological Evolution

Telephone

The next form of communication that was used to maintain and develop relationships was the telephone which was first invented in 1876. The invention of the telephone created an alternative to face to face interactions and allowed for real time communication without the need for physical proximity. From the initial invention of the telephone to the smart phone and its expanded capabilities, the telephone has had a significant impact on society (Borelli, 2013).

Phones did not become prevalent in many households and other locations until the 1920s-1940s. Initially most homes or businesses had one phone, wherein the principal privacy issue was that most were maintained by a switchboard and consequently there was the ability for third person monitoring. In addition, the phone was hardwired into the wall through a phone jack, which meant that the phone was not portable. Given the

permanent physical location of the phone, there was little privacy and always a potential for others to hear information not intended for them, whether willingly or unwillingly. So consequently, many people filtered what they would say (Morris, 2015).

In the 1980s with the addition of multiple lines to homes, an ability was created for more than two people to converse and listen in multiple locations. However, any phone could become a hub for prying, or simply overhearing discussions taking place between two parties. Also, in this decade, answering machines for home phones allowed messages to be recorded and listened to later. The potential to hear the message and purposefully return that phone call or not, could lead to communication avoidance. The actions could include deleting the message on purpose or by accident, misinformation by other members of the household regarding the message left on the recorder, and the hearing of messages meant for other people (Zigterman, 2013).

Movement throughout the home or business while on the phone became available with the invention of the cordless phone. Instead of being attached to one spot with the receiver and the base as one unit, the cordless phone allowed the user to move freely, as long as they remained within a signal range of the base unit. This movement with the cordless device, could enhance the potential for privacy as you could move to a secluded location, as long as you stayed within range of the base unit. In the mid-1990s, caller identification on the device, added to communicative flexibility, as it gave the recipient of the phone call the choice to answer or not answer the incoming call of the identified party. What followed was the choice to be honest or not about whether they answered and heard the voice mail, and/or saw the caller id list (Zigterman, 2013).

Wireless mobile/cellular phones were created in the early 1970s. Each phase of mobile cell phone development influenced the population at that time (Chheda, 2016). Although the first mobile phone was made available to the public in the early 1980s, it was not until the mid-1990s when the sale and prevalence of cellular devices significantly increased. The initial purpose of the cordless phone was strictly for phone calling and this was done through telephone communication systems, not internet connections. The mobile cell phone originally was cumbersome with battery power that made the phone almost a hassle to deal with versus the landline. The first handheld cellular phone, released in 1984 entitled the DynaTAC8000X (also known as “the brick”), weighed almost two pounds with dimensions of 13 x 1.75 x 3.5 inches, it offered just a half-hour of talk time for every recharging and sold for a “modest” \$3,995 (NBC News, 2005; Zigterman, 2013). Not surprisingly, most of these initial mobile cell phones could only be afforded by wealthy adults.

Hyped as the first smartphone, in 1994 IBM and BellSouth created what was known as a personal digital assistant or Simon Personal Communicator. Due to Simon’s incredible cost and weight, it took almost a decade for smartphones to be attractive and affordable enough for the mass public to purchase. Nonetheless, by the late 1990s, cell phones did maintain calls, and also allowed a limited number of characters for texting and had integrated cameras, albeit relatively low quality ones.

A modern smartphone, which is far more advanced from the original mobile cell phone of the 1970s, 80s and 90s, is:

a cellular telephone with built-in applications and Internet access. In addition to digital voice service, modern smartphones provide text messaging, e-mail, Web

browsing, still and video cameras, MP3 player and video playback and calling. In addition to their built-in functions, smartphones run myriad free and paid applications, turning the once single-minded cellphone into a mobile personal computer. (PCMag, n.d., para. 1-2)

In the 2000's, smartphones had incredible clarity in calling, internet use and video phone calling, extensive texting, a contact list and clear videos and pictures. A large step towards our modern smartphones happened in 2002 with the creation of the Blackberry, known as the corporate smartphone. It became widely popular and assembled a large consumer following. But the Apple iPhone, originally created and distributed in 2007, was perhaps the single gadget that changed the face of cellular technology. Today's smart phones and tablets provide for significant battery life, messaging, video calling, extensive web-based contact list, clarity of photos to the highest degree and a large amount of storage for memory. The combination of the phone and the internet has given people immediate access to the internet to be able to connect twenty-four hours a day, without needing a desktop computer. Duggan and Smith (2013) state for instance: "Nearly two thirds (63%) of cell phone owners now use their phone to go online" (p. 2). In the past decade, the cell phone has evolved from a luxury item used primarily within a business setting, to an important product for every individual as it fosters (or hinders for some) relationships; whether familial, social, or business (Beaver, Knox & Zusman, 2010). In addition, as cell phones evolved and became sleeker and more advanced, ownership has grown, and more attention was placed on the quality of the camera. "Ninety three percent of those aged 18-24 use cell phones and most of these have built in cameras" (Chalfen, 2009, p. 258).

According to the Pew Research Center (2018), 95% of persons own a cell phone, with 77% of those having a smart phone. Smartphone ownership is balanced among men and women, and among races. In 2011, 54% of all mobile cell phone users used their device to send a photo or video, but the percentage of specifically smartphone users who sent a photo or video was much greater (80%; Smith, 2011). In addition, greater education and higher household income increases smartphone possession. Besides sending images, smartphones have become a personal pocket computer. By 2014, “34% of cell internet users go online mostly using their phones, and not using some other device such as a desktop or a laptop computer” (Pew Research Center, 2014, para. 11).

Access to persons, places and all types of knowledge is literally at your fingertips. It is more common today to search for information, email or text on your mobile devices versus physically going to a library, internet cafe, or your office desktop computer, to acquire information or communicate with others. Computers, smart phones and the internet have changed many routine activities such as basic information sharing, shopping, and relationship development. It is virtually unheard of to go a full day without checking your cell phone.

Smartphones enable numerous forms of communication, whether over the phone, through an image or via the texting function. Texting has been the fastest growing form of communication ever created. “The number of text messages sent monthly in the U.S. exploded from 14 billion in 2000 to 188 billion in 2010, according to a Pew Institute survey, and the trend shows no signs of abating” (Kluger, 2012, para. 3). “Americans send greater than 2 trillion text messages annually” (Benotsch, Snipes, Martin, & Bull, 2013, p. 307). In many situations, texting is like hiding in plain sight by avoiding actual

voice conversations either in person or on the phone. The ability to read the body language and eyes as well as listen to the intonation of the voice of the individual you are communicating with is important in the development and sincerity of relationships. Texting provides the ability to avoid that however, it can also create an environment of misinterpretation.

Americans ages 18-29 send and receive an average of nearly 88 text messages per day, compared to 17 phone calls. The numbers change as we get older, with the overall frequency of all communication declining, but even in the 65 and over group, daily texting still edges calling 4.7 to 3.8. (Kluger, 2012, para. 4)

According to the Pew Research Center (2014), the frequency of texting was split into three levels:

Light messengers who send and receive somewhere from 0 to 20 messages on a typical day; medium messengers who send and receive 21 to 100 texts a day and heavy texters who send and receive more than 100 texts a day. (p. 13)

With the development of new applications like Snapchat and Instagram, the large amount of texting now coincides with photo taking and sharing on mobile cell phones. “People worldwide will send 8.3 trillion text messages in just this year alone. That’s almost 23 billion messages per day, or almost 16 million messages per minute” (One Reach, 2015, para. 2). According to an article in 2016 that was recently updated:

Snapchat had 100 million active daily users while Instagram had 75 million but 400 million monthly active users. There are approximately 400 million snaps sent each day and 8 billion video views on Snapchat, while Instagram has 80 million

photos posted each day but their like button is clicked 5 billion times per day.

(Gotter, 2016, para. 13)

Camera

The camera and the ability to take quality images has evolved over the past century as well. From stand-alone cameras to immediate film development with a Polaroid, to quality cameras within your smartphone, these advancements have impacted how history is documented. The addition of the camera to the telephone, has transformed the mobile cell phone and influenced human relationships.

Prior to the camera being a central part of a smartphone, cameras were independent pieces of equipment, used solely for photo taking. According to the Photographic Resource Center at Boston University (2016), at about the same time that land lines became exceedingly popular in the 1960s, a new type of camera arrived on the market called a Polaroid which allowed for instantaneous photograph development. This was a far stretch from the previous models of cameras that involved properly installing a roll of film, taking enough photos until the roll of film was fully used, properly removing the film, dropping off the film to be developed where it was handled and viewed by others, hoping the film would be developed properly, waiting days for the development and then finally returning to the merchant and then having the photos in your possession. Originally, the novelty of having a photo in your possession immediately via the Polaroid camera, was offset by the expense of the film cartridges and therefore persons were conservative with their use. Once mass production began to take place, the ability for the average person to regularly take and retain or give “suggestive” photos became an option. In most situations, if an exchange of Polaroid pictures of a provocative nature took place,

it was frequently one on one and in private. Occasionally, an early form of forwarding took place when a person passed around a single Polaroid nude picture to show to their friends. Even once the copier was established (early 1980s), photocopies of these pictures were rare, and when shared, you had to hand the copy over or mail it with a return address, therefore usually giving up your identity.

As the mobile cell phone was increasing in popularity, so was the digital camera and the internet. The advent of the digital camera brought with it more technological capability including the ability to take countless photos via a memory card. At the time, users were still printing off photos and creating photo albums. Once the internet became more and more popular, sending photos to numerous people via this digital electronic method was made possible, although it was tedious and time consuming to enter email addresses and attach photos one at a time. Not all persons owned or had access to a computer, and if they did, the images would take up much of the space in the computer's hard drive. The time involved, from composing the message, attaching the photos and sending, gave people the ability to reflect on what they were doing and to contemplate the possible consequences of their actions. Depending on the type of photos they were sending and who they were sending them to, they had time to make the thoughtful choice, about whether mass distributing was appropriate or not (Curtin, 2007).

The addition of a camera to the mobile cell phone in 1997, moved the photo taking and message sharing abilities of the public from the home and laptop computer to the smartphone and, thus, to the masses, any time, or anywhere. This rapidly evolving technology has made stand-alone cameras almost obsolete for most people. The camera quality in mobile cell phones has quickly improved to the point that when photos are

taken, the majority of people use their phones and not separate cameras. Such photos and videos are well-defined and vibrant. Now, when anyone wishes to share pictures, they pull out their phone, so our phones are now our portable and immediately available photo albums as well (Curtin, 2007).

The addition of the camera to the smartphone expanded the ability of sexually explicit images to be taken by anyone, anywhere, and with less effort and time. The images are then capable of being placed on the internet and being sent to persons both willing and unwilling to receive them. The sending of sexually provocative words and pictures through their mobile devices has become a common way to flirt and interact with other persons who have similar devices. This is primarily known as sexting, wherein sexually explicit and provocative photos can be sent, received, and forwarded. Weiss & Samenow (2010) provide a table regarding the evolving intersection between sex and communication technology entitled The Sexual Access Timeline:

- 1) Prehistory to approximately 1890: cave art, prostitution, affairs, harems, compulsive masturbation to fantasy
- 2) 1890 to late 1970s: photographic porn, film, porn theaters, strip clubs, bath houses, adult bookstores
- 3) 1977-1990: VCR & Beta, Phone Sex
- 4) 1990-2004: Bulletin Board (BBS) and newsgroups, Chat Rooms, Porn websites, webcam's, Craig's List, interactive online sex, online hook-ups, and prostitution sites
- 5) 2004 to the present: Smartphones with GPS locators, Social Networking (Facebook, Twitter, LinkedIn), Virtual World Sex, Sexting

6) And coming your way very soon: Virtual Sex/Teledildonics. (p. 242)

Internet

Over the past half a century, many people have had their lives significantly altered by communication related technology. The internet has impacted how we gather and how we access information. The connection of technological devices and the internet has triggered many different modes of communication which have impacted the breadth and nature of relationships. The method by which we access the internet and make connections with others has evolved quickly and become more accessible as we transitioned from stationary computers, to large mobile cell phones, to mobile lap top computers, to mobile tablets, to mobile smart phones (aka compact computers for your pocket). As Renfrow and Rollow (2014) detail:

From the widespread accessibility of private automobiles and young people's newfound privacy to their more recent reliance on online and speed dating (e.g., Match.com®), new technologies continue to shape who meets whom, where and how these encounters unfold, and how couples spend time together. Personal choice and individual taste direct romance scripts in unprecedented ways. The recent explosion in online pornography, social media (e.g., Facebook), and global positioning system (GPS)–based smart phone applications (e.g., SinglesAroundMe, Grindr) broaden opportunities for diverse sexual experiences on one's own and with other people. Technology's sustained infiltration into each of these areas increasingly marks a shift toward private lives that merge real and virtual experiences. (p. 904)

Computer ownership and access to the beginning of the Internet, was available to the government and large corporations in the 1950s. These mainframe computers were astronomical in size and expense. The cost and size of technology limited any personal and widespread availability. Smaller networked computers became available to the general public in the early 1960s, albeit mainly restricted to large room use in libraries and universities that could afford a computer portal or two. As computer technology evolved, the Internet continued to grow with the first network email being sent in 1971. Personal, portable and laptop computers were invented and available to those who could afford them in the mid-1970s. Personal computers, which became more widespread in homes during the 1980s, impacted document creation and editing (Peter, 2004).

Portable computers and laptops gained mass popularity in the early 1990s, but it was not until 1995 when the Internet was more established that email, for both business and personal use, became widely used. With email, you could send, reply and forward attachments, including pictures. This method of communication was an early precursor to both texting and sexting. With the invention of the smart phone and the ability to gain access to the internet, emailing became prevalent on the new mobile devices. In addition, with the internet, you could send provocative pictures and messages (Peter, 2004).

For generation x and early millennials, it is difficult to even comprehend or remember life prior to the internet. “In today’s world, it is almost impossible to go a day without going online” (Sweeney & Slack, 2017, p. 246). Computing and the internet are one of the fastest growing and all-encompassing technologies ever invented. How we access the internet has evolved quickly: from the desk top computer situated in people’s home or offices to laptops; tablets and smart phones that allow you to view the internet

from wherever you are; you can communicate with words, pictures and videos almost instantaneously. It is safe to say that a large percentage of young adults utilize the internet for various activities. “A steadily growing number of people, 801.4 million, access the Internet worldwide, with users spending an average of 9.6 hours per week visiting more than 200 million web sites” (Perry, Accordino, & Hewes, 2007, p. 322). Since the mid- 1990s when the internet became a regular part of most people’s daily life, society has grappled with the desirable and undesirable interactions facilitated by this evolving technology.

With the powerful combination of these technologies (smart phone, camera, internet), instant communication has taken on many different forms. These now include texting, sexting, and posts on social media such as Facebook, Twitter, Instagram and Snapchat. Most of these forms of communication are conducted on a person’s smartphone, producing consistent and lengthy daily use for something other than what the cell phone was initially created for, phone calling. This new use of technology has been referred to as technicways. “Technicways are habits and customs that develop as adjustments to innovations of science and technology...they are patterns in behavior that come about as a response to innovative new technologies” (Reyns, Burek, Henson, & Fisher, 2011, p. 2). The technicway that has resulted from the intersection of cellular phones and the internet is instant communication, including sexting.

The very first social network site was released in 1997 entitled Six Degrees. Social media has become a main form of communication and subsequently, according to Statista (n.d.-a) “there are currently 3.58 billion users of the internet worldwide” (para. 1). The lack of comprehension about the permanency of communication on the world

wide web, leads to a vulnerability as Hendel explains: “we live naked on the Internet...in a brave new world where our data lives forever” (Ambrose, 2013, p. 11). According to Fowler (2012), during mid-September of 2012, Facebook historically signed up its 1 billionth user (8.7% of users are considered “fake”), with the median age of users being 22. According to Zephoria (2018), “age 25-34 is the most common age group for Facebook use with photo uploads totaling 300 million per day” (para. 3). According to Zephoria (2018), “worldwide there are 2.20 billion monthly active Facebook users with 1.15 billion mobile daily active users” (para. 4). Although Facebook is a worldwide phenomenon, the United States is still the country with the most users.

Although the first Blackberry, which was a smartphone and had a camera, was available to the public in 2002, sexting was not reported until 2005. Originally considered “home-made” pornographic images, these images could be sent with or without accompanying text. The media assisted in originating the term “sexting” after many young adults across the nation began transmitting these photos among each other with their cellular devices. It began with sending a text and attaching a provocative photo with your mobile phone, to the use of instant messaging with your smartphone which has various applications such as Snapchat, Instagram, Twitter and Facebook. “A family research council study in 2009, surveying a nationally representative sample of 653 teens (13-19) and 627 young adults (aged 20-26) reported 1 in 5 teens and 1 in 3 young adults have sent or posted semi-nude or nude images of themselves in cyberspace” (Chalfen, 2009, p. 258). (Beaver et al., 2010; Benotsch et al., 2013; Chalfen, 2009, Podlas, 2011)

Created in 2006, Twitter is a social network and micro blog that allows the registered user to send and read “tweets” or immediate text messages up to 280 characters

each. “Currently there are over 330 million tweeters worldwide monthly that create almost 500 million tweets per day on Twitter and 80% of users tweet primarily on their mobile phone” (Omnicores, 2019c, para. 1). Not only do written messages that are sexual in nature exist, Twitter also allows the sending of images and/or videos. Removal of inappropriate activity can take place by the Twitter management, but damage to the victim is typically done by the time the removal of the image takes place.

Apple and the initial release of the iPhone in 2007 have changed the landscape for mobile smartphones and the ability to communicate instantly. With that, an exclusive free application for the iPhone, entitled Instagram, was invented and launched in October of 2010, with 25,000 users on its first day. This social sharing application, primarily for photographs, has almost become a stand-alone social network, and its goal for the consumer is to provide a service where a person could “quickly upload, prettify through the use of filters, and publish images to the Web for friends to see” (Swisher, 2013, para. 3). Users are able to upload a photograph from their library or take a photo, alter the look with digital filters, and immediately post it to a number of social network sites such as Facebook or Twitter. Popular photos from all over the world are placed under the “popular tab” and Instagram users can follow each other. Within 18 months, Instagram had 30 million iPhone users (Kay, 2012; Swisher, 2013).

Instagram then introduced a version for Android users and quickly amassed one million of those owners in a single day. With Instagram users increasing rapidly, there is a likelihood that more sexually explicit pictures will be posted. Due to its popularity, Instagram has become available to all other mobile phones now and has over “1 billion active monthly users and 500 million plus daily users worldwide with 100 million plus

photographs and videos uploaded per day” (Omnicores, 2019a, para. 1). It was bought recently by Facebook for 1 billion dollars (Kay, 2012; Swisher, 2013).

Snapchat, is a smartphone application that incorporates the potential for sending sexually explicit images (although that was not the purpose primarily intended by the originators, who recently turned down \$30 billion dollars from Google for the sale of their creation). “Snapchat currently has 310 million plus active monthly users, and 190 million daily active users wherein 3 billion snaps (photos and videos) are created everyday” (Omnicores, 2019b, para. 1). Snapchat foregoes many of the restrictions that Facebook and other social networks have created. For instance, Snapchat allows the sending of seemingly disappearing photos and messages. You take a picture or video, send the picture or video and it will “self-destruct” in your chosen amount of time of 10 seconds or less. What this has created is the perfect environment of sending sexually explicit photos and videos in a seemingly safe environment since the senders are told the images will be destroyed within seconds. What young adults do not realize is that these pictures and videos that they think are destroyed, really are kept on Snapchat servers, at the potential mercy of eventual hackers and technology gurus. Users have also figured out ways to preserve screen shot snaps that are meant to self-destruct, therefore violating the original use and purpose of this app (Day, 2010; Heath, 2017; Henderson, 2011; Leary, 2010; Poltash, 2013). “In February 2013, Snapchat was the second most popular free photo and video sharing app for the iPhone, just behind YouTube and ahead of Instagram” (Poltash, 2013, p. 10).

Sexting Definitions

The combination of the telephone, the camera and the internet, known now as a “smartphone”, allow for sexting. Over the last decade, different research articles have established many different definitions of sexting. For example, Podlas (2011) stated that sext messaging is “sending a sexual photo or message by text” (p. 2). Walker, Sanci, and Temple-Smith (2013) coined sexting as “the production and distribution of sexually explicit images via communication technologies” (p. 697).

There are aspects of the following detailed definitions that led to the definition of “sexting” used for this research. “The Pew Internet & American Life project pigeon holed sexting as the creating, sharing and forwarding of sexually nude or nearly nude images by minor teens” (Kamin, 2011, p. 3). Kamin makes an important distinction between creating a sext, and sharing and forwarding an image, which will be studied further with this research. He limits himself by not mentioning the receiving of a sext and only considers sexting by minors. Klemack and Kandel (2014) defined sexting as “the practice of sendingsexually suggestive text messages and images including semi-nude or nude photographs via the text – message or photo-send function of a cell phone or posting such messages or images on social-networking websites like Facebook or MySpace” (p. 2). Ryan (2010) expands on the sexual nature of the image, including semi-nude and nude which is an important part of the sexting definition for this research. Ryan restricts the sexting behaviors to simply sending but is extremely broad as to how these images are disseminated through websites and social networking. Hasinoff (2012) is similar to Ryan with his definition that: “sexting is often defined as the practice of

sending sexually explicit images or text through mobile phones or via internet applications” (p. 449).

Three main definitions that have led to the creation of the definition utilized within this research come from works by Lenhart (2009), Delevi and Weisskirch (2013), and Levine (2013). Lenhart (2009) defined sexting as “sending sexually suggestive nude or nearly nude photos or videos of yourself” (p. 16). Delevi and Weisskirch (2013) termed “sexting (a play on the words “sex” and “texting”) where individuals create, send and receive sexually suggestive or nude images and/or sexually suggestive text messages using their cell phones” (p. 2589). Levine (2013) described sexting as “sharing sexually suggestive photos and messages through cell phones and other mobile media” (p. 257). The definition for this research is a combination of the three above definitions. This research will take Lenhart’s sending, Delevi and Weisskirch’s create, send and receive and Levine’s sharing, and therefore focus on the sending, receiving, and forwarding (sharing) of sexually explicit image(s). In addition, this research will concentrate on the smartphone’s role in the distribution of sexually explicit images.

Sexually explicit images can be either nude or semi-nude. A “nude” photo is when genitalia are completely exposed whereas a “semi- nude” photo is partial exposure of genitalia or breasts but not both. If breasts and genitalia are fully exposed for females, that is a nude photo. An image of a naked male chest is not considered semi- nude, but it is if it is an image of a naked female chest. A cleavage picture of a female chest is not considered semi-nude but if a nipple is showing on a female it is (Albury, 2015; Sacco, Argudin, Maguire, & Tallon, 2010).

For the purpose of this study, sexting will be defined as the sending, receiving and/or forwarding (sharing) of sexually explicit images via one's mobile cell phone with emphasis on the use of a smartphone. Sending sexts is when one takes a sexually explicit self-image and sends it or if one takes a sexually explicit photo of another and initiates the sending from his/her smartphone. Receiving is when one receives a sext from another person on their smart phone whether willingly or unwillingly. Forwarding and/or sharing a sext is when you receive a sexually explicit image and then send it to one or more persons.

Sexting Evolution

Messaging on cell phones began with words. Initially the sending of written messages via cell phone was referred to as texting. With the evolution of the cell phone and the addition of a camera built into the cell phone, images could be attached to the text. As with any new innovation, there are those persons who will participate in what some people consider an inappropriate manner. This included the sending, receiving and forwarding of sexually explicit images, whether with or without words. The behavior was renamed sexting in the media as it became a more common practice.

Society, specifically our body of laws and institutions, were not ready for what some people consider the appropriate behaviors on a cell phone to move so quickly to what some people consider inappropriate. Therefore, when cell phones continued to advance, the education about possible negative behavioral consequences associated with use of the cell phone did not exist. In fact, most persons were unaware of the potential harms and illegalities, and parents were not aware of the power and potentially destructive outcomes of the devices they were putting in their young adult's hands. This

lack of education likely had an impact on the frequency with which the behavior of sexting occurred.

It wasn't only texting or even the initial sending of a sext that precipitated the death of Jessica Logan. It was a form of "secondary sexting" which is forwarding (sharing) a sext which was sent to you, to others. When Jessica sent her sexually explicit image to her boyfriend, it was for his eyes only. If Jessica's boyfriend would have kept the received sext on his cell phone, that would not have violated the intent. When Jessica's boyfriend decided to forward the sext to others, it did violate Jessica's intention. The subsequent continued forwarding of the sext created a snowball effect which implicated all persons who forwarded it. As an adult, the receiving of a sext of an adult is not a legal violation. Possession of a forwarded sext on your phone, may not legally implicate you per *Stanley v. Georgia*, wherein the Supreme Court decided that "the First Amendment as made applicable to the States by the Fourteenth, prohibits making mere private possession of obscene material a crime" (Oyez, 2019b, para. 3). Mere possession or the receiving and keeping of a sext, is not a violation of North Dakota statute. With newer sexting laws similar to North Dakota's, the focus is on the knowing and intentional distribution of an intimate image if there is no consent from the individual in the image, their reasonable expectation of privacy has been violated and the purpose of the distribution is to cause actual emotional distress or harm (N.D. Cent. Code §12.1-17-07.2, 2015). However, deleting any forwarded sext removes any deviant implications.

Sending, receiving and/or forwarding of sexually explicit images among adults can be legal, depending on the context. In fact, some research has stated that sexting for adults in mature relationships can actually be healthy (Podlas, 2011). On the other hand,

any sexually explicit images being sent, received and/or forwarded of someone under the age of 18 is considered illegal, no matter what the context. In addition, the sexual development and maturity of persons under the age of 18 is consistently different than those of an adult age, which impacts sexting context (Stasko & Geller, 2015).

Although video is a moving image, the operationalization of sexting in many different journal articles centers around and usually involves still photos and images (Levine, 2013; Podlas, 2011). For the purpose of this research, the definition of sexting will involve sexually explicit images only. A nude photo is when genitalia is completely exposed. A semi- nude photo is partial exposure of genitalia or breasts but not both. If either or both breasts and genitalia are fully exposed for females, that is a nude photo. A photo of a naked male chest is not considered semi- nude but it is for females. A cleavage picture of a female chest is not considered semi-nude but if a nipple is showing on a female- it is. Specifically, for this study sexting will be considered the sending, receiving, and/or forwarding of sexually explicit images (not provocative texts), on cell phones (not computers) by young adults age 18 or older (Albury, 2015; Sacco et al., 2010).

Technological Communication and Relationship Evolution

As stated by Renfrow and Rollo (2014):

Emerging technologies and our adoption of them directly and indirectly influence even the most private parts of everyday life—from the forms our romantic relationships and sexual identities take, to our pathways into these relationships, to the sexual practices in which we participate. (p. 904)

The advancement of technology and technological devices has transformed the ways in which human beings express themselves socially and sexually and develop relationships. We have gone from meeting at churches, or meeting at dances, or meeting for coffee, or meeting at the bar, to meeting online. The former ways of meeting involved actual physical presence, where flirting and emotion could hopefully be understood and discussed through actual interaction. These face to face interactions were how romance developed, actually seeing someone and molding the relationship. Sexting is one of today's new ways of "going together" or "having coffee" or "flirting" or "dating."

Prior to the advent of the cell phone, the consequences of face to face interactions were not bound by the same rules as currently experienced. For example, sending an image/video via your smart phone can potentially result in a previously unknown permanency as explained by Ambrose (2013): "In the movie *The Social Network*, Mark Zuckerberg's ex-girlfriend explains to him that "the Internet isn't written in pencil, it's written in ink" (p. 11).

Relationships, involving some level of romance, are now often waded through utilizing a variety of platforms with your mobile cell phones including: messaging, emails, videos, and social networking sites and applications such as Facebook, Twitter, Instagram, Snapchat and Tinder. These current methods involving primarily smartphones, while broadening the number of people one can virtually meet, has also created an environment in which you can be lied to and/or victimized as the perpetrators hide behind their words and online presence. Relationships are difficult enough and typically have various levels of evolution and maturity when communication is face to face. When communication has a hidden nature, typically behind a smartphone, the

potential for immature and destructive behavior increases and misinterpretations can be abundant (Beyns, Burek, Henson, & Fisher, 2011).

Facebook creator, “Mark Zuckerberg has repeatedly stated that his goal is to help people share information more efficiently,” (Boyd, 2008, p. 18). However, the Facebook network has had numerous privacy challenges. “Information is not private because no one knows it; it is private because the knowing is limited and controlled” (Boyd, 2008, p. 18). The impact on dimensions of personal relationships such as trust may be influenced by one’s Facebook use. Trust can be positive if the relationship is healthy. But when it is not, the false sense of trust in relationships that might be formed and cultivated online can lead to victimization and abuse. “In fact, a Facebook user who uses the site multiple times per day is 43 percent more likely than other Internet users and more than three times as likely as non-Internet users to feel that most people can be trusted” (Murphy, 2011, p. 1). Facebook’s privacy policy restricts the ability to see photos unless you choose to “friend” a person and share. In addition, they do have restrictions on the types of photos that can be posted (Murphy, 2011; Socialbakers, 2013; Wells, 2010).

Navigating through adolescence is a difficult task. Teenagers and young adults battle coming to terms with their own personal sexuality, especially when dealing with initial relationships. Some of the changes occurring during adolescence include: hormone changes, intellectual and emotional development, shifting educational settings, and finding your first love all of which may simultaneously exist. A newer adolescent challenge involves managing social media interactions. In the past, initial sexual interactions typically took place in person. Now, these interactions often involve some

form of social media. Within the new environment for socializing; instant communication may be combined with poor judgment:

Today's young people no doubt want to be popular and interesting to their contemporaries as much as any prior generation. But the youth of today do not stay in touch with pens and scented paper. They text. They do not send each other little portraits in lockets. They snap photos on their cell phones. And, for better or worse, they do not regard sexuality as the monopoly of older generations but as a part of their lives. Even if they personally abstain, they know that they are literally surrounded by classmates and friends who do not, and (as compared with recent generations) sexual encounters within their peer group are already a familiar and normal aspect of life. (Humbach, 2010, p. 436)

Persons of all ages now utilize the smart phone to sext creating a new style of dating or relationship growth. Some research has stated that sexting is now common and normal for relationships (Stasko & Geller, 2015). This is usually safest within committed, mature adult relationships as Podlas (2011) stated:

Many young adults see nothing wrong with sexting. To them, it is simply another way to flirt, cultivate romance, or express their sexuality. In fact, sexting is tamer than many sexual activities and cannot result in pregnancy or an STD. Other people, including various researchers describe sexting as normal, albeit digital component of a sexual relationship likening it to other adolescent explorations of sexuality. (p. 3)

In the past, relationship navigation for young adults involved pens and paper and face to face interaction, not electronic communication such as texting and sexting. Now,

the Internet affords opportunities for relationship formation, sexual encounters (long term and brief), interaction with partners at a distance (e.g. through chat or webcam), virtual relationships (e.g. Second Life, one's avatar may have relationships with other avatars), relationship termination (e.g. IDumpa4U.com) among others. (Weisskirch & Delevi, 2011, p. 1697)

Those who engage in electronic relationship formation, including those who sext, may exhibit risky behaviors including prevalent sexual activity, of which much is unprotected, with a higher number of partners, sexual hookups, drug use, binge drinking, suicidal thoughts and depressive symptoms. Benotsch et al. (2013) found that there was an association of sexting behaviors, sexual hookups, and participating in condom less sex when studies were conducted using undergraduates attending a university. Research also shows that those persons who exhibit sensation seeking personality characteristics, are more apt to participate in regular sexting since it is a high arousal activity (Delevi & Weisskirch, 2013; Walker et al., 2013).

Sexting seems to perpetuate the double standard that has existed between men and women; that young men are supposed to be sexually active and promiscuous while young women who do the same are “slutty”. Few young men reveal harmful stories of being involved in sexting, however they feel pressure from other young men to not only have these images but share them. On the other hand, young women state that they are pressured by males to construct and dispense sexually explicit images. Research by Walker et al. (2013) has suggested that the approach to sexting should not be educating young adults on the potential legal implications as they know them but creating opportunities “for young people to engage in discussions that challenge power dynamics

in intimate partner relationships, by learning about sex and relationships from within a sexual ethics framework” (Walker et al., 2013, p. 700). The current reaction is to criticize the original creator of a sexually explicit image, which is typically a female; which again promotes gender stereotypes and victim blaming. Another perspective that Walker et al.’s (2013) research suggests is the bystander approach:

which involves teaching young men to recognize themselves as bystanders to violence against women. Stories shared of boys expressing their concern for the girl in the sexted image highlight the potential benefits of such approaches that involve young men in challenging the attitudes and behaviors of other young men. (p. 700)

The results from research by Walker et al. (2013) support the notion that sexting might actually be destructive to healthy relationship development. In relationships where trust is developed and sexts are willingly shared, there are situations wherein sexually explicit photos and videos are used long after the romantic relationship between two willing adult partners ends. At this point, the images could be used as revenge. Currently, education focuses solely on legal ramifications after the sext is sent. If we do not teach young adults on what is appropriate and what is not when navigating through healthy relationships, whether romantic or not, then the negative side of this behavior, such as revenge sexting, will continue to flourish (Bowker & Sullivan, 2010; Chalfen, 2009; Walker et al., 2013; Wallace & Roberson, 2015).

Research has shown that human brains are not fully developed until well into the 20s, therefore many young adults do not fully think through their actions, nor the results of those actions, at younger ages. Despite the science of brain development, once you

turn the chronological age of 18 and become a legal “adult”, the criminal laws address those same actions much differently than when one is classified as a “juvenile”. Young adults may be more heavily influenced by emotions than the laws governing their behavior such as stated in the century code. Emotions can drive people to send messages and pictures with little to no filter about appropriateness, leaving other people confused and struggling with the context of the messages and/or pictures, and the emotions those evoke (Dolgin, 2010; Lebel & Beaulieu, 2011).

A Demographic Portrait of Those Who Sext

The demographic variables that are a part of this study include gender, age, race, relationship status and the size of community subjects were raised in. Some of these variables have been addressed in other literature with mixed results. Some of these variables have received limited attention in other studies, and the influence of being raised in North Dakota has not been a part of any research on sexting.

There have been few large-scale studies addressing sexting. In addition, some of the studies that have been done were done by nonacademic sources. Nevertheless, these nonacademic studies of sexting that have been conducted were able to achieve large sample sizes and provide an interesting portrait of the extent of the behavior and its impact on relationships.

One such large nonacademic source study was the National Campaign to Prevent Teen and Unplanned Pregnancy and Cosmogirl.com (2008) entitled *Sex and Tech*. It illustrated just how pervasive sharing sexual messages and images is:

The survey of those ages 13-26 was conducted by TRU, a global leader in research on teens and 20-somethings. The survey was administered online to a

total of 1,280 respondents— 653 teens (ages 13-19) and 627 young adults (ages 20-26)—between September 25, 2008 and October 3, 2008. (The National Campaign to Prevent Teen and Unplanned Pregnancy, 2008, p. 2)

Of young adults between 20 and 26, 23% shared a text containing suggestive messages with others. Forty-two percent of young adults had a sexual message shared with someone they had not intended. As for sexts received, 17% of young adults forwarded them to others, and an astounding 32% of young adults reported that they knew of having a sext they had sent (and wanted to kept private) shared with unsolicited individuals. Moreover, 24% of young adult females and 40% of young adult males have had nude or semi-nude images originally intended for someone else shared with them (The National Campaign to Prevent Teen and Unplanned Pregnancy, 2008, pp. 1-4).

Research on the prevalence and nature of sexting among United States adults (aged 18-54) was also conducted by the McAfee security software firm under the title “Love, Relationships, and Technology”, and the results were released in February of 2014. The research involved over 1500 respondents interviewed online: both genders were evenly represented as was geographic dispersion. The interviews were conducted in early December 2013. The questions revealed some startling information including that almost all of the respondents (98%) utilize their mobile phone to take pictures, explicit or not. Over half of the respondents interviewed (54%) stated that they have sent or received sexually explicit or intimate photos, videos, emails and/or messages via their cell phone. Respondents in the 18-24 age range had the highest percentage of receiving sexts (70%). Men reported a higher frequency (61%) of sending and receiving sexual content than women (48%). More of the survey participants store content they have received or been

forwarded (45%), whether messages or images, contrasted with 40% of persons who have stored sexual content they have sent. Most adult participants (77%) reported sending intimate content via their phone to persons with whom they considered having an important relationship. The survey also found that at least 1 in 10 persons sent material of a sexually explicit nature to a total stranger. There also seemed to be a potential for exploitation regarding the smartphone and its security. The online interviews revealed that 69% of mobile phone owners had password protection, but 46% shared their password with someone else and 42% used the same password for numerous devices. This provides an opportunity for private images and contact lists to be stolen (McAfee, 2014).

Prevalence of this behavior, as shown in the above studies, has led many researchers to attempt to examine the profile of those persons who are sexting and discover why they sext. In addition, it is also important to examine the profile of those persons who are not sexting. The key variables within the profile that this research is addressing include age, race, gender, relationship status and motivations.

Age

This study is being conducted at a university in North Dakota, and the primary age of the persons surveyed will be young adults, ages 18-24.

Recent surveys show that 96 percent of college undergraduates own smartphones (vs 82 percent of adults overall). Since 2004, smartphone use has grown by more than 5000 percent and the demand for more voice and data services is still greater than ever. (Vitelli, 2013, para. 1)

Not only do most young adults own cell phones, but the majority of young adults, especially those aged 18-24, have their own personal smart phone in their pockets to use at any moment of the day. In addition, there is no research on whether or not individuals of any age have been given an educational road map or taught behavioral norms to navigate through the immediacy, vastness and permanency of actions with smartphone usage. According to Drouin, "the likelihood that adult couples are sexting decreases with age," probably because of "age-related differences in technology usage, sexual behavior or relationship stage" (as cited in Mozes, 2018, para. 8). Therefore, the college aged student is the ideal demographic to survey for this research.

Race

Another demographic that might influence the prevalence of sexting is race. Beaver et al. (2010) found that 95.1% of Caucasians utilized their cell phones regularly versus 87.7% of African Americans. This cellphone use variance may be attributable to ownership disparities among race as found in a study that involved a very large sample of college students (Junco, Merson, & Salter, 2010). "Female students and white students were more than twice as likely to own a cell phone than African American students" (p. 624). Even though African American students were less likely to own a cell phone, they were more likely to text and talk on their cell phones than white students and all other ethnicities.

In terms of the different types of sexting behaviors, studies have found contradictory results regarding race. In Lenhart's 2010 study, she found that African American and Hispanic adults had a greater likelihood of receiving sexts than whites. Benotsch et al. (2013) found the opposite in their study of 800 college students: "white

participants reported significantly higher rates of sexting (50.5%) than non-white participants (37.6%)” (p. 309). Gordon-Messer et al. (2013) in their study of 827 individuals, found that Asian/Pacific Islanders were the least likely race to engage in sexting.

According to a study conducted by Dake, Price, Maziarz, and Ward (2012), with 1289 respondents aged 12-18 years old from 36 middle school and 36 high school general education classrooms: “Sexting was more common in racial/ethnic minorities (African Americans 32%, Hispanics 23% versus Whites 17%)” (2012, p 5). This seems to continue into young adulthood with Beyns et al. (2011) conducting a survey of 974 college students where they found that “34% of whites reported that they had received sexts and 20% indicated that they had sent texts while among nonwhites, 54% received sexts and 21% sent sexts making the receiving of sexts statistically significant between whites and nonwhites” (p. 10).

Gender

The literature shows a difference between genders in the amount of sexting that occurs. Studies have shown that young men are more likely to engage in sexting than young women, which is ironic, because many studies show that women are more likely than men to report daily cell phone use (Beaver et al., 2010). As Gordon-Messer et al. (2013) found in their study, this increased amount of “sexting” by men could be explained by the breakdown of the direction of the sext: men are much more likely to receive a sext without first sending one, which could be an image that was forwarded to them.

Research also states that males seem to sext to try and entice someone into a relationship (Weisskirch & Delevi, 2011). Overall, women use cell phones for many more things than just communicating and uniting people (Nickalls, 2018). For the women that do participate in sexting, they may either feel pressure to sext, or sext to keep their relationships tantalizing, or they enjoy the sexual requests from men that accompanies the sexting behavior (Gordon-Messer et al., 2013).

Relationship Status

If a person is in a committed, healthy relationship, literature suggests that sexting between those two partners is normal and can be beneficial to the relationship. When persons are not in a committed, healthy relationship, sexting can be detrimental to one's current and future self and can lead to other risky behaviors (Galovan, Drouin, & McDaniel, 2018; Stasko & Geller, 2015). The recent study by Galovan et al. (2018) also found that while initially your sex life within committed relationships might see enhancements due to sexting, frequent sexters will see a decrease in successful relationship functioning with greater conflict, more insecurity and weakened commitment.

Group Being Studied

Most people when they enter college, are removed from their parent's direct supervision and rules for the first time. This freedom can come in many shapes and forms: financial, emotional and behavioral. No one is watching what you eat, what you drink, who you hang out with or what you are doing on your phone. Since the onset age of cell phone ownership is getting younger and younger, it is atypical to enter college and not have a smart phone. "Recent surveys show that 96% of college undergraduates own

smartphones versus 82% of adults overall” (Vitelli, 2013, para. 1). A study by Benotsch et al. (2013) of 800 college students from a mid-Atlantic large public university found that 99% of participants confirmed they owned a cellphone and 96% stated that they texted in a normal day: “Overall, 44% of participants reported engaging in sexting: 62% had both received and sent at least one sexual image, 32% had received a sexual image only, and 6% had sent a sexual image only” (Benotsch et al., 2013, p. 309). Henderson’s (2011) online survey of 468 Boise State University students from a general psychology class, found that almost 2/3 of those students had sent nude or semi-nude pictures of themselves. Delevi and Weisskirch (2013), in their study of 304 undergraduate college students found that “89.1 % of the sample engaged in some form of sexting” (p. 2592). Drouin, Vogel, Surbey, and Stills (2013) conducted a survey of 253 young adult college students and found that across all relationships, whether committed, casual, or cheating, sexting was a very common activity and most sexts were directly sent through their phone.

While some adults feel that sexting is as accepted as casual sex, others feel it is simply another way to flirt or express their sexuality, and college students are known to participate in these domains. From Lenhart’s (2010) telephone interview of 799 twelve-seventeen-year olds and their parents living in the continental United States, she found that “13% of those aged 18 to 29 years had sent sexually suggestive nude or seminude images via cell phones and 31% had received these messages” (slide 7). In an online survey of 3447 18-24-year old’s, Gordon-Messer et al. (2013) found that 30% of young adults sent a sext and 41% received a sext. An even more striking result of this survey

was that “sending photos and videos via cell phone increased from 36% in 2010 to 54% in 2011” (Gordon-Messer et al., 2013, p. 4).

Sexting Motivations

It seems that over time, peoples’ sexual interests, desires and emotions have stayed relatively consistent, but sexually based behaviors have changed due to how people interact through the internet and the smart phone. The smartphone technology has adjusted the entire landscape for how we deal with those interests, desires and emotions (Porter, 2017). With all of the social pressures young adults face today, sexting can provide fun, immediate gratification, and excitement for some (Dolgin, 2010). The type of relationship within which the sexting is taking place, definitely impacts the behavior that subsequently follows. “There are three main kinds of sexting: images exchanged just between romantic partners; exchanges between partners that are shared with others; and exchanges between people not in a relationship, although one person hopes to be” (Paulson, 2009, p. 2).

The motivations as to why people sext is a very important part of understanding this phenomenon and its potential to be done in an illegal way. Regardless of the motivation, a demographic at risk for the negative impacts of sexting behavior are young adults, who are commonly impulsive, immature and lacking awareness of the adverse consequences and possible illegality of sexting. Studies have found that young adults have many different motivations as to why they sext including: fun, boredom, sexual experimentation, risk-taking (potential illegality making it more appealing), sexual coercion or pressure, to gain the romantic attention of another, flirtation, and pranks/jokes (Delevi & Weisskirch, 2013; Walker et al., 2013). For the purpose of this study,

motivations listed in the survey include: joke or for fun, sexual suggestion with hopes for a relationship, to be sexy/flirtatious, initiate sexual activity, risk taking to gain attention, to cause emotional harm, revenge, felt pressure to, impulsive act, and did not ask for the sext. Respondents are also offered a text box under “other”, to provide a sexting motivation that might have been overlooked.

Gender may play a role in why people sext. Studies have found that more women send sexts than receive, and more men receive sexts than send. Besides the obvious motives of thrill, excitement, and a positive response, women sent sexts to keep their love interest happy. Renfrow and Rollo (2014) found in their qualitative study that:

These young women reported that their partners requested sexy messages, and therefore they obliged in order to “make him happy” or to “keep him happy.”

Accounting for sending sexts in terms of keeping a boyfriend happy points to a gendered pattern on this campus: men request sexually explicit messages, and women produce and send them. (p. 909)

Literature suggests that most of the pressure felt by females, to send these types of messages/images is from males. Why then do males send or forward these types of messages/images? According to Walker et al. (2013), males receive pressure from their friends to participate in this behavior. In addition, Walker et al. (2013) also found that many young adults actually believe the sending of these types of messages/images could have dangerous, negative results, yet this does little to stop them from participating in the behavior. A small minority of persons, regardless of age, believe that this behavior is “no big deal” and it enhances committed sexual relationships (Podlas, 2011).

Drouin and Landgraft (2012) believe that persons who have anxiety and attachment avoidance favor texting to voice calls as a mode for close interaction and choose sexting as a mode for sexual interaction. For those people who suffer from social anxiety, alcohol is often used to lessen that anxiety, but it can complicate a situation further with impulsive decisions, such as sexting. Dir, Cyders, and Coskunpinar (2013), conducted a study of 611 college undergraduate students, attempting to measure whether the increased use of smartphones and sexting have created risky (specifically alcohol involved) sexual hookups in college.

The study attempted to investigate various risks that are attached to sexting behavior. The two personality traits of curiosity for the Dir et al. (2013) study were negative urgency (acting hastily when given severe negative emotions) and sensation seeking (pursuing novel and exhilarating experiences). The potential for unwelcomed sex as a result of sexting and these personality traits, means that sexting could be leading to criminal behavior (Dir et al., 2013).

Renfrow and Rollo (2014) addressed some reasons why people do and do not sext:

In fact, numerous abstainers identify this fear as the primary reason why they choose not to sext. Many believe that the sharing of a sext and the resulting loss of reputation could have far reaching consequences. An abstainer explained: “I personally won’t ever sext, but I know others don’t mind or enjoy doing it. I feel they’re ignorant. The picture could be sent around and seen by outside parties and eventually by future employers.” Nearly all of our respondents offered statements identifying this potential risk. It is clear that respondents who sext and those who

abstain both believe sexting could lead to personal embarrassment and negatively impact current relationships, future relationships, and future professional opportunities should recipients share their sexts with unintended others. (p. 910)

Revenge Porn: The Motivation to Harm

According to Hinduja (n.d.), the initial production of sexually explicit photos, is not the major issue regarding the sexting behavior. The subsequent diffusion to many others not originally intended to receive the material, which is known as forwarding/sharing, is what concerns society and the criminal justice system. This subsequent non- consensual dissemination can also negatively influence those persons for whom the communication is not precisely illegal in some states (Day, 2010). According to Folderauer (2015):

Revenge porn enables "[a] vengeful ex-partner or malicious hacker" to "upload an explicit image of a victim to a website where thousands of people can [copy] it and hundreds of other websites can [copy and distribute] it." Within days, explicit photographs of a victim become available to strangers for sexual entertainment, as well as, to the victim's friends, family, peers, employer, and co-workers. Finally, as technology continues to develop, "social media applications now make it possible for users to share information using their cell phones, which means that information about anything can be posted from anywhere, and at any time, by anyone with a mobile device. (p. 2)

“Revenge porn” along with other terms including “revenge sexting”, “non-consensual pornography” (NCP) and “sextortion”, all denote “a form of sexual assault whereby a person distributes ‘nude or sexually explicit photos or videos of an individual

without their consent” (Esposito, 2018). The victim of this act can potentially be the originator of the sext. Depending on the state law, other criminal elements of revenge porn may include violating a reasonable expectation of privacy standard or causing actual emotional distress or harm. The image is forwarded via smart phone (either by sext, email or other applications) to a potentially large number of people or placed on websites, with intent to cause emotional damage to the person in the image (Hinduja, n.d.). Deception occurs when the sext leaves the implied privacy between the two people it originated with. According to The National Campaign to Prevent Teen and Unplanned Pregnancy (2008):

Forty percent of teens and young adults say they have had a sexually suggestive message (originally meant to be private) shown to them and 20% say they have shared such a message with someone other than the person for whom it was originally meant. (para. 5)

“Cyber rape”, is also “the name given to the actions of angry people who strike back at angry lovers by posting nude pictures of them, either taken during relationships or hacked from personal computers” (Perry, 2013, para. 1).

Although most people who receive these types of messages/images were supposed to, many studies state that persons have been shown or shared items that were not originally meant for them. This means that images and messages, that many have deemed as private and probably contain confidential material, are being seen by persons not approved to see this very personal communication. The research also shows that the forwarding of sexually explicit images by extended third parties is prevalent (Hinduja, n.d.). Society and legislators have struggled with deeming certain sexting behaviors as

criminal due to the choice of the subject willingly taking and sending the sexually explicit photo in the first place. However, the forwarding and sharing of these sexually explicit photos violating one's reasonable expectation of privacy, without consent, and causing actual emotional distress or harm, has now been defined as criminal by many states (Hinduja, n.d.). According to Reynolds et al. (2011):

Given that nearly half of young adults sext, the opportunity for victimization increases when the sexts are no longer kept between the sender and the recipient. In addition, the likelihood of repeat victimization also increases since forwarding sexted images using digital technologies like cell phones is only limited by the number of possible recipients with similar devices. The reliance on cell phones and computers by a substantial portion of the population to facilitate social connections wherever and whenever amplifies the probability that self-exploitative behaviors like sexting could lead to cybervictimization, such as harassment, bullying, threats and unwanted sexual attention. (p. 4)

Approximately one in 10 people have had someone who they were in a former relationship with, threaten to post a sexually explicit image online (Folderauer, 2015). Within that same study, it was found that 60% of those who threatened to post a sexually explicit image online, did post an image of their ex without their consent. The primary method involving revenge porn and the distribution of images without consent and to cause actual emotional distress or harm, starts with a self-image. This is when the victim initially and voluntarily takes a sexually explicit "selfie", or image of themselves. That image is then willingly shared with someone whom they trusted at that time. In fact, 80% of pictures involved in revenge porn are selfies (Folderauer, 2015; Hinduja, n.d.).

In 2010, the infamous Hunter Moore launched the website IsAnyoneUp.com which “specialized” in posting revenge porn. He took it a step further than other sites and posted women’s full names, links to social media profiles, addresses, phone numbers and other personal information. Not only did Moore post content obtained from exes, he also hacked into personal email accounts in order to steal and later post their nude photos. He was arrested in 2014 and sentenced to thirty months in prison and given a \$2,000 fine. Unfortunately these charges were for “unauthorized access to a protected computer to obtain information for purposes of private financial gain and one count of aggravated identity theft,” and thus have no effect on revenge porn law, but would be helpful in a non-consensual pornography case where someone’s personal computer or email account was hacked. (Esposito, 2018, p. 153)

Victimization Transforms into Cybervictimization

Historically, women have been sexually objectified, whether in marriages, committed relationships, non-committed relationships or single (Van Wormer & Bartollas, 2014). Prior to the advent of any computers, it was commonplace to think of women as property and treat them as such in many situations including sexually. Rape was not typically prosecuted as a crime until the mid-1950s and rape in marriage was not considered criminal until decades later. Criminal laws have assisted women in being able to seek prosecution of their abusers. Though attitudes have changed regarding relationship abuse and giving females more respect and equality, there are still many who believe that sex is a right whether women are willing or not (Van Wormer & Bartollas, 2014).

Domestic violence has been a problem around the globe since the beginning of recorded history (Van Wormer & Bartollas, 2014), and in the past two decades, this form of violence has been impacted by smart phones and sexting behavior. In a survey of 5467 middle and high school students to research the role of technology in abuse and harassment, Zweig and Dank (2013) found that “victims of digital abuse and harassment are 2 times as likely to be physically abused, 2.5 times as likely to be psychologically abused, and 5 times as likely to be sexually coerced” (para. 1). All of the technologies associated with smart phones now, including social networking sites, texts, sexts, emails and various corresponding apps, give abusers a plethora of methods to control, stalk, coerce, intimidate and shame their partners. Only 4% of abuse victims had experienced digital abuse and harassment only (National Domestic Violence Hotline, n.d.). Therefore, it can be concluded that while social media, texts, snaps, postings and emails have not necessarily created new abusers, it has given existing abusers another tool to control and victimize anywhere and at any time. Thus, while abusers have been given a new technology driven environment to control and intimidate persons, it is typically not the only way they do so (Zweig & Dank, 2013).

Most victims of dating abuse and harassment through technology also experience other forms of violence or abuse through their partners. About 84% of victims are psychologically abused by their partners, half are physically abused, and one-third experiences sexual coercion. (Zweig & Dank, 2013, para. 6)

Walker et al. (2013) conducted a study involving in-depth interviews of thirty-three people aged 15-20 years from a suburban area in Australia that engage in sexting. The researchers found that media technology and social networking sites are used as vehicles

in the perpetration of gendered sexual violence targeting women, where the violence takes a more “subtle systematic form of sexual harassment, pressure and coercion” (Walker et al., 2013, p. 700).

Any internet or digital routine activities including computer or smartphone use specifically with consistent internet access, text messaging and emailing, drastically amplifies the risk of users to be victimized. Interestingly, “the lifestyle-exposure theory of Hindelang et al. (1978) seems imminently applicable to explaining the possible connection between participating in sexting (as a sender, receiver, or both) and victimization” (Beyns et al., 2011, p. 6). Most of the relevant literature points towards the increased risk of victimization if one participates in sexting. If a sexually explicit photo of you is sent into the cyber world, there is an increased chance that more people will see it and the communication might be unwelcome. The photo can then spread like a rumor to anyone, anywhere. The original sender loses control over the image and may be victimized through forwarding of the image in violation of law. In addition, an unwilling recipient might be negatively impacted, and the forwarding of messages might not necessarily be criminal in their intention. Many varying sexting scenarios could lead to additional serious crimes such as domestic abuse, sexual harassment and sexual assault, if illegal distribution of sexually explicit images is not addressed. In Beyns et al. study of college students, findings showed that participation in sexting, no matter if you are the receiver or the sender, enhanced one’s probability for cyber victimization. As it applies to sexting, being female, non-single, having low self-esteem and the amount of time spent online were the biggest predictors of cyber victimization (Beyns et al., 2011).

There is potential that if sexts end up in the wrong hands, the permanency of those photos could possibly lead to social consequences at any time in the future. “Nearly seventy five percent of teens polled and nearly seventy one percent of the young adults polled understood that sexting could lead to “serious negative consequences” but they remained undeterred from engaging in sexting” (Ryan, 2010, p. 3). Both teens and adults seem to not be dissuaded from sexting regardless of the immediacy, permanency and vastness that surround the behavior, which research has shown, typically leads to cybervictimization.

Cybervictimization: Immediacy, Permanency, and Vastness

With today’s smartphone, which is a conduit to social media, many everyday social and sexual interactions now have a sense of anonymity, impulsivity and danger. As Weiss and Samenow (2010) state:

So here is the basic issue: as anonymous online connections to sexual content and access to willing partners increases- so do the problems, i.e., the faster you can get to more material and more potential partners, the easier it is to get into personal or professional trouble. And wireless networks are all about fast connections...more profiles, more pictures, more messages. For some, it’s like a slot machine. With each click of an application, hit the “refresh” button, and receipt of a new image, text, or video, the possible “object” of his dreams awaits. And, these intermittently rewarding pleasures can be accessed from home, the office, in a cab, on the street, or even during air travel. (p. 242)

“Digital architectures generate an atmosphere of anonymity that protects, promotes, and nourishes new methods of attack against people and institutions”

(Agustina, 2015, p. 36). Every generation becomes more immersed in the internet and less connected to physical interactions. Cybervictimization involves being victimized through ever expanding digital technology, typically informational and communicational. Given the compact nature of the modern smartphone, which aids portability and accessibility, and the development of more applications that enhance communication, cybervictimization has increased. The aspects of immediacy, permanency and vastness in relation to the sexting phenomenon via the smartphone, increase one's susceptibility to cybervictimization.

Immediacy

One of the prevalent characteristics of messaging and sexting as it applies to smartphone usage is its immediacy. "The immediacy of response, gratification, and excitement combine to make the user want more and want more now" (Borelli, 2013, para. 2). Many impulsive, inappropriate, or disrespectful messages can be sent, received and forwarded due to the ease and immediacy of the smartphone. Taking and sending sexually explicit images with your smartphone along with the gratification and excitement of immediacy, make for a dangerous environment for persons of any age. The sense of exhilaration of the act of sexting does not combine well with the speed at which one can send the sexual images, limiting the opportunity to think through potential negative consequences. The ability to sext is instantaneous and final, and the image is often sent before the sender has a chance to consider potential ramifications.

Overall, cell phones appear to be the main method of sending sexually suggestive text messages, which coincides with the idea that many cell phones are equipped with immediate access to cameras, video, and internet access; making the transmission of nude

or semi-nude photos or sexually suggestive text messages easier and faster than ever (Henderson, 2011, p. 8). A potential problem is the immediacy of the sexting act, and the speed at which it enters and can remain in the virtual world. “Since the beginning of time, teens have flirted with each other and pushed the envelope. But 10 to 15 years ago, it didn’t go global in 30 seconds” (Day, 2010, p. 6).

Permanency

Immediately after sending a sexually explicit picture via smartphone, the behavior cannot be retracted. Once you hit “send,” there is no turning back; that image and message is forever on the internet and extremely difficult, if not impossible, to fully delete. Once a sext is sent, received or forwarded, it cannot be undone. The act of sexting is permanent: even if you delete the photo off of your phone, because others now possess it or perhaps forwarded it after they received it, the image is still on their devices (Chalfen, 2009).

Additionally, the image is retained in the files of your cellular carrier and any servers that were used, which then could be accessed in an unauthorized manner by others. Once this message enters cyberspace, the sender has no control over who looks at it, who forwards it, nor how, when and where it is dispersed, backed up and/or saved. Even if the smartphone which took the initial image is destroyed, with the internet, iCloud and other software services recording all that is done electronically, a message, email or sext, whether sent, received, or forwarded, is a form of communication which is basically eternal. Once sent, sexts that can never be removed from cyberspace, have the ability to ruin reputations and futures. There is a lasting technological permanency that most young adults do not comprehend when they hit send on their phone. Once images

are placed into cyberspace, they can be forever attached to one's identity, also known as "cyber tattooing" (Chalfen, 2009).

Vastness

Smartphones allow us to share what we are doing or thinking at a moment's notice with a click of a button or tap on a screen providing an immediacy of connection with your social network. With a seemingly infinite number of people across the world that you can connect with using your smartphone, the potential vastness of your social network is unlike anything experienced by previous generations (Chheda, 2016; Mudrakola, 2016).

There have been a bevy of improvements in the technology incorporated in the cell phone, specifically the inclusion of the front facing camera and the ability to have numerous contacts within your cell phone. There have also been an increasing number of persons who began to own this type of mobile device. These factors influenced the amount of sexting taking place and it quickly has evolved from sexually explicit photos being sent and received by one person, to the additional act of forwarding these sexts to numerous people in the initial receiver's contact lists and then onto other's contact lists. This process demonstrates how widely the sexually explicit image via the cell phone can be distributed (Chalfen, 2009).

Part of the potential for serious negative short and long-term outcomes, is that once a sexually explicit image is taken, it has the capability of reaching a large number of people at a large number of locations. The snowball effect of a sext being sent to an unlimited amount of devices is unstoppable. Within a single moment, one embarrassing or negative message can be sent or posted to an almost endless number of people. Then,

each one of those persons can continue forwarding that message. Within minutes, an initial message can go “viral” and be accessible to a vast number of persons. The immediacy, permanency and vastness of sexts make them a cybervictimization risk to anyone who participates in the activity.

Many social networks have become extensive. With the advancement of the smartphone, sexts can be distributed to these social networks. When someone sends a sext to one trusted person, that individual’s sizeable social network can create the opportunity to forward and share the image on a vast scale. It is really an unsafe scenario for many, as the image may be shared with persons from the original sender’s social network. Images and messages can be sent to countless devices, and it has the potential to become available to the entire public.

People continue to sext thinking that it will remain as private, one-to one, communication. However, as noted by Chalfen (2009), sexts are often distributed to more people than initially intended. Eraker (2010) agrees as he states, “The anonymity and pseudonymity offered by digital technologies, along with the viral nature of computer-based communications and the difficulties in supervising young adult’s activity online, compounds the impact of sexting” (p. 565). The technology is quickly accessible from one’s pocket, and with today’s incredibly speedy internet connection and mobile phone memory size, it allows for an extensive contact list. With innovations such as Airdrop, iCloud, OneDrive, Google drive, and applications such as Snapchat and Instagram, this has led to endless capabilities for messaging, including distribution to large numbers of people in an instant.

For many sexters, their intentions are not initially criminal, but the older state laws are playing catch up with this new form of communication. In the past five years, many states have been diligently updating their laws to deal with sexting as the behavior has increased substantially. The motivations as to why someone sexts are integral pieces of many states' current legislation. The intent that you have with taking, sending, receiving or forwarding sexually explicit photos impacts the legality of the act. Now, with new legislation, some of these behaviors are potentially criminal depending upon an individual violating one's reasonable expectation of privacy, forwarding without consent and with the intent to commit emotional harm (N.D. Cent. Code §12.1-27.1-03.3, 2011).

Legislation

Introduction

When sexts first appeared on the cultural landscape, laws were either nonexistent to address this behavior amongst adults, or the existing obscenity laws were the primary available legal avenue. Were these acts crimes? How can you prosecute someone who willingly sent a photo of themselves? However, cases like that of Jessica Logan received widespread attention, which pressured state legislators to actively look at existing laws and make changes or formulate new laws to address and attempt to deter certain dimensions of this evolving smartphone conduct. Lawmakers did not foresee that the persons the criminal law was designed to protect, would technically become a type of perpetrator, with at times voluntary self-portraits. Early legislators could not have anticipated the creation of the smart phone, its subsequent high-quality built-in camera, and the created images that are immediate and permanent (Haynes, 2012).

Most states have been considering updating their legislation as smartphones and their cameras have become more advanced and the taking, sending, receiving and forwarding of sexually explicit photos has increased. This study will explore sexting and respondent's perception of legality under current legislation within a Midwest state and the potential impact of these new laws on their behavior.

History

The first amendment of the United States Constitution adopted into the Bill of Rights states:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. (Cornell Law School, n.d.-a, para. 1)

The sending, receiving, and forwarding of sexually explicit images, known as sexting, may fall under the first amendment protection of free speech and freedom of expression. The classification of free speech and freedom of expression that may not be protected by the first amendment, and which may include certain sexts and subsequent possession, is obscenity:

Obscenity laws are concerned with prohibiting lewd, filthy, or disgusting words or pictures. Indecent materials or depictions, normally speech or artistic expressions, may be restricted in terms of time, place, and manner, but are still protected by the First Amendment. There are major disagreements regarding obscene material and the government's role in regulation. All fifty states have

individual laws controlling obscene material. (Cornell Law School, n.d.-b, para. 1)

The Supreme court addressed the combined cases of a federal charge in Roth v. United States and a state charge in Alberts v. California (Oyez.org, 2019a). These cases were situations involving selling, mailing, composing and publishing obscene and lewd material. The specific challenge was did the federal obscenity statute and California obscenity law infringe on one's First Amendment right to freedom of expression. The Supreme Court ruled in a 6-3 decision that:

obscenity was not within the area of constitutionally protected speech or press. The Court noted that the First Amendment was not intended to protect every utterance or form of expression, such as materials that were "utterly without redeeming social importance." The Court held that the test to determine obscenity was "whether to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole appeals to prurient interest." The Court held that such a definition of obscenity gave sufficient fair warning and satisfied the demands of Due Process. (Oyez.org, 2019a, para. 3)

In 1969, the United States Supreme Court addressed the issue of obscenity again in Stanley v. Georgia. Police received a warrant to search the home of Stanley due to alleged bookmaking activities. In their search, police found films in Stanley's bedroom that were believed to be obscene. He was then arrested for that specific possession and subsequently indicted, tried and convicted of knowingly having possession of obscene material. Stanley appealed to the Supreme Court on the basis that the Georgia law of mere possession of obscene material was unconstitutional. The Supreme Court

determined that “The First Amendment as made applicable to the States by the Fourteenth prohibits making mere private possession of obscene material a crime” (Oyez.org, 2019b, para. 3).

Regulating obscenity nationally and within states has been an arduous undertaking. In 1972, Marvin Miller, a California resident, conducted a mass mailing campaign which included obscene images to advertise the sale of adult materials. Some persons who unwillingly received the mail, notified police and Miller was convicted of violating a California statute restricting the distribution of obscene material. On appeal, the case made it to the Supreme Court the following year, where in a 5-4 ruling, the court decided that the First Amendment right to freedom of speech does not protect the mass mailing of obscene materials. Also, with the decision, standards from previous decisions such as *Roth v. United States* in 1957, were updated regarding sexually explicit speech per the obscenity test. Applying the obscenity test decided in *Miller v. California* (1973), a sexting image would be considered obscene if “taken as a whole, 1) appeals to the prurient interest, of an average person according to community standards, 2) portrays sexual conduct in a patently offensive way, or 3) lacks any serious literary, artistic, political or scientific value” (Ryan, 2010, p. 4). Therefore, if a sexting image meets the above test, states could and should restrict the creation and distribution of the image (Haynes, 2012; *Miller v. California*, 1973; Ryan, 2010).

Also, in 1982, the Supreme Court addressed the First Amendment right issues in the significant case of *New York v. Ferber* (Haynes, 2012). Paul Ferber, a Manhattan book store owner, sold two films of masturbating young boys to undercover police officers. At the time, there were two New York statutes that barred the distribution of

child pornography which Ferber was indicted under. Ferber was found not guilty, by a jury of his peers, of two counts of promoting obscene sexual performance but found guilty of two counts that did not require proof that the films were obscene. The conviction was reversed by the New York Court of Appeals stating that the presence of the obscenity standard in the statute for which Ferber was found not guilty, cannot then be interpreted to be included in the statute from which he was found guilty. “Therefore, the statute would prohibit the promotion of materials which are traditionally entitled to constitutional protection from government interference under the First Amendment” (Haynes, 2012, p. 379).

The Supreme Court, still in regard to the First Amendment, has been challenged on numerous occasions regarding freedom of expression and it chooses not to move as per *United States v. Stevens* in 2010 (Haynes, 2012). The federal government proposed a “simple balancing test: Whether a given category of speech enjoys First Amendment protection depends upon a categorical balancing of the value of speech against its societal cost” (p. 371). The Supreme Court rejected the Federal Government’s proposed balancing test (Haynes, 2012).

Miller v. Mitchell, which was decided on March 17, 2010, was the first federal court of appeals case (third circuit) to address sexting. Mary Jo Miller was representing her minor daughter in this case along with two other mothers representing their daughters, versus Jeff Mitchell who was the Wyoming County, Pennsylvania State’s Attorney. After school district officials seized cell phones from select high school students, the previous State’s Attorney, George Skumanick, threatened to prosecute three young high school students for having child pornography on their cell phones if they did

not participate in education and counseling. The issue in question were pictures of the youths themselves, that according to the prosecutor were in provocative poses including one girl in a bathing suit, and two other girls wearing white, opaque bras. According to the girls and their friends, they were “merely being goof balls” with their poses, but under the existing 2010 federal statutes, these “goof ball” photos could qualify as child pornography. In addition, per many obscenity law definitions for persons of any age, the nature and possession of the photos may have fallen under actual or simulated sexual conduct that involved lewd exhibition of female genitalia. Many of the girls who were found with the photos of themselves opted for Skumanick’s program, but three mothers filed an injunction to prevent the district attorney from filing felony charges. The district court, upheld by the appellate court (wherein Skumanick was defeated by Jeff Mitchell in an election), found that the mother’s argument that their daughter’s pictures did not fall under the child pornography statute in Pennsylvania AND that their daughters did not disseminate the photos was valid. Therefore, the new district attorney Mitchell could not press felony charges against those three girls (Haynes, 2012; Ryan, 2010).

The North Dakota Century Code defines obscene material and obscene performance as:

- a. Taken as a whole, the average person, applying contemporary North Dakota standards, would find predominantly appeals to a prurient interest;
- b. Depicts or describes in a patently offensive manner sexual conduct, whether normal or perverted; and
- c. Taken as a whole, the reasonable person would find lacking in serious literary, artistic, political, or scientific value.

Whether material or a performance is obscene must be judged with reference to ordinary adults, unless it appears from the character of the material or the circumstances of its dissemination that the material or performance is designed for minors or other specially susceptible audience, in which case the material or performance must be judged with reference to that type of audience. (N.D. Cent. Code §12.1-27.1-01).

Forwarding Sexts for Revenge Identifies a Gap in Legislation

“Some sexting is constitutionally protected; but not all sexting is equal. Where sexting falls along the continuum of First Amendment protections depends on its content and intended use, which ultimately affects the government’s power to constitutionally regulate it” (Day, 2010, p. 26). Many issues, for both laws affecting juveniles and laws affecting adults is the impact the statutes will have on constitutional rights. “The right to free speech is a fundamental right. However, states have a compelling interest in protecting the privacy of their citizens by preventing sexually explicit imagery from being unleashed onto the internet” (Fung Chen Pen, 2015, p. 13). How the first amendment applies to the unwarranted distribution of a photo that the complainant sent of himself or herself to one person with the intent for it to be kept private, remains to be seen.

Due to increased legislation prohibiting certain aspects of sexting across the nation, it can be inferred that many legislators believe that sexting has created a criminal form of instant communication. The sexts have the potential of creating a vulnerable population due to the impact of the sexually explicit image being forwarded to unwanted persons and negatively affecting the originator’s life. The legal debate is whether sexting

should be the personal responsibility of the person who chooses to send these images or is there criminality that takes place when a violation of privacy occurs when the image is forwarded? The previous laws that could address the behavior of sexting, have primarily impacted minors.

The unwanted distribution of sexually explicit photos having a negative impact on society has been argued by legislative bodies across the nation. The issue that some states have attempted to address through law creation is the “intentional-infliction-of-emotional-distress and invasion of privacy claims initiated by minor and adult victims of secondary sexting without infringing upon the First Amendment rights of minors or young adults” (Ryan, 2010, p. 8). As of July 2015, there were 20 states that had some form of sexting law, including North Dakota, with nine of those states actually incorporating the word “sexting” in their legislation. As of today, the number of states who have a sexting law is 25 (Cyberbullying Research Center, n.d.). Currently, there are forty- six states, the District of Columbia and one territory that have revenge porn laws (Cyber Civil Rights Initiative, n.d.). There were only twenty-six states, including North Dakota that had a revenge porn law in 2015 (Hinduja & Patchin, 2015). The increase in the number of sexting laws in such a short period of time, suggests the desire of society to control the negative aspects of sexting and subsequent behaviors.

Current Laws

Renfrow and Rollo’s (2014) qualitative study of 85 undergraduate students made the strong claim that, “Our respondents are clear: sexting, like other sexual acts, is normal within the context of established relationships and when both parties give consent” (p. 914). But what happens when consent is not given, your reasonable expectation of

privacy is violated, or someone wishes to cause you emotional harm by distributing a sexually explicit photo of you? What happens if that photo of you ends up in the hands of unwanted persons? The legislation focusing on “revenge porn”, including laws in the state of North Dakota, center around the original photo being thought of as confidential. The law is attempting to prohibit the distribution of that photo without consent, and with intent to cause emotional harm.

When sexts are sent/forwarded violating one’s reasonable expectation of privacy, without consent and to cause actual emotional distress or harm, the victims of these actions run into legal obstacles. One of the difficulties of a sext getting in the wrong hands is that the internet crosses state and some national borders creating jurisdictional issues for law enforcement agencies. At the Federal level, no clear and concise criminal statute dealing with sexts that victimize exists, leaving many cases to be filed civilly. Attorneys are not up to date with the laws and jurisdictional issues and are therefore skittish about taking on these cases (Folderauer, 2015). These cases are not considered profitable and are difficult to win with the 1st amendment and other challenges. Early estimation is that there are only four or five attorneys in the country vigorously defending victims who have had their image forwarded and/or posted. The unattractiveness as it applies to financial compensation for the attorney has much to do with the inability to quantify a true amount of damage to the victim. Damage is usually in the form of reputation, friend, family and employer relationships, and future opportunities (Folderauer, 2015).

ND Specific

In April 2009, North Dakota addressed the issue of sexting, by creating a new subsection 12.1-27.1-03.3 to the Chapter 12.1-27.1 (Obscenity Control) of the North Dakota Century Code, specifically relating to the creation, possession or dissemination of sexually expressive images (a photograph or visual representation that exhibits a nude or partially denuded human figure) without consent of the person in the image. Violation of this new law could be considered a Class A misdemeanor and if convicted in North Dakota, a Class A misdemeanor may carry with it a maximum penalty of imprisonment for three hundred sixty days, a fine of three thousand dollars, or both (N.D. Cent. Code § 12.1-32-01, 2018; North Dakota Legislative Branch, 2009).

North Dakota again chose to address this issue by enacting HB 1371 in April of 2011, as an amendment to the 2009 Obscenity control subsection. The reason for this amendment was to clarify language within the law so that it is illegal if someone violates one's reasonable expectation of privacy when taking sexually explicit images and/or videos of another. The specific case that led to the amendment involved a North Dakota State University student videoing his female roommate, without her knowledge, while she was in the shower. An attempt was made to charge the male roommate under N.D. Cent. Code § 12.1-27.1-03.3. After applying this specific incident to this law, a district court judge in the case found the statute unconstitutional and deemed the language overly broad because it stated, "create and distribute sexual images of another without their consent." With the addition of the new language in 2011, specifically adding that it is against the law if the person in the image has "a reasonable expectation of privacy" that is violated. The law stated:

A person is guilty of a class A misdemeanor if, knowing of its character and content:

that person: Without the written consent from each individual who has a reasonable expectation of privacy in the image, surreptitiously creates or willfully possesses a sexually expressive image that was surreptitiously created; or Distributes or publishes, electronically or otherwise, a sexually expressive image: with the intent to cause emotional harm or humiliation to any individual, depicted in the sexually expressive image, who has a reasonable expectation of privacy in the image. (N.D. Cent. Code., 2011, §12.1-27. 1-03.3)

N.D. Cent. Code §12.1-27. 1-03.3, and its subsequent HB 1371 amendment, attempt to prohibit various methods of distributing sexually explicit images. If convicted in North Dakota, a Class A misdemeanor may carry with it a maximum penalty of imprisonment for three hundred sixty days, a fine of three thousand dollars, or both (N.D. Cent. Code § 12.1-32-01.).

In April of 2015, the North Dakota Legislature passed legislation (Senate Bill 2357) which continued to make the publishing or distribution of sexually explicit photos or videos of someone 18 years or older to any third party, violating one's reasonable expectation of privacy, without consent, and to cause emotional harm, a misdemeanor crime with a potential of one year in jail and a \$3,000 fine. In addition, at the same time, the bill prohibited the inappropriate forwarding of sexts which would include revenge porn and the posting of those sexts by internet hosting companies. The state also allowed civil remedies to be pursued, such as suing for punitive damages, temporary restraining orders, and injunctions to cease distribution of the image and/or video. These legal

protections and civil remedies are important so that victims have avenues of recourse that were not available before. The passage of this law followed many other states including California (2013) which originated this revenge porn type of legislation and 12 other states that followed in 2014. The focus of the legislatures was to pass laws addressing more of the problems around forwarding/sharing of a sexual image/video without consent (N.D. Cent. Code §12.1-17-0.7.2, 2015; N.D. Cent. Code § 32-03-58, 2015). The North Dakota law, in part, states:

12.1-17-07.2. (Signed by Governor 4/8/2015) Distribution of intimate images without or against consent

A. person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual eighteen years of age or older, if:

- a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
- b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
- c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section. (N.D. Cent. Code §12.1-17-07.2, 2015)

In addition, section two of Chapter 32-03 of the North Dakota Century code was created to allow for:

Private right of actions against each person who has distributed that image in violation of section 1 of this act without regard to whether the defendant has been

charged with, found guilty of or pleaded guilty to that offense. An individual whose intimate image is distributed in violation of section 1 of this Act is entitled to pursue all of the economic, noneconomic, and exemplary or punitive damages and other remedies available by law and to obtain a temporary restraining order or a preliminary or permanent injunction ordering the person to cease distribution of the intimate image. (N.D. Cent. Code § 32-03-58, 2015)

As of September 2019, there were 25 states that had some form of sexting law, including North Dakota, with nine of those states actually incorporating the word “sexting” in their legislation. In addition, there were forty-two states, including North Dakota that had a revenge porn law (Hinduja & Patchin, 2019). Revenge porn usually involves an ex-partner after a relationship is over, posting to websites intimate photos or videos that were obtained through sexting in that previous relationship. The naked or semi-nude photos are posted without consent of the persons in the said photos or videos, to typically cause some emotional detriment to or harass the person in the photo or video. Extorting money from the person in the revealing image or video can occur before and/or after the posting (Bates, 2017). The following is an example of such revenge porn extortion:

A 27-year-old San Diego man was arrested on suspicion of operating a “revenge porn” website and demanding up to \$350 to remove sexually explicit photos of women that were often posted by angry former boyfriends or ex-husbands.

“Online predators that profit from the extortion of private photos will be investigated and prosecuted for this reprehensible and illegal internet activity” said attorney general Kamala D. Harris. (Perry, 2013, para. 1)

Need and Direction of the Study

As an 18-year-old in 2008, Jessica Logan had no criminal or civil legislation in Ohio to remedy the wrong her ex-boyfriend committed, when he forwarded intimate photos of her to many people at her school without her consent. Jessica ultimately took her life as a result of the sexting incidents. Today, persons in many states including North Dakota who find themselves in a situation similar to hers, have legal options (Celzic, 2016).

The travesty of the death of Jessica Logan was the key impetus for starting the research on sexting. Unfortunately, Jessica taking her life as a result of sexting is not a lone incident. Hope Witsell was 13 years old when she sent a photo of her breasts to a boy she liked. A girl borrowed that boy's phone, found the photo and forwarded it, wherein it eventually went to students at 6 different schools in Florida. Hope was reprimanded by her parents and the school for the sext. She was subsequently bullied relentlessly with words both online and face to face at the school. No action was taken against the persons who forwarded the photo or the persons who were bullying. Hope eventually took her life after the ridicule and embarrassment of the photo being shared became too much to deal with. Amanda Todd, as a 7th grader, regretfully flashed her breasts during a webcam conversation with a complete stranger. He proceeded to utilize that photo as means to cyberbully and extort more pictures from her. When she refused, he sent the photo to her school, family members, etc. Amanda tried very hard to remove herself from the situation and deal with the trauma of the decision she made but could not. Like Jessica and Hope, Amanda Todd committed suicide. Three young, vibrant women, with their whole lives ahead of them, dying over the distribution of sexual

images; the seriousness of these preventable deaths has demonstrated the need for this study (Celzic, 2016; Ng, 2012; Ortiz, 2013).

The evolution and current prevalence of the smartphone has led to an increase in risky behaviors via this device. For the purpose of this study, sexting will be defined as the transfer of sexually explicit images via one's smartphone whether that is through sending, receiving or forwarding. This exploratory study will question if college students at Minot State University in North Dakota are sexting (sending, receiving and/or forwarding) on their smartphones, who is sexting, who is the possible victim, and who is receiving sexting images. In conjunction with the new North Dakota laws, this study will also assess motivations, conformist and nonconformist behaviors, if participants are aware of the laws, and if this awareness will potentially change behaviors. The next chapter will provide the research methods employed in this study, in an attempt to answer the eight research questions that were created to address various sexting themes.

CHAPTER III

METHODS

Early research regarding sexting focused on juveniles, including the prevalence of sending and receiving, connection with substance abuse, impact on mental health, and misguided laws. There has been very little information gathered on sexting from a state where law prohibits certain aspects of the sexting behavior for adults. These non-conformist aspects include sending/forwarding an image without consent, taking and sending/forwarding an image violating one's reasonable expectation of privacy, and sending/ forwarding an image with intent to cause actual emotional distress or harm. In 2015 in North Dakota, legislation was passed prohibiting these sexting behaviors collectively, and it allowed for criminal remedies and also civil remedies regardless of criminal conviction. This research gathered data on: sexting behaviors (sending, receiving, forwarding) of college students from a North Dakota university, profiles of persons who were sexting, profiles of persons in the images, motivations of those who sext, how much of this activity is non-conformist, the awareness of possibly illegal sexting aspects, and if awareness of the state law might alter future sexting behavior.

Presented in chapter 3 is information on the group being studied as well as the research questions that were developed to measure these themes after the literature review was assessed.

The online questionnaire is discussed including why the choice of that type of research collection, the explanations for the questions and their order, and the limitations to it. Description of the sampling method including the reasons for the selection and its restrictions, will be discussed. Research ethics with emphasis on data storage will be included. The demographics of the survey participants and the analytical strategy will also be given.

Study Population

“As compared to other societal groups, college students tend to be some of the heaviest users of technology” (Junco et al., 2010, p. 620). This demographic is the ideal population to survey regarding sexting behaviors, as the majority of college students today have access to smartphone technology. This current generation has grown up with smartphones in their pockets and that has heavily influenced their navigation through personal relationships.

The choice to survey Minot State University students in relation to sexting, was influenced by the typical age demographic of the population, the ease and availability of access to the target population because of the researcher’s employment at that institution, the cooperation of MSU colleagues to assist in increasing the response rate, and the need to choose a school within North Dakota due to the recent legislation changes.

Research Questions

The purpose of this project was to assess the amount of sexting, both conformist and non-conformist, via smartphone that was taking place by college students at a university in a state where laws have been passed prohibiting certain sexting behaviors. The typical college student demographic of 18-24 years of age are high in smartphone

ownership, but little to no research had been conducted in a state that had passed laws prohibiting certain sexting behaviors where the smartphone was the primary vehicle. Therefore, the lack of literature warranted the necessity of this study to focus on the assessment of the sending, receiving and forwarding of sexually explicit images by college adults. The most prevalent factor as to why it was vital to specifically survey North Dakota college students was because they are in a state where laws were enacted in 2009, 2011 and 2015 making some forms of sexting potentially illegal for them and defining victims.

Research questions for this project were:

- 1) What is the profile of a college student:
 - a. Who sexted and who did not sext?
 - b. Who sexted in conformity with North Dakota Century Code 12.1-7-07.2 and who did not?
 - c. Who indicated they were a victim of non-conformist sexts and are there any differences between these profiles?
- 2) Do college students perceive their sexting behavior to have changed because of the accessibility, ease, advancements and camera development of smartphones versus other devices?
- 3) In reference to North Dakota legislation Chapter 12.1, Section 17, Paragraph 7.2 (12.1-7-07.2-Distribution of intimate images without or against consent) which defines the elements of illegal sexting by adults, are college students in North Dakota sexting in a way that violates one or more of the elements of the statute?

Also, are there respondents who indicated they have been victims of sexts that are defined as violating one or more elements of the statute?

- 4) What are the reported motivations for those who sext, conformist sexters, non-conformist sexters, and those who have been victims of non-conformist sexts.
- 5)
 - a. Have college students been impacted negatively (emotionally and/or psychologically) by deviant or possibly illegal sexting behavior according to ND law?
 - b. Were college students ever provided education on these possible negative impacts?
- 6) What were college student's perceptions of criminal elements of sexting for adults in the state of North Dakota and once shown North Dakota Century Code (12.1-17-07.2.), does this education potentially change their future sexting behavior?
- 7) Were college students, who were victimized by non-conformist sexting behavior, aware of their criminal and civil remedies under law in the rural state of North Dakota prior to this survey?
- 8) Is illegal sexting behavior, being reported by college students, to college authorities and/or law enforcement? Also, with education of the ND century code provided in the survey instrument, will sexting that violates the law be reported in the future by college students?

Online Questionnaire

The survey instrument for this study evolved through multiple edits, incorporating feedback from the dissertation committee during the 2012-2018 academic years guided

by the dissertation chair, Dr. Wendelin Hume. The choice to do a survey was impacted by a desire to get a broad representative response from a population that had rarely been studied, in relation to sexting, that being young adults. Specifically, in a state where new legislation prohibiting certain aspects of sexting had been passed. Since these types of sexting topics were hardly studied and the research was exploratory in nature, a self-administered online survey was created with the purpose to gather as much information as possible.

The survey was developed within Qualtrics, the North Dakota University System's main online survey software. The reasons for this software choice were accessibility, privacy, cost, and full anonymity of responses. Qualtrics was accessed easily online for both the researcher and the subjects throughout the state on various devices such as computers and smartphones. The logon information was simplistic since it was the participant's North Dakota University System (NDUS) ID and password, but more importantly it was private within Qualtrics since it was on a secure server where the researcher and the dissertation chair were the only ones who were allowed to view the data. As a NDUS faculty member, there was no cost to the researcher within Qualtrics to set up the online survey, nor to the participants in completing the survey. This lack of cost provided the opportunity for a larger sample size. At no point during the research process has the researcher been able to discern who completed the survey. Therefore, Qualtrics afforded full anonymity to the participants who completed the survey.

The formation of questions for the survey was motivated to obtain useable data which could be used to appropriately answer each research question, and based on

the review of the literature to find gaps in previously reported research results.

Demographic questions were created to address research questions and were modeled off other survey documents and the US Census. The ordering of the questions was to illicit continued completion.

The survey questions included primarily quantitative and a few qualitative prompts for collecting data. There were questions at the beginning of the survey that asked the participants their demographics including age, race, gender, relationship status, and state they were raised in. There were questions on phone usage such as amount of time and type of device utilized. There were many yes/no and select all that apply questions in the Sent sext, received sext and forwarded sext questions. In addition, there were questions in these three sections that were open-ended in nature (qualitative), as well as having a write-in “other” option on a few questions. Finally, there were scale or Likert survey questions in the survey focused on the participant’s motives for sending, receiving or forwarding sexually explicit images. Subjects completed the survey individually, however there was some data that was grouped together in the analysis.

The University of North Dakota instructional design coordinator for the Teaching Transformation & Development Academy and who is the subject matter expert in relation to Qualtrics, was contacted to assist with question creation and survey design. Two local businesses in Minot were contacted and subsequently provided two coupons as an incentive for each respondent to receive once they completed the online survey.

Institutional Review Board approval was first received from Minot State University on October 5, 2017. The MSU approval was sought first due to the location of the survey administration and the requirements of the University of North Dakota IRB paperwork.

IRB approval from UND was received on November 7, 2017 so that data could be collected for this research, and then an extension was requested and given until October 4, 2019 and beyond so that data analysis could be completed. Once approval was achieved, chair Dr. Hume and the dissertation committee endorsed moving forward with the distribution of the survey.

More meetings were held with the UND instructional design coordinator to problem solve any foreseen and previously unforeseen issues in delivery of the survey and to ensure that the design was functional for either smartphone or computer completion. Once the survey was almost ready, a link of the survey was sent to a few MSU undergraduate students and some undergraduate and graduate UND students to mock complete and pilot test the instrument. Feedback was provided on any issues they had taking it on their smartphone or computer. The average completion time of 20 minutes was calculated via this pilot test. Once feedback was received, another meeting with the UND instructional design coordinator and chair Dr. Hume was held to fix the issues suggested from the feedback. These issues included a pre-checked does not apply for certain questions to make it easier to answer for the respondents, and a more secure log in, so that improper respondents could not bypass the login and complete the survey.

The limitations to a self-administered online survey include answers that might be inaccurate or overexaggerated. Even with the technology available to skip to questions for respondents who answer a certain way, the limitation of skipping questions and survey fatigue and/or not completing the survey in full was evident. Although definitions and descriptions were given regarding various questions, interpretation is still an unavoidable limitation.

Sampling Method

The choice to sample students at Minot State University was based on the ease and availability of access to the target population because of the researcher's employment at that institution and the cooperation of MSU colleagues to assist in increasing the response rate. There was consideration to sample students at the University of North Dakota to provide more generalizability to the North Dakota college student population, but due to time constraints, the final decision to focus on MSU was implemented. Another factor on choosing a North Dakota university was the recent passing of legislation prohibiting certain types of sexting and the goal to inquire about that demographic's perception of legality under this new legislation.

On January 22, 2018, a formal request for use of all Minot State University student emails was given to the Minot State University registrar's office. Preparing for the registrar email address approval, an email also went to MSU's public information office (PIO) on January 22, 2018, asking that an IRB approved statement, which also included a direct link to the online survey, be placed on the student campus announcements requesting participation in the survey starting on February 1. On January 30, the registrar's office approved the use of all MSU student email addresses for a link to this research to be sent by the MSU Public Information office (PIO). This information was forwarded to the PIO and they approved the campus announcement posting to the students on January 31. On February 1, 2018, MSU PIO emailed the IRB statement and a direct link to the online survey to 3063 MSU students.

On January 31, an email was also sent to the researcher's colleagues at Minot State University, both faculty and staff. The primary researcher provided colleagues

survey promotional options including for the researcher to come to their traditional classroom or athletic practice or meeting to reiterate the approved IRB statement, and/or ask if their colleague was able to promote the survey whether face to face, within online announcements, or via other communication avenues. The direct link to the survey was provided in that email to the MSU faculty and staff. The online survey was open from February 1, 2018 to March 1, 2018. The MSU student population was sent reminders via student campus announcements every Friday during the 4 weeks the survey was open. In addition, follow up emails very similar to the original email, were sent to MSU colleagues on February 14 and February 26. Three classrooms were attended where the primary researcher delivered the IRB approved statement that was on the student campus announcements, face to face.

Although all students at MSU were emailed to participate, no one student had a specific probability to complete, therefore a non-probability sampling method was used. Adding to the non-probability sampling involved the researcher emailing certain colleagues where a relationship existed so that those colleagues would promote the completion of the survey. Not all colleagues at MSU were sent these emails therefore not all students had the extra promotion of the survey. A non-probability sample was chosen to increase the number of respondents for this exploratory research. The limitations to this sampling method involve potential bias of responses and a likelihood for the sample to not be truly representative of the population.

The survey was administered online anonymously via the Qualtrics software, and the survey participants were MSU students from a variety of undergraduate and graduate classes. Only MSU students, eighteen years and older, who had access to a computer or

smart phone, voluntarily participated in this research. Once the students clicked on the Qualtrics link, they logged on to access the survey with their North Dakota University System student user id and password. This procedure helped verify that each participant was likely a MSU student and attempted to limit survey completion to once per student. Through this method, the system substantiated their names and log ins, but the researcher did not have access to their names or emails. In the instructions of the survey, consent was explained to the participants; therefore, completion of the survey implied informed consent. The consent page was able to be printed by the participant. Only students aged 18 and over were asked to complete this survey and they were also informed that they could cease their participation at any point.

Once the approximately 20-minute survey was completed, a page appeared where students were given information on how to contact the Minot police department if they needed to report a crime. Also, if a student who completed the survey was in need of counseling due to issues raised by the content of the survey, the MSU school counselor agreed to have their contact information placed on this page as well. The contact information for MSU's Title IX coordinator was also provided. Finally, the contact information for the University of North Dakota and Minot State University's Institutional Review Boards was offered if students had further inquiries. This contact information page was also available to be printed by the respondent who completed the survey.

After the participant was shown the printable contact information page, another independent screen popped up giving each student the option to print coupons provided by local business establishments as a reward for completing the survey. If certain professors chose to supply extra credit for completing this survey, the printed coupon

page was suggested to be used as verification. The researcher was not involved or informed of any extra credit offerings, nor were any other compensation or additional rewards offered.

Students completed the survey online in Qualtrics at their convenience. While the ability to open the survey ended on March 1, 2018, those persons who had previously started the survey, but not completed it, were given time to complete their responses. The last submitted survey was on March 27, 2018. The initial goal of this research was to have a sample size minimum of 100, but a sample size of at least 500 adult MSU students was preferred to improve the representativeness of the sample and enhance the strength of analysis. On the date the survey closed, there was a total of 630 respondents. Of that sample, one person was 15 years old and not eligible, and two respondents had only two completed questions, therefore all three were removed from the sample. There were two participants who only answered up to question 11, and one who only answered to question 13. They were removed since they did not answer question 15, determining whether they sext or not. Question 15, if answered, was what drove the retention of that individual's responses for the analysis. The final sample total was 624, with Qualtrics stating that 570 respondents had 100% completion. A total of 57 respondents had partially completed surveys. They were kept in the sample to use the responses that they did complete. Where they did not answer, missing responses were coded appropriately.

Research Ethics

Initially, the data was stored on the NDUS Qualtrics survey software on the NDUS protected server. Once the survey administration was completed, the data was uploaded into the newest version of SPSS on the lead researcher's laptop computer. The

computer was password protected, had encryption and a firewall. This laptop computer was either always in the lead researcher's locked office at MSU, or in their locked home. If any output documents from this data base were printed hard copy, those pages were kept in a locked cabinet in the locked MSU office. Once analysis and defense is completed by the end of December 2019, the data will be removed from the computer and it will be saved to a password protected external drive that will be stored in the locked MSU office. Any hard copies of the analysis will be kept in a locked office on the campus of Minot State University. Destruction of those documents will take place by December 2021.

Demographics of the Survey Participants

As shown in Table 1, the majority of Cellphones: Sexting and Crime survey respondents were female (n=442 – 70.8%), while 178 (28.5%) were male and four responded “other” out of the 624 participants. Most of the survey respondents were Caucasian (n= 509 – 81.6%), with 34 (5.4%) Hispanics, 21 (3.4%) Asians, 20 (3.2%) African Americans, 17 (2.7%) Other, 12 (1.9%) Mixed Race, and 11 (1.8%) American Indian/ Alaskan Natives participating. Survey participants gave their actual age, and that information was recoded to match the MSU demographic profile ranges. The most common age range was 461 respondents aged 18-24 (73.9%). Seventy-one respondents were aged 25-29 (11.4%), 56 (9.0%) were aged 30-39, 25 (4.0%) were aged 40-49, 10 (1.6%) were aged 50-64 and 2 were 65 years plus in age. The average age for the entire survey population was 24.1 years which was run on the initial survey question of age. There were 288 (46.2%) participants who were raised in North Dakota and 336 (53.8%) who were not. There were 245 (39.3%) participants raised in a 2500-49,999 population,

197 (31.6%) in a less than 2500-person population, and 182 (29.2%) in a 50,000 plus population. There were 258 (41.3%) participants who were single (not in a relationship), 231 (37.0%) who were in a committed relationship (not married), 110 (17.6%) who were married, and 16 (2.6%) in a non-committed relationship.

As shown in Table 1, the Minot State University gender breakdown during the academic year 2017- 2018 when the Cellphones: Sexting and Crime survey was administered was, 1936 (60%) females, and 1280 (40%) males. The Minot State University race breakdown during 2017-2018 when the survey was administered was 2383 (74%) Caucasians, 230 (7.2%) African Americans, 228 (7.1%) Hispanics, 114 (3.5%) Asians, and 52 (1.6%) American Indians. The Minot State University age breakdown during 2017-2018 when the survey was administered was: ages 18-24 years (2134, 66%); ages 25-29 (406, 13%); ages 30-39 (338, 11%); ages 40-49 (128, 4%); ages 50-64 (47, 1.5%); age 65 plus (1, .03%). Although inferences are being drawn to the overall MSU (2017-2018) population, the sample obtained for the Cellphones: Sexting and Crime survey tended to be younger, with more Caucasian participants, and a higher number of females completing.

Table 1

Overall Sample Demographics vs. Minot State University Demographics

Variable		Overall sample <i>n</i> =624	MSU population <i>n</i> =3,216
Age	18-24	460 (73.7)	2,134 (66.0)
	25-29	71 (11.4)	406 (13.0)
	30-39	56 (9.0)	338 (11.0)
	40-49	25 (4.0)	128 (4.0)
	50-64	10 (1.6)	47 (1.5)
	65 plus	2 (0.3)	1 (0.0)
Gender	Female	442 (70.8)	1,936 (60.0)
	Male	178 (28.5)	1,280 (40.0)
	Other	4 (0.6)	-
Race	Caucasian	509 (81.6)	2,383 (74.0)
	African American	20 (3.2)	230 (7.2)
	American Indian/ Alaskan Native	11 (1.8)	52 (1.6)
	Hispanic	34 (5.4)	228 (7.1)
	Asian	21 (3.4)	114 (3.5)
	Mixed Race	12 (1.9)	-
	Other	17 (2.7)	209 (6.5)
		Minority	115 (18.4)
	Non-minority	509 (81.6)	2,383 (74.0)
Raised in ND	Yes	288 (46.2)	n/a
	No	336 (53.8)	
Environment	50,000 or more people	182 (29.2)	n/a
	2500-49,999 people	245 (39.3)	
	Less than 2500 people	197 (31.6)	
Relationship Status	Married	110 (17.6)	n/a
	Committed relationship (not married)	231 (37.0)	
	Non-committed relationship	16 (2.6)	
	Single (not in a relationship)	258 (41.3)	
	I choose not to answer	9 (1.4)	

Analytical Strategy

Cleaning of the data began by deleting extraneous columns such as last name and first name even though no data was in them. “Other” responses within the survey were cleaned and coded if they were exact in nature to an existing answer, such as iPhone being coded as a “smart phone” for type of cell phone. Age was an open-ended interval level question and therefore the responses were coded into ranges similar to the MSU profile demographics for comparison and the ability to generalize. Race was recoded, adding an additional category of *mixed race* as most of the “other” responses reflected that. An additional recode for the race question was created with the two groups of non-minority and minority for potential racial comparisons.

Certain questions (Q15, Q30, Q31, Q32, Q34, Q35, Q36, Q37) had to be cleaned because they had the default of “does not apply” pre-selected as an option. If a respondent selected another option in those questions, the default was not automatically removed, so in the cleaning process, this default was removed. For questions 22, 23 and 24, the “does not apply” selections were recoded into “no” responses as it was an equivalent answer and to assist with analysis. For some multiple answer questions, if any response was given, then the remainder of the options were automatically coded as system missing. However, if no selections were made, then the data was cleaned to be recoded as actually missing.

If persons indicated they were a non-sexter for question 15 by selecting “does not apply”, they were skipped ahead in the survey. They completed question 46 and were shown the North Dakota Century Code 12.1-17-07.2 in question 47. Because question 48 was regarding sexting participation in the future, they were skipped because of their lack

of sexting. Unfortunately, this skip default likely reduced the amount of people who answered question 49 and 50.

Two tailed (asymptotic) statistical significance was set at the alpha level of .05 prior to any analyses. Due to the nature of this research being exploratory, behaviors could occur in either direction, whether more of something, or less of something. Therefore, two tailed analysis was the appropriate fit with this research. In determining the alpha level, the avoidance of a Type II error was imperative so as to not miss a true finding within this exploratory research. Consequently, .05 was selected prior to data analysis (Hartwig & Dearing, 1979; Mohr, 1990).

Descriptive analyses explored the frequency and percentages of behaviors based on respondent demographics (e.g. Gender, race, age, relationship status, raised in ND, environment raised in, etc.). Descriptive analysis was also run on all survey responses prior to performing further analysis. Sexting behaviors were examined based on three different categories: individuals who never sexted vs. sexted (dichotomous); conformists, those who did not violate any one of the criminal elements of N.D. Cent. Code §12.1-17-07.2 -Distribution of intimate images without or against consent) vs. non-conformists, those who violated one or more of the prohibited elements (without consent, in violation of another's reasonable expectation of privacy or caused emotional stress or harm); and individuals who indicated that they were victims of non-conformist sexts. Additional analysis was done based off of participants answering whether they think certain sexting behaviors were prohibited (prior to being made aware of the ND legislation).

Pearson chi square tests of independence were conducted throughout the analysis. For the 2 x 2 tables, Phi were reported. According to Cohen (1988), a small effect is a

Phi of .10, a medium effect is a Phi of .30 and a large effect is a Phi of .50. For tables larger than 2 x 2 (2 options for the dependent variable and 2 options for the independent variable), the Cramer's V score was selected. For Cramer's V, if row -1 or column-1= 2 (three categories), then the following V scores indicated the size of the association: .07 (small), .21 (medium), .35 (large). If row-1 or column-1= 3 (four categories), then the following V scores indicated the size of the association: .06 (small), .17 (medium), .26 (large).

CHAPTER IV

FINDINGS

In this chapter, results of the analysis related to the specific eight research questions are presented. This analysis will address questions of: possible role of the smartphone, sexting prevalence, sexting behavior and its conformity, perceived sexting victimization, motivations of sexting, understanding legality of sexting behaviors, sexting behavior change after education on the law, and reporting practices. The majority of the analysis will be related to characteristics of the sample as presented in the previous chapter (Table 1).

One of the general questions of interest was if sexting behavior was influenced by whether one was raised in North Dakota or not. Because, upon analysis, it was observed that whether one was raised in North Dakota or not had no impact in overall sexting behaviors, analysis of these results is not presented further.

Research Question Results

Research Question 1

1a) Profiles of sexters v. non-sexters. One of the questions of interest is to address the demographic differences between those respondents who sext compared to those who do not sext (Table 2).

Table 2

Demographics for Self-Reported Sexters v. Non-Sexters

Variable		Sexters (n=410)	Non-sexeters (n=214)	Total (N=624)
Age	18-24	318	142	460 (73.7)
	25-29	50	21	71 (11.4)
	30-39	26	30	56 (9.0)
	40-49	14	11	25 (4.0)
	50-64	1	9	10 (1.6)
	65 plus	1	1	2 (0.3)
Gender	Female	294	148	442 (70.8)
	Male	115	63	178 (28.5)
	Other	1	3	4 (0.6)
Race	Caucasian	337	172	509 (81.6)
	African American	14	6	20 (3.2)
	American Indian/Alaskan Native	5	6	11 (1.8)
	Hispanic	23	11	34 (5.4)
	Asian	14	7	21 (3.4)
	Mixed Race	9	3	12 (1.9)
	Other	8	9	17 (2.7)
	Minority	73	42	115 (18.4)
	Non-minority	337	172	509 (81.6)
	Raised in ND	Yes	185	103
No	225	111	336 (53.8)	
Environment Raised in	50,000 or more people	126	56	182 (29.2)
	2500-49,999 people	160	85	245 (39.3)
	Less than 2500 people	124	73	197 (31.6)
Relationship status	Married	57	53	110 (17.6)
	Committed relationship (not married)	176	55	231 (37.0)
	Non-committed relationship	12	4	16 (2.6)
	Single	161	97	258 (41.3)
	I choose not to answer	4	5	9 (1.4)

Sexting activity. There were 410 (65.7%) respondents that either sent, received, or forwarded sexts or a combination of these types of sexting. 268 (65.4%) persons stated that they had sent and received sexts on their cell phone. In addition, 11 (2.7%) sent sexts only and 97 (23.7%) received sexts only. Of those who sexted, 100 (24.3%) had sent 1-10 sexts within the past 30 days while 108 (17.3%) had received 1-10 sexts within the past 30 days. There were 291 (70.9%) who deleted sexts they received while 110 (26.8%) respondents kept sexts they received. Of those who sexted, only 1 respondent forwarded only, while 33 (8.0%) sent, received or forwarded sexts. There were 6 respondents who had forwarded between 1-30 sexts in the previous 30 days while one had forwarded 100 sexts in the previous 30 days.

As shown in Table 2, 294 (71.7%) females and 115 (28.0%) males responded that they had engaged in sexting behavior. It should be noted that the majority of the respondents in this survey overall were female (70.8%). The most common age range was 18-24 (318, 77.6%). However, the average age for those who sexted was 23.2 years compared with the average age of 25.9 for those that did not. As shown in Table 3, there was a statistically significant difference in the likelihood of sexting, with more younger respondents reporting that they participated in sexting than older respondents. ($V=.209$, $p \leq .000$)

Table 3

Crosstabulation of Age and Sexting

Sext or Not	18-24	25-29	30-39	40-49	50-64	65 plus	V	df	p
Does Not Sext	142 (30.9)	21 (29.6)	30 (53.6)	11 (44.0)	9 (90.0)	1 (50.0)	.209	5	.000
Does Sext	318 (69.1)	50 (70.4)	26 (46.4)	14 (56.0)	1 (10.0)	1 (50.0)			
Total	460 (100.0)	71 (100.0)	56 (100.0)	25 (100.0)	10 (100.0)	2 (100.0)			

Regarding the environment in which they were raised, 160 (39.0%) sexters were raised in a community of 2,500 - 49,999 ; 126 (30.7%) in a city of 50,000 or more ; and 124 (30.2%) in a community less than 2500 . There were 176 (42.9%) participants that were in a committed relationship but not married, 161 (39.3%) were single, while 57 (13.9%) were married. As shown in Table 4, among the respondents, a relationship is found ($V=.198, p \leq .000$) between relationship status and whether you sext or not. The relationships that were significant include being in a committed relationship (not married) and being single (not in a relationship). Those who do sext were more likely to be in these types of relationships than those who do not sext.

Those who do not sext. There were 214 (34.3%) survey respondents that have never sexted. As shown in Table 2, 148 (69.2%) were females and 63 (29.4%) were males. As was the case for sexters, non-sexters were typically Caucasian (172, 80.4%) and the most common age range was 18-24 (142, 66.4%). The average age for those who have not sexted is 25.9 years. 85 (39.7%) non-sexters were raised in communities 2,500-49,999 population, 73 (34.1%) in communities of less than 2500 population, and 56 (26.2%) in cities of 50,000 or more. 97 (45.3%) non-sexters were single (not in a

relationship), 55 (25.7%) were in a committed relationship but not married, and 53 (24.8%) were married.

Table 4

Crosstabulation Relationship Status and Sexting

Sext or Not	Married	Committed relationship (not married)	Non-committed	Single	I choose not to answer	V	df	p
Does Not Sext	53 (48.2)	55 (23.8)	4 (25.0)	97 (37.6)	5 (55.6)	.198	4	.000
Does Sext	57 (51.8)	176 (76.2)	12 (75.0)	161 (62.4)	4 (44.4)			
Total	110 (100.0)	231 (100.0)	16 (100.0)	258 (100.0)	9 (100.0)			

1b) The sexters. Were there differences among sexters between those who sexted in conformity with N.D. Cent. Code §12.1-17-07.2 (conformists) versus those who have acted in contravention to one or more elements of the offense (non-conformists). This data is presented in Table 5.

The conformists. There were 333 (81.2%) participants who indicated they have not violated any criminal elements of N.D. Cent. Code §12.1-17-07.2 regarding distribution of intimate images without or against consent. Of the 410 eligible respondents, 41 (10.0%) persons did not respond to this question.

Table 5

Demographics for Conformists, Non-Conformists, and Uncertain Sexters

Variable		Non-				Total (N=410)
		Conformists (n=333)	conformists (n=22)	Uncertain (n=14)	Missing (n=41)	
Age	18-24	256	19	13	30	318 (77.6)
	25-29	42	2	-	6	50 (12.2)
	30-39	22	-	1	3	26 (6.3)
	40-49	11	1	-	2	14 (3.4)
	50-64	1	-	-	-	1 (0.2)
	65 plus	1	-	-	-	1 (0.2)
Gender	Female	250	12	5	27	294 (71.7)
	Male	82	10	9	14	115 (28.0)
	Other	1	-	-	-	1 (0.2)
Race	Caucasian	271	19	12	35	337 (82.2)
	African American	13	-	1	-	14 (3.4)
	American Indian/ Alaskan Native	4	-	-	1	5 (1.2)
	Hispanic	18	2	1	2	23 (5.6)
	Asian	12	-	-	2	14 (3.4)
	Mixed Race	8	1	-	-	9 (2.2)
	Other	7	-	-	1	8 (2.0)
	Minority	62	3	2	6	73 (17.8)
	Non-minority	271	19	12	35	337 (82.2)
	Raised in ND	Yes	154	9	5	17
No		179	13	9	24	225 (54.9)
Environment Raised in	50,000 or more	106	8	5	7	126 (30.7)
	2500-49,999	129	8	4	19	160 (30.9)
	Less than 2,500	98	6	5	15	124 (30.2)
Relationship status	Married	48	1	1	7	57 (13.9)
	Committed relationship (not married)	145	11	5	15	176 (42.9)
	Non-committed relationship	10	-	-	2	12 (2.9)
	Single	126	10	8	17	161 (39.3)
	I choose not to answer	4	-	-	-	4 (1.0)

Of the conformist group, there were 250 (75.1%) females and 82 (24.6%) males. As shown in Table 6, among those who sexted, a significant statistical relationship is found ($V = .140$ $p \leq .006$) between whether you were a conformist sexter or not and gender. Specifically, if you are a conformist sexter you are more likely to be female, and if you are a non-conformist sexter, you are more likely to be male.

Table 6

Crosstabulation of Conformists/Non-Conformists/Uncertain Sexters and Gender

Conformity	Female	Male	Fill in	V	df	p
Conformists	250 (93.6)	82 (81.2)	1 (100.0)	.140	4	.006
Non-Conformists	12 (4.5)	10 (9.9)	-			
Uncertain	5 (1.9)	9 (8.9)	-			
Total	267 (100.0)	101 (100.0)	1 (100.0)			

The majority of conformists (271, 81.4%) were Caucasian. The most common age range was 256 (76.9%) respondents aged 18-24. The average age of those who were conformist sexters was 23.25 years. There were 129 (38.7%) legal sexters who were raised in a 2500-49,999 population, 98 (29.4%) in a less than 2500 population, and 106 (31.8%) were raised in a 50,000 plus population. Of those who were conformist sexters, 145 (43.5%) were in a committed relationship but not married, 126 (37.8%) were single, while 48 (14.4%) were married. The overall sample demographic breakdown was similar to the conformist sexters.

Non-conformists. There were 22 (5.4%) participants who indicated that they have sexted in a way that violated one or multiple criminal elements of the North Dakota statute 12.1-17-07.2. As shown in Table 5, there were 12 (54.5%) females and 10 (45.5%) males among the non-conformists and the majority (19, 86.4%) were Caucasian. There were 19 (86.4%) participants who were aged 18-24, and the average age was 23.09

years. Of the non-conformists, 8 (36.4%) were raised in cities of 50,000 or more, 8 (36.4%) in a community of 2500-49,999 , and 6 (27.3%) in a community of less than 2500 . Regarding relationship status, 11 (50.0%) were in a committed relationship but not married and 10 (45.5%) were single. An additional 14 (2.2%) participants responded “uncertain” to one or more of the questions that asked them if they had ever sexted in a manner that violated any element of Chapter 12.1, Section 7, paragraph 7.2 of the North Dakota Century Code. Compared to the overall sample demographic which was primarily female (70%), males were more likely to be non-conformist sexters. In addition, there was a higher percentage of non-conformist sexters who were 18-24 of age and in a committed relationship but not married, than the overall sample.

1c) The victims. The third question on the demographic profile of respondents are the characteristics of those who indicated that they have been a victim of one or more of the criminal elements of N.D. Cent. Code §12.1-17-07.2, compared with those who have responded that they have not been victims (Table 7).

There were 275 (67.0%) participants who responded that they were not victims of non-conformist sexts. There were 72 (17.6%) participants who responded that they were victims and 22 (5.4%) respondents who were uncertain if they had been.

As shown in Table 7, of those persons who were victims, 64 (88.9%) were females and interestingly only 8 (11.1%) were males. As shown in Table 8, a significant statistical relationship is found ($V=.135, p \leq .009$) between being a victim and being female.

Table 7

Demographics of Victims, Non-Victims and Uncertain Victims of Non-conformist Sexs

Question		Victims of non-conformist sexs (n=72)	Not a victim (n=275)	Uncertain (n= 22)	Missing (n=41)	Total (n=410)
Age	18-24	65	208	15	30	318 (77.6)
	25-29	5	37	2	6	50 (12.2)
	30-39	2	18	3	3	26 (6.3)
	40-49	-	11	1	2	14 (3.4)
	50-64	-	-	1	-	1 (0.2)
	65 plus	-	1	-	-	1 (0.2)
Gender	Female	64	190	13	27	294 (71.7)
	Male	8	84	9	14	115 (28.0)
	Other	-	1	-	-	1 (0.2)
Race	Caucasian	60	222	20	35	337 (82.2)
	African American	2	12	-	-	14 (3.4)
	American Indian/ Alaskan Native	3	1	-	1	5 (1.2)
	Hispanic	1	18	2	2	23 (5.6)
	Asian	1	11	-	2	14 (3.4)
	Mixed Race	4	5	-	-	9 (2.2)
	Other	1	6	-	1	8 (2.0)
	Minority	12	53	2	6	73 (17.8)
	Non-minority	60	222	20	35	337 (82.2)
	Raised in ND	Yes	36	122	10	17
No		36	153	12	24	225 (54.9)
Environment Raised in	50,000 or more	21	91	7	7	126 (30.7)
	2,500- 49,999	27	104	10	19	160 (30.9)
	Less than 2,500	24	80	5	15	124 (30.2)
Relationship status	Married	5	41	4	7	57 (13.9)
	Committed relationship (not married)	34	121	6	15	176 (42.9)
	Non-committed relationship	1	8	1	2	12 (2.9)
	Single	30	104	10	17	161 (39.3)
	I choose not to answer	2	1	1	-	4 (1.0)

Table 8

Crosstabulation of Victimization and Gender

Victim or Not	Female	Male	Fill in	V	df	p
Not a Victim	190 (71.2)	84 (83.2)	1 (100.0)	.135	4	.009
Victim	64 (24.0)	8 (7.9)	-			
Uncertain	13 (4.9)	9 (8.9)	-			
Total	267 (100.0)	101 (100.0)	1 (100.0)			

Most respondents who were victims were Caucasian (60, 83.3%). There were 65 (90.3%) participants aged 18-24 and the average age of victims was 21.25 years. As shown in Table 9, a statistically significant relationship is found ($V=.189, p \leq .003$) where the younger you are the more likely you are to be a victim, and the older you are the more likely you are not to be a victim.

Table 9

Crosstabulation of Victimization and Age

Victim or Not	18-24	25-29	30-39	40-49	50-64	65 plus	V	df	p
Not a Victim	208 (72.2)	37 (84.1)	18 (78.3)	11 (91.7)	-	1 (100.0)	.189	10	.003
Victim	65 (22.6)	5 (11.4)	2 (8.7)	-	-	-			
Uncertain	15 (5.2)	2 (4.5)	3 (13.0)	1 (8.3)	1 (100.0)	-			
Total	288 (100.0)	44 (100.0)	23 (100.0)	12 (100.0)	1 (100.0)	1 (100.0)			

Of those who have been victims of non-conformist sexting, 27 (37.5%) respondents were raised in communities of between 2500-49,999 , 24 (33.3%) were raised in a community of less than 2500 population and 21 (29.2%) were raised in cities

of 50,000 or more. There were 34 (47.2%) victims in a committed relationship but not married, and 30 (41.7%) were single (not in a relationship).

Differences among profiles. For the entire sample, the gender breakdown was 70% female and 30% male. This gender breakdown was similar for the subgroups of those who sext and those who do not sext. By comparison to those groups, for the conformist sexters, there was a slight percentage increase of females (75%) and a slight decrease of males (25%). For the non-conformists, there is a significant percentage increase of males (45.5%) and a decrease of females (54.5%).

For the entire sample, the average age was 24.2 years. For the sexters, the average age was 23.2 years. Non- sexters average age was slightly older at 25.9 years.

For the persons who identified that they sext, the size of community they were raised in was consistent among those who sent, those who received, those who forwarded or a combination of those sexting behaviors: less than 2500 (29-31%), 2500-49,999 (39%), and 50,000 plus (29-31%). Comparing to those groups, for non-sexters, raised in a community of less than 2500 was a slightly higher percentage (34.1%), and a slightly lower percentage for cities of 50,000 or more (26.2%). For non-conformist sexters, raised in cities of 50,000 or more was a higher percentage (36.4%) and a slightly lower percentage communities between 2500- 49,999 (36.4%).

Those who sext are more likely to be in a committed relationship but not married (42.9%). Non-sexters tended to be either married (24.8%) or single (45.3%). This suggests that those who do not sext, are not in the developing relationship phases.

Compared to the overall sample, victims of non-conformist sexts had a higher proportion of females (89%) and a lower proportion of males (11%). They also had a

higher percentage of being in a committed relationship but not married (47.2%). Victims average age was significantly lower at 21.25 years.

Research Question 2

Do college students perceive their sexting behavior to have changed because of the accessibility, ease, advancements and camera development of smartphones versus other devices?

All persons (100%) who participated in this research had a cell phone and 618 (99%) respondents selected that the style of cell phone was a smartphone. As shown in Table 10, 410 (65.7%) respondents have either sent, received, forwarded or engaged in a combination of these sexting behaviors. 214 (34.3%) participants responded that they do not sext. Of the sexters, 268 (65.3%) indicated that they have sent and received a sext, 97 (23.7%) received sexts only, 33 (8.0%) sent, received and forwarded sexts, 11 (2.7%) who sent sexts only, and 1 (.2%) respondent who stated forwarding sexts only.

Due to the results that all participants own a smartphone, it is that the technology alone which dictates whether one decides to sext or not. While the ease at which one can sext has likely increased with the smartphone, the decision to send, receive, and/or forward sexts cannot be attributed solely to the creation and ownership of the smartphone device.

When asked if sexting on a cell phone was common among college students, 333 (53.4%) respondents stated yes. As shown in Table 11, there is a statistically significant relationship observed ($V=.402$, $p \leq .000$) between having sexted or not and the belief that sexting is common among college students or not. These results suggest that similar to other behaviors, when one is immersed in the act, they are more likely to believe in its

commonality than those who do not participate. Those who do not participate in sexting responded that they did not know if the behavior was common among college students. Logically, if you do not participate in an act, you do not know how common the behavior is.

Table 10

Sexters and Non-Sexters

Group	n (%)
Non Sexters	214 (34.3)
Sexters	410 (65.7)
Sent only	11
Received only	97
Forwarded only	1
Sent and Received	268
Sent, Received and Forwarded	33
Total	624 (100.0)

Table 11

Crosstabulation of Sexting and If Sexting is Common Among College Students

	Does not sext	Does sext	V	df	p
Common	55 (25.7)	278 (67.8)	.402	2	.000
Not common	8 (3.7)	10 (2.4)			
I do not know	151 (70.6)	122 (29.8)			
Total	214 (100.0)	410 (100.0)			

There were 497 (79.6%) participants who responded that they have not shared sexually explicit photos with a device OTHER than a cell phone (Laptop, iPad or Tablet, Desktop, etc.). This left 127 (20.4%) respondents that have shared sexually explicit photos with a device other than a cell phone. An evaluation was conducted between age and whether you have or have not shared sexually explicit photos on a device other than a

cell phone. Shown in Table 12, a statistically significant relationship was found ($V=.223$, $p \leq .001$) in that the older you are, the less likely you are to sext, but if you do sext, the more likely you are to have shared sexually explicit photos on a device other than a cellphone.

Table 12

Crosstabulation of Age and Other Device

Shared using a different device	18-24	25-29	30-39	40-49	50-64	65 plus	V	df	p
Yes	81 (25.5)	21 (42.0)	16 (61.5)	3 (21.4)	-	-	.223	5	.001
No	237 (74.5)	29 (58.0)	10 (38.5)	11 (78.6)	1 (100.0)	1 (100.0)			
Total	318 (100.0)	50 (100.0)	26 (100.0)	14 (100.0)	1 (100.0)	1 (100.0)			

Several exploratory questions were also asked to determine whether cellphone technology has impacted the prevalence of sending, receiving and/or forwarding sexually explicit images. Indicated in Figure 1, reliance on the technology for sharing sexually explicit photos is highly influenced by the technological capacities. 277 (70.1%) respondents indicated they would not find an alternative for sharing such photos without a camera on the cellphone, 273 (69.1%) would not share the photos if there was no internet on the cellphone, 262 (66.3%) would not share if there were no social networks on the cellphone, and 312 (79.0%) would not share sexually explicit photos if there were no access to contacts on their cell phone.

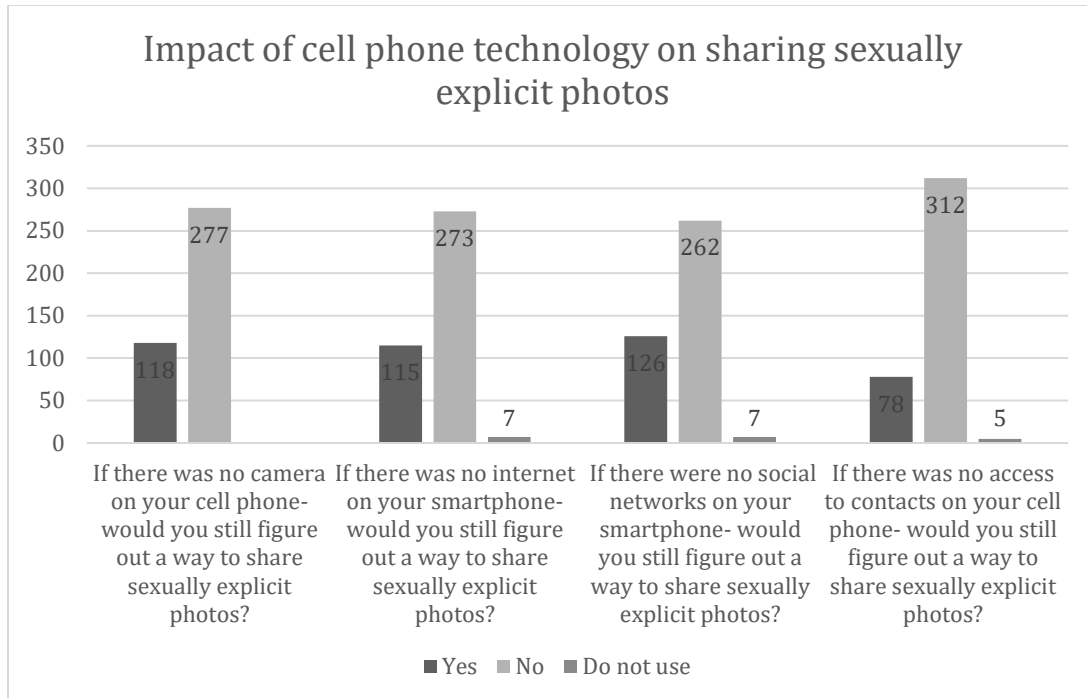


Figure 1. Impact of cell phone technology on sharing sexually explicit photos.

Research Question 3

In reference to N.D. Cent. Code §12.1-17-07.2, distribution of intimate images without or against consent, which defines the elements of illegal sexting by adults, are college students in North Dakota sexting in a way that violates one or more of the elements of the statute? Also, are there respondents who indicated they have been victims of sexts that are defined as violating one or more elements of the statute?

Respondents were asked a series of yes or no questions inquiring if they have sexted without consent of the person in the image, if they have sexted an image that violated someone's reasonable expectation of privacy and if they sexted an image to cause emotional harm to the person in the image. This was based on the language of the N.D. Cent. Code §12.1-17-07.2 regarding distribution of intimate images without or against consent:

A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual eighteen years of age or older, if:

- a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
- b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
- c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section. (N.D. Cent. Code §12.1-17-07.2)

If respondents answered yes to one or more of the known prohibited elements of the statute (without consent, in violation of another's reasonable expectation of privacy or caused emotional stress or harm), they were classified as non-conformists. If respondents answered no to all of the known prohibited elements, they were classified as conformists. If respondents answered uncertain to one or more of the prohibited elements and had not answered yes to any of the prohibited elements, they were classified as uncertain non-conformists. The total number of respondents to these questions was 369.

As shown in Table 13, of the 410 respondents who reported sexting, 22 admitted to sexting in a manner that violated one or more of the elements of the statute. Nine (40.9%) admitted to the taking of a picture violating the reasonable expectation of privacy of the person in the image, and then sending that picture via sext. Nine (40.9%) admitted to having forwarded a sext of someone whose reasonable expectation of privacy may have been violated. Twelve (54.5%) had sent a sext of someone without the consent

of the person in the image and 15 (68.2%) had forwarded a sext of someone without the consent of the person in the image. Two (9.0%) admitted to sending a sext of someone with intent to cause emotional harm, and 3 (13.6%) had forwarded a sext of someone with intent to cause emotional harm. In addition, 14 participants indicated “uncertain” as to whether they had ever acted in the manner described. Consistent with those who admitted to such sexts, those who responded *uncertain* to sending or forwarding sexts did so without consent of the person in the image. There were 41 sexters who did not respond to this question.

To be clear, respondents were not made aware that any of these acts actually constituted an element of the statute. They were only asked if they had ever acted in the manner described.

Respondents were also asked whether a sext of them had ever violated their reasonable expectation of privacy, been sent without their permission, or caused emotional harm.

There were 72 (17.6%) participants who indicated that they have been a victim of one or more of the elements of the ND law prohibiting the distribution of intimate images and 275 (67.1%) who were not. There were 22 (5.4%) participants who were “uncertain” if they have been a victim of elements in violation of the statute and 41 (10.0%) chose not to answer (Table 14).

Table 13

Non-Conformist or Uncertain Sexters

Question	Non-conformists (n= 22)	Uncertain (n= 14)
Have you ever taken a picture of someone violating their reasonable expectation of privacy and then sent the picture via sext?	9	9
Have you ever forwarded a sext of someone whose reasonable expectation of privacy in the image may have been violated?	9	10
Have you ever sent a sext of someone without the consent of person in the image?	12	6
Have you ever forwarded a sext of someone without the consent of person in the image?	15	5
Have you ever sent a sext of someone that caused emotional distress or harm?	2	5
Have you ever forwarded a sext of someone with that caused emotional distress or harm?	3	5

Table 14

Self- Reporting of Acts That Would Violate Elements of the ND Century Code Prohibiting the Distribution of Intimate Images

Group	n (%)
Yes	72 (17.6)
No	275 (67.1)
Uncertain	22 (5.4)
Did not respond	41 (10.0)
Total	410 (100.0)

Presented in Table 15, 44 (61.1%) participants report having an intimate image of themselves sent that violated their reasonable expectation of privacy, 54 (75.0%) who reported having such images sent without their consent and 34 (50.0%) that experienced

emotional distress or harm. Most people who sexted in a non-conformist manner did so without consent of the person in the image. In addition, victims of non-conformist sexts were violated most often by having their image distributed without their consent.

Table 15

Questions That Determine Victims of Violations of Criminal Elements According to the ND Century Code

Question		Victims (n=72)
Have you ever been the victim of a sext that violated your reasonable expectation of privacy?	Yes	44 (61.1)
	No	28 (38.9)
	Uncertain	-
Have you ever been the victim of a sext that was sent without your consent?	Yes	54 (75.0)
	No	16 (22.2)
	Uncertain	2 (2.8)
Have you ever been the victim of a sext that caused you emotional harm?	Yes	34 (47.2)
	No	34 (47.2)
	Uncertain	4 (5.6)

Research Question 4

What are the reported motivations for those who sext, conformist sexters, non-conformist sexters, and those who have been victims of non-conformist sexts?

Participants were asked, “What was your motivation for sending the sexts or forwarding (sharing) the sexts? If you received a sext, please select the motivation of the sender. Please select all that apply for all the sexting you have participated in, whether you have sent, received and/or forwarded (shared).”

Motivations of all sexters. Table 16 presents the most common motivations selected by all respondents. The most common was *to be sexy/flirtatious*. There were 247 respondents who selected this motivation for sexts sent, 246 respondents for sexts

received and 2 respondents for sexts forwarded. The second most common motivation was *to initiate sexual activity*. There were 184 respondents who selected this motivation for sexts received, 153 respondents who selected this motivation for sexts sent and 1 respondent for sexts forwarded. The third most common motivation was a *Joke or for fun*. It was the most popular motivation selection for forwarding sexts with 15 respondents. An additional 88 respondents selected *Joke or for fun* for sexts received, and 77 respondents for sexts sent. The fourth most common motivation was *sexual suggestion with hopes for a relationship*. It was selected by 90 respondents for sexts received, 79 respondents for sexts sent and 1 respondent for sexts forwarded. The top three motivations for specifically sending sexts were: *to be sexy/flirtatious, initiate sexual activity and it was an impulsive act*. The top three motivations for receiving sexts were: *to be sexy/flirtatious, initiate sexual activity and I did not ask for the sext*. There was only one dominant motivation for all sexters who forwarded sexts, 15 (43%): *Joke or For Fun*.

Table 16

Motivations for Sending, Receiving and Forwarding Sexts

Variable (Choose all that apply for sending, receiving and forwarding sexts)	Sent sexts	Received sexts	Forwarded sexts
To be sexy/flirtatious	247	246	2
Initiate sexual activity	153	184	1
Joke or for fun	77	88	15
Sexual suggestion with hopes for a relationship	79	90	1
I did not ask for the sext	7	108	3
It was an impulsive act	83	24	3
To maintain relationship	40	29	3
I felt pressure to	51	9	3
Risk taking to gain attention	19	29	1
Revenge	4	6	2
Other	5	4	1
To Cause Emotional Harm	1	6	-

Motivations of conformists. In Table 17, the most common motivations selected by the 333 conformists are presented. Again, the most common motivation was *to be sexy/flirtatious*. There were 226 respondents who selected this motivation for sexts sent, 223 for sexts received and 2 for sexts forwarded. The second most common motivation was *to initiate sexual activity*. There were 167 respondents who selected this motivation for sexts received, 136 who selected this motivation for sexts sent and 1 for sexts forwarded. The third most common motivation was *sexual suggestion with hopes for a relationship* selected by 77 respondents for sexts received, 68 for sexts sent and 1 for sexts forwarded. The fourth most common motivation was *Joke or for fun*. It was the most popular motivation for sexts forwarded with 5 respondents, with an additional 73 respondents selecting *Joke or For Fun* for sexts received, and 66 for sexts sent.

For conformists, the top three motivations specifically for sending sexts were: *to be sexy/flirtatious, initiate sexual activity and it was an impulsive act*. The top three motivations for receiving sexts were: *to be sexy/flirtatious, initiate sexual activity and I did not ask for the sext*. There was only one main motivation for those who forwarded sexts: *Joke or For Fun*.

Table 17

Motivations for Sending, Receiving and Forwarding Sexts for Conformist Sexters

Variable (Choose all that apply for sending, receiving and forwarding sexts)	Sent sexts	Received sexts	Forwarded sexts
To be sexy/flirtatious	226	223	2
Initiate sexual activity	136	167	1
Sexual suggestion with hopes for a relationship	68	77	1
Joke or for fun	66	73	5
I did not ask for the sext	5	95	1
It was an impulsive act	71	19	-
To maintain relationship	36	26	1
I felt pressure to	44	7	-
Risk taking to gain attention	15	20	-
Other	4	3	-
Revenge	2	3	-
To cause emotional harm	-	3	-

Motivations of non-conformists. As shown in Table 18, the most common motivations for the 22 non-conformists were *Joke or for fun* and *to be sexy/flirtatious*. *Joke or for fun* was the motivation selected by 9 for sexts sent, 10 for sexts received and was the most common motivation for sexts forwarded with 9 respondents. There were 14 respondents who selected *to be sexy/flirtatious* for sexts sent, and 14 respondents for sexts received. The third most common motivation was to *Initiate sexual activity*, selected by 12 respondents for sexts sent and 11 for sexts received. The fourth most common motivation was *Sexual suggestion with hopes for a relationship* which was selected by 8 respondents for sexts received and 7 respondents for sexts sent.

For non-conformists, the top three motivations for specifically sending sexts were: *to be sexy/flirtatious*, *initiate sexual activity* and *joke or for fun*. The top three motivations for receiving sexts were: *to be sexy/flirtatious*, *initiate sexual activity* and

Joke or for fun. There was only one main motivation for those who forwarded sexts:

Joke or For Fun.

Table 18

Motivations for Sending, Receiving and Forwarding Sexts for Non-Conformists

Variable (Choose all that apply for sending, receiving and forwarding sexts)	Sent sexts	Received sexts	Forwarded sexts
Joke or for fun	9	10	9
To be sexy/flirtatious	14	14	-
Initiate sexual activity	12	11	-
Sexual suggestion with hopes for a relationship	7	8	-
It was an impulsive act	8	3	3
I did not ask for the sext	2	8	1
Risk taking to gain attention	3	5	1
I felt pressure to	4	1	3
To maintain relationship	3	3	2
Revenge	1	1	2
Other	1	1	1
To cause emotional harm	1	1	-

In summary, the most common motivation for the sub- population of sexters, was *to be sexy/flirtatious*. The second most common motivation was *to Initiate sexual activity*. Other motivations indicated consistently were: *Joke or for fun and Sexual suggestion with hopes for a relationship*. *Joke or for fun* was the most common motivation for forwarding sexts. The top motivations for sending sexts were: *to be sexy/flirtatious, initiate sexual activity, it was an impulsive act and joke or for fun*. The top motivations for receiving sexts were: *to be sexy/flirtatious, initiate sexual activity, I did not ask for the sext, and joke or for fun*.

Conformist sexters and non-conformist sexters shared the top two motivations for sending sexts and receiving sexts: *to be sexy/flirtatious and initiate sexual activity*. The third most common motivation varied for sexts sent: *it was an impulsive act for*

conformists and *joke or for fun* for non-conformists; and for receiving sexts, *I did not ask for the sext* for conformists and *joke or for fun* for non-conformists. *Joke or For Fun* was the most common motivation for forwarding sexts for both conformist and non-conformist sexters.

Motivations of victims of non-conformist sexts. It must be noted that respondents could select as many motivations that happened to them regarding all the sexting they have participated in, out of the 3 types of sexts (sent, received, forwarded) and 12 options for motivations. The selected motivations for those who receive likely incorporated the receiver's interpretation as to why the sext was being sent (such as to start a relationship), even if they did not ask for it.

In Table 19, the motivations for sexting by those who described themselves as victims of non-conformist sexts are provided. The most common motivation to sext for victims of non-conformist sexts was *to be sexy/flirtatious* (53 sent, 51 received, 1 forwarded) with the second most common motivation to *initiate sexual activity* (45 received, 38 sent, 1 forwarded). The third most common motivation was *sexual suggestion with hopes for a relationship* (34 received, 24 sent, 1 forwarded). The fourth and fifth most frequent motivations for victims were *It was an impulsive act* (35 sent, 9 received, 2 forwarded) and *I did not ask for the sexts* (38 received, 3 forwarded and 1 sent) which were selected at a higher rate by victims than other groups. Again, *Joke or for fun* was the most common motivation for sexts forwarded (4 respondents).

Table 19

Motivations for Sending, Receiving and Forwarding Sexts for Victims of Non-Conformist Sexts

Variable (Choose all that apply for sending, receiving and forwarding sexts)	Sent sexts	Received sexts	Forwarded sexts
To be sexy/flirtatious	53	51	1
Initiate sexual activity	38	45	1
Sexual suggestion with hopes of a relationship	24	34	1
It was an impulsive act	35	9	2
I did not ask for the sext	1	38	3
Joke or for fun	15	20	4
I felt pressure to	23	4	1
To maintain relationship	18	12	3
Risk taking to gain attention	8	9	1
Revenge	4	5	1
To cause emotional harm	-	4	-
Other	1	1	-

Research Question 5a

Have college students been impacted negatively (emotionally and/or psychologically) by non-conformist sexting behavior according to ND law?

As shown in Table 20, 275 (67.1%) sexters responded to questions indicating they were not victims of sexts. Of that group, 88 (32.0%) participants have regretted sexting on their cellphone because of an impulsive decision, 81 (32.5%) have regretted sexting on their cell phone because of the inability to delete or retrieve the image that they sent, and 97 (35.3%) regretted sexting on their cell phone because of the amount of people who COULD have access to the image. There were 176 (64.0%) participants that believe when they are sexting that the image will be kept private and 243 (88.4%) believed that sharing a sext is a violation of privacy.

There were 72 (17.6%) survey participants who responded to questions in a way that indicated they were victims of sexting that violated elements of the North Dakota

statute. In addition, 22 (5.4%) participants responded “uncertain” to one or a combination of the three questions regarding victimization of sexts in violation of the North Dakota statute.

As shown in Table 20, of those who were victims of non-conformist sexts, 40 (55.6%) participants believe that when they are sexting, that the image will be kept private and 67 (93.1%) believed that sharing a sext is a violation of privacy. There were 45 (62.5%) participants that regretted sexting on their cellphone because of an impulsive decision, 42 (58.3%) regretted sexting on their cell phone because of the inability to delete or retrieve the image that they sent, and 50 (69.4%) regretted sexting on their cell phone because of the amount of people who COULD have access to the image.

As it applies to one’s resulting emotional state, of those who were victims of non-conformist sexts, 26 (36.1%) participants have been depressed because of someone misusing their sext, and 7 (9.7%) have wanted to hurt themselves because of someone misusing their sext. As shown in Table 20, for those persons who were not victims of non-conformist sexts, 6 (2.2%) participants have been depressed because of someone misusing their sext and 3 have wanted to hurt themselves because of someone misusing their sext (other respondents mostly chose does not apply).

Table 20

Emotional Impact of Sexts

Question		Victims (n=72)	Non-Victims (n=275)
Do you believe when you are sexting that the image will be kept private?	Yes	40 (55.6)	176 (64.0)
	No	25 (34.7)	71 (21.8)
	Does not apply	7 (9.7)	28 (10.2)
Do you believe that someone sharing a sext is a violation of privacy?	Yes	67 (93.1)	243 (88.4)
	No	5 (6.9)	32 (11.6)
Have you ever regretted sexting on your cellphone because of an impulsive decision?	Yes	45 (62.5)	88 (32.0)
	No	27 (37.5)	187 (68.0)
Have you ever regretted sexting on your cell phone because of the inability to delete or retrieve the image that you sent?	Yes	42 (58.3)	81 (32.5)
	No	30 (41.7)	194 (70.5)
Have you ever regretted sexting on your cell phone because of the amount of people who COULD have access to the image?	Yes	50 (69.4)	97 (35.3)
	No	22 (30.6)	178 (64.7)
Have you ever been depressed because of someone misusing your sext?	Yes	26 (36.1)	6 (2.2)
	No	33 (45.8)	180 (65.5)
	Does not apply	13 (18.1)	89 (32.4)
Have you ever wanted to hurt yourself because of someone misusing your sext?	Yes	7 (9.7)	3 (1.1)
	No	51 (70.8)	185 (67.5)
	Does not apply	14 (19.4)	86 (31.4)
	Missing	-	1 (0.3)

As shown in Table 21, when victims of non-conformist sexts were asked *have you ever had a sext of yourself threatened to be, or shared with another person without your consent*, 22 (30.6%) participants selected threatened and 19 (26.4%) selected shared. When asked *have you ever had a sext of yourself threatened to be, or shared with multiple people without your consent*, 20 (27.8%) participants selected threatened and 16 (22.2%) selected shared. When asked *have you ever had a sext of yourself threatened to be, or posted on a website without your consent*, 8 (11.1%) participants selected threatened and 4 (5.6%) selected posted.

As shown in Table 21, of those who stated they were not victims of non-conformist sexts, 14 (5.1%) participants have had their sexts threatened to be shared while 5 (1.8%) actually have had their sexts shared with another person without their consent. There were 10 (3.6%) participants that have had their sexts threatened to be shared while 6 (2.2%) actually have had their sexts shared with multiple people without their consent. There were 11 (4.0%) participants who have had their sexts threatened to be posted, and 3 (1.1%) who have actually had their sexts posted on websites without their consent. These results suggest that there are persons who are not identifying themselves as victims when in fact the actions against them were in violation of an element of the North Dakota statute.

Table 21

Sexts Threatened, Shared or Posted Without Consent

Question		Victim (n=72)	Non-Victim (n=275)
Have you ever had a sext of yourself threatened to be shared with another person without your consent?	Yes	22 (30.6)	14 (5.1)
	No	38 (52.7)	190 (69.1)
	Does not apply	12 (16.7)	71 (25.8)
Have you ever had a sext of yourself shared with another person without your consent?	Yes	19 (26.4)	5 (1.8)
	No	41 (56.9)	199 (72.4)
	Does not apply	12 (16.7)	71 (25.8)
Have you ever had a sext of yourself threatened to be shared with multiple people without your consent?	Yes	20 (27.8)	10 (3.6)
	No	39 (54.1)	192 (69.8)
	Does not apply	13 (18.1)	73 (26.5)
Have you ever had a sext of yourself shared with multiple people without your consent?	Yes	16 (22.2)	6 (2.2)
	No	43 (59.7)	196 (71.3)
	Does not apply	13 (18.1)	73 (26.5)
Have you ever had a sext of yourself threatened to a website without your consent?	Yes	8 (11.1)	11 (4.0)
	No	51 (70.8)	192 (69.8)
	Does not apply	13 (18.1)	72 (26.2)
Have you ever had a sext of yourself posted on a website without your consent?	Yes	4 (5.6)	3 (1.1)
	No	55 (76.3)	200 (72.7)
	Does not apply	13 (18.1)	72 (26.2)

As shown in Table 22, among the respondents, a relationship is found ($V=.355$, $p \leq .000$) between whether you were a victim of non-conformist sexting or not and whether you have had a sext of yourself threatened to be or shared with multiple persons without your consent. The results show that some persons do not subjectively identify as a victim when in fact they respond suggesting that they have had sexts shared that violates one element of the North Dakota statute.

Table 22

Crosstabulation of Victimization and Sexts Without Your Consent to Multiple People

Victim or Not	Threatened	Shared	Neither	Does not apply	Total	V	df	p
Victim	20 (27.7)	16 (22.2)	23 (31.9)	13 (18.0)	72 (100.0)	.355	6	.000
Not a victim	10 (3.6)	6 (2.2)	186 (67.6)	73 (26.5)	275 (100.0)			
Uncertain	-	2 (9.0)	16 (72.7)	4 (18.2)	22 (100.0)			

As shown in Table 23, among the respondents, a relationship is found ($V=.148$, $p \leq .013$) between whether you were a victim of non-conformist sexting or not and whether you have had a sext of yourself threatened to be or posted on a website without your consent.

Table 23

Crosstabulation of Victimization and Posted to a Website Without Your Consent

Victim or Not	Threatened	Shared	Neither	Does not apply	Total	V	df	p
Victim	8 (11.1)	4 (5.5)	47 (65.3)	13 (18.0)	72 (100.0)	.148	12	.013
Not a victim	11 (4.0)	3 (1.0)	189 (68.7)	72 (26.2)	275 (100.0)			
Uncertain	-	-	14 (63.6)	8 (36.4)	22 (100.0)			

Research Question 5b

Were college students ever provided education on these possible negative impacts?

As shown in Figure 2, when asked if they *were given education regarding the possible negative outcomes (besides billing or roaming charges) that come with the capabilities of the mobile cell phone*, of the entire population of 624 respondents, 334 (53.5%) were given education while 290 (46.5%) were not. Of the 410 respondents who stated that they sexted, 233 (56.8%) were given education regarding the possible negative outcomes (besides billing or roaming charges) that come with the capabilities of the mobile cell phone, while 177 (43.2%) were not.

Of the 72 respondents who stated that they were victims of non-conformist sexting, 52 (72.2%) were given education regarding the possible negative outcomes (besides billing or roaming charges) that come with the capabilities of the mobile cell phone, while 20 (27.8%) were not. These results show that the type of education that was given regarding possible negative outcomes, did not prevent victimization of sexts that are in violation of the North Dakota statute. Of the 22 respondents who responded to the questions implying that they have sexted in a non-conformist manner per the North Dakota century code, 11 (50.0%) were given education regarding the possible negative outcomes (besides billing or roaming charges) that come with the capabilities of the mobile cell phone, while 11 (50.0%) were not.

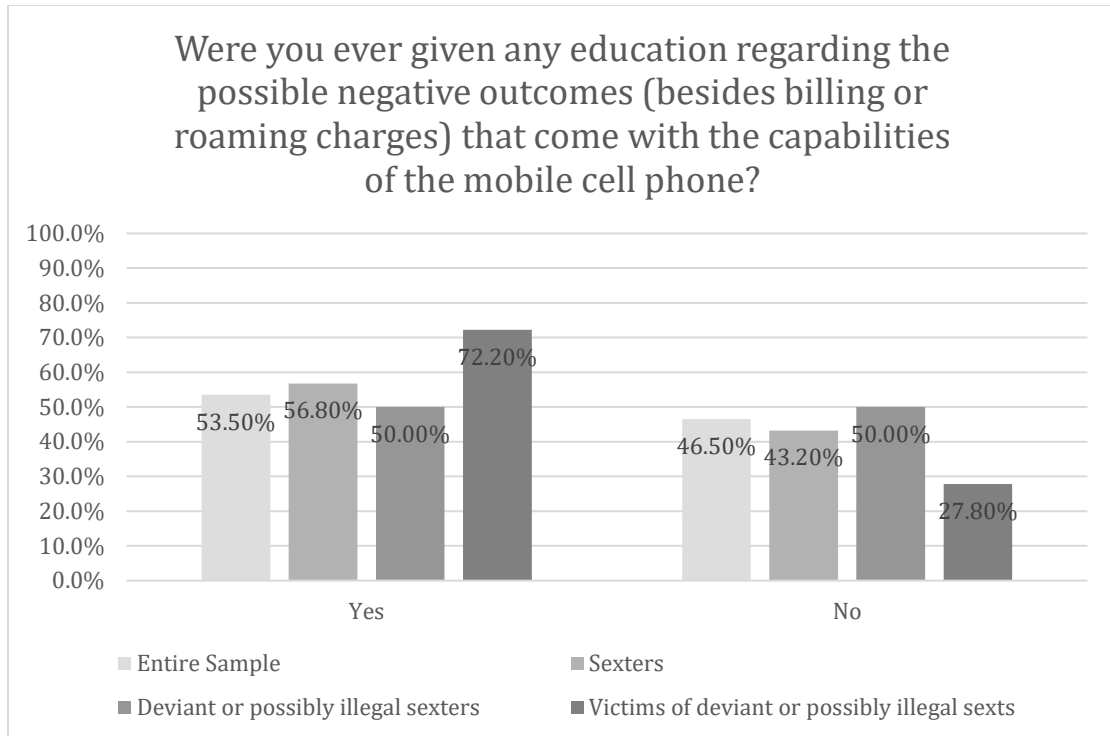


Figure 2. Education about negative outcomes of cellphone use.

As shown in Table 24, among the respondents, a statistically significant relationship is found ($V=.137$, $p \leq .031$) wherein victims were more likely to receive education regarding the possible negative outcomes (besides billing or roaming charges) that come with the capabilities of the mobile cell phone.

Table 24

Crosstabulation of Victimization and Education Given

Victim or Not	Yes	No	Total	V	df	p
Victim of deviant or possibly illegal sexts	52 (72.2)	20 (27.7)	72 (100.0)	.137	2	.031
Not a victim of deviant or possibly illegal sexts	154 (56.0)	121 (44.0)	275 (100.0)			
Uncertain victim of deviant or possibly illegal sexts	11 (50.0)	11 (50.0)	22 (100.0)			

Research Question 6

What were college student's perceptions of criminal elements of sexting for adults in the state of North Dakota and once shown N.D. Cent. Code §12.1-17-07.2, does this education potentially change their future sexting behavior?

There were 336 (53.8%) participants that were NOT raised in North Dakota therefore knowledge of ND laws might possibly be minimal. The North Dakota century code prohibiting the distribution of intimate images without or against consent states:

A person commits the offense of distribution of intimate images if the person knowingly or intentionally distributes to any third party any intimate image of an individual eighteen years of age or older, if:

- a. The person knows that the depicted individual has not given consent to the person to distribute the intimate image;
- b. The intimate image was created by or provided to the person under circumstances in which the individual has a reasonable expectation of privacy; and
- c. Actual emotional distress or harm is caused to the individual as a result of the distribution under this section. (N.D. Cent. Code §12.1-17-07.2)

Survey participants were asked a question inquiring about their perceptions of legality of these aspects of sexting for adults: Do you think that in North Dakota, it could be a crime for you as an adult if you...Send a sext of an adult whose reasonable expectation of privacy was violated; Receive a sext of an adult whose reasonable expectation of privacy was violated; Forward (share) a sext of an adult whose reasonable expectation of privacy was violated; Send a sext without consent of person in the image;

Receive a sext without consent of person in the image; Forward (share) a sext without consent of person in the image; Send a sext to commit emotional harm; Forward (share) a sext to commit emotional harm. They had the options to select yes, no or uncertain.

As shown in Table 25, for the entire sample population, 457 (73.2%) participants thought it could be a crime to send a sext of an adult whose reasonable expectation of privacy was violated, while 58 (9.3%) did not and 67 (10.7%) were uncertain. There were 458 (73.4%) participants who thought it could be a crime to forward a sext of an adult whose reasonable expectation of privacy was violated, while 57 (9.1%) did not and 67 (10.7%) were uncertain. There were 468 (75.0%) participants who thought it could be a crime to send a sext of an adult without consent of the person in the image, while 55 (8.8%) did not and 59 (9.5%) were uncertain. There were 461 (73.9%) participants who thought it could be a crime to forward a sext of an adult without consent of the person in the image, while 53 (8.5%) did not and 68 (10.9%) were uncertain. There were 435 (69.7%) participants who thought it could be a crime to send a sext to commit emotional harm, while 72 (23.6%) did not and 75 (12.0%) were uncertain. There were 444 (71.2%) participants who thought it could be a crime to forward a sext to commit emotional harm, while 61 (9.8%) did not and 77 (12.3%) were uncertain.

Table 25

*Perceptions of Legality of Sexting Acts in the Context of North Dakota Law 12.1-17-07.2.
Distribution of Intimate Images Without or Against Consent*

Question: Do you think that in North Dakota, it could be a crime for you as an adult to:	Perceptions of Legality	Sample (n=624)
Send a sext of an adult whose reasonable expectation of privacy was violated	Yes	457 (73.2)
	No	58 (9.3)
	Uncertain	67 (10.7)
	Missing	42 (6.7)
Receive a sext of an adult whose reasonable expectation of privacy was violated	Yes	317 (50.8)
	No	167 (26.8)
	Uncertain	98 (15.7)
	Missing	42 (6.7)
Forward (share) a sext of an adult whose reasonable expectation of privacy was violated	Yes	458 (73.4)
	No	57 (9.1)
	Uncertain	67 (10.7)
	Missing	42 (6.7)
Send a sext without consent of person in the image	Yes	468 (75.0)
	No	55 (8.8)
	Uncertain	59 (9.5)
	Missing	42 (6.7)
Receive a sext without consent of person in the image	Yes	280 (44.9)
	No	191 (30.6)
	Uncertain	111 (17.8)
	Missing	42 (6.7)
Forward (share) a sext without consent of person in the image	Yes	461 (73.9)
	No	53 (8.5)
	Uncertain	68 (10.9)
	Missing	42 (6.7)
Send a sext to commit emotional harm	Yes	435 (69.7)
	No	72 (11.5)
	Uncertain	75 (12.0)
	Missing	42 (6.7)
Forward (share) a sext to commit emotional harm	Yes	444 (71.2)
	No	61 (9.8)
	Uncertain	77 (12.3)
	Missing	42 (6.7)

The majority of respondents had the correct legal perception of the law that sending and forwarding sexts that violate one's reasonable expectation of privacy, without consent of the person in the image, and to cause emotional harm are in violation of N.D. Cent. Code §12.1-17-07.2. Compared to sending and forwarding sexts, survey participants did not have accurate perceptions of legality regarding the North Dakota century code governing receiving sexts (Table 25). Relevant to the statute governing the distribution of intimate images, a person is in violation of the law if "...the person knowingly or intentionally distributes [intimate images] to any third party." A primary element of the violation of the law requires that a person distributes (sends and/or forwards) the image, it does not mention that receiving an image constitutes distribution.

Respondents were asked in the context of receiving sexts, whether it was a crime to receive a sext of an adult whose reasonable expectation of privacy was violated or without consent of the person in the image. Although a bit of a difficult question because the receiving of a sext does not constitute distribution in violation of the statute, 317 (50.8%) participants thought it could be a crime to receive a sext of an adult whose reasonable expectation of privacy was violated and/or 280 (44.9%) believed that it could be a crime to receive a sext without consent of the person in the image was sufficient to establish an offense. This indicates that a high percentage of respondents have inaccurate beliefs concerning North Dakota law regarding distribution of intimate images without or against consent.

Due to low frequencies of respondents that stated that they had either sent or forwarded sexts without permission, in violation of a person's reasonable expectation of privacy or caused emotional harm, while believing that such actions could be a crime, the

analyses is not reported in tabular form. However, it is of some note that 17 (4.1%) respondents stated that they still sexted and indicated they believed that such action could be a crime. These questions did not ask whether the respondent believed it could be a crime at the time of the sext.

After being asked if they thought certain aspects of sexting were a crime, participants were immediately shown the N.D. Cent. Code §12.1-17-07.2 language. Distribution of intimate images without or against consent), prohibiting certain aspects of sexting behavior for adults. They subsequently were asked, that now being informed of the law, what is their likelihood of participating with the following options (choose one option for each sexting behavior): *I have participated and am no more likely to continue, I have participated and am now less likely to continue, I have participated and the law won't make me change, I have never participated but now will start, and I have never participated and still will not.*

Per Table 26, after being shown the ND century code, most participants indicated that they have never participated and still will not send (n=322, 78.5%), receive (n=309, 75.4%) or forward (n=321, 78.3%) a sext of an adult whose reasonable expectation of privacy was violated. In addition, 23 (5.6%) who sent, 30 (7.3%) who received, and 22 (5.4%) who forwarded sexts of an adult whose reasonable expectation of privacy was violated in the image were LESS likely to continue this behavior after being shown the ND law.

Table 26

Participation Likelihood for Conformist/Non-Conformist Sexters After ND Legislation Education

Question	Never have and still will not	Never have but now will start	Have and law won't make me change	Have and am less likely to continue	Have and am more likely to continue	Missing	Total
Send a sext of an adult whose reasonable expectation of privacy was violated	322 (78.5)	5 (1.2)	7 (1.7)	23 (5.6)	5 (1.2)	48 (11.7)	410 (100.0)
Receive a sext of an adult whose reasonable expectation of privacy was violated	309 (75.4)	6 (1.5)	13 (3.2)	30 (7.3)	4 (1.0)	48 (11.7)	410 (100.0)
Forward a sext of an adult whose reasonable expectation of privacy was violated	321 (78.3)	7 (1.7)	8 (2.0)	22 (5.4)	4 (1.0)	48 (11.7)	410 (100.0)
Send a sext without consent of person in the image	319 (77.8)	7 (1.7)	7 (1.7)	24 (5.9)	5 (1.2)	48 (11.7)	410 (100.0)
Receive a sext without consent of person in the image	307 (74.9)	7 (1.7)	17 (4.1)	25 (6.1)	6 (1.5)	48 (11.7)	410 (100.0)
Forward a sext without consent of person in the image	320 (78.0)	6 (1.5)	8 (2.0)	23 (5.6)	5 (1.2)	48 (11.7)	410 (100.0)
Send a sext to commit emotional harm	330 (80.5)	6 (1.5)	5 (1.2)	17 (4.1)	4 (1.0)	48 (11.7)	410 (100.0)
Forward a sext to commit emotional harm	328 (80.0)	7 (1.7)	6 (1.5)	17 (4.1)	4 (1.0)	48 (11.7)	410 (100.0)

After being shown the ND century code, most participants indicated that they have never participated and still will not send (n=319, 77.8%), receive (n=307, 74.9%) or forward (n=320, 78.0%) a sext of an adult without consent of the person in the image. In addition, 24 (5.9%) who sent, 25 (6.1%) who received, and 23 (5.6%) who forwarded sexts of an adult whose reasonable expectation of privacy was violated in the image were LESS likely to continue this behavior after being shown the ND century code.

After being shown the ND century code, most participants indicated that they have never participated and still will not send (n=330, 80.5%), or forward (n=328, 80.0%) a sext of an adult to commit emotional harm. In addition, 17 (4.1%) who sent, and 17 (4.1%) who forwarded sexts of an adult whose reasonable expectation of privacy was violated in the image were LESS likely to continue this behavior after being shown the ND century code.

Research Question 7

Were college students, who were victimized by non-conformist sexting behavior, aware of their criminal and civil remedies under law in the rural state of North Dakota prior to this survey?

There were 72 (17.6%) survey participants who responded to questions in a way that indicated that they were victims of sexting in violation of the North Dakota statute. Please note that an additional 22 (5.4%) participants responded that they were uncertain if they have been victims of non-conformist sexts. Those who indicated victimization, were most likely to be victimized with sexts that were sent without their consent, then violating their reasonable expectation of privacy or to cause them emotional harm.

As shown in Figure 3, victims of non-conformist sexting were asked if they were aware of criminal and civil remedies prior to the sharing of the North Dakota legislation on illegal sexting behavior. There were 44 (61.1%) respondents who were not aware of criminal remedies and 45 (62.5%) respondents who were not aware of civil remedies. In reference to the survey sample, of all participants, whether they sexted or not, 414 (72.6%) respondents, were not aware of criminal remedies and 420 (73.7%) respondents were not aware of civil remedies prior to the sharing of the North Dakota legislation on illegal sexting behavior.

As shown in Table 27, among the respondents, a relationship is found ($V=.116$, $p \leq .090$) whether you are a victim, not a victim or are uncertain of being a victim of non-conformist sexting and being aware of criminal remedies prior to being shown ND legislation.

Table 27

Crosstabulation Victimization and Being Aware of Criminal Remedies Prior to Being Shown ND Legislation

Victim or Not	Yes	No	Total	V	df	p
Not a Victim	75 (27.9)	193 (70.1)	268 (100.0)	.116	2	.090
Victim	27 (38.0)	44 (61.9)	71 (100.0)			
Uncertain	3 (15.0)	17 (85.0)	20 (100.0)			

As shown in Table 28, among the respondents, a relationship is found ($V=.122$, $p \leq .069$) whether you are a victim, not a victim or are uncertain of being a victim of non-conformist sexting and being aware of civil remedies prior to being shown ND legislation.

Table 28

Crosstabulation of Victimization and Being Aware of Civil Remedies Prior to Being Shown ND Legislation

Victim or Not	Yes	No	Total	V	df	p
Not a Victim	79 (29.5)	189 (70.5)	268 (100.0)	.122	2	.069
Victim	26 (36.6)	45 (63.4)	71 (100.0)			
Uncertain	2 (10.0)	18 (90.0)	20 (100.0)			

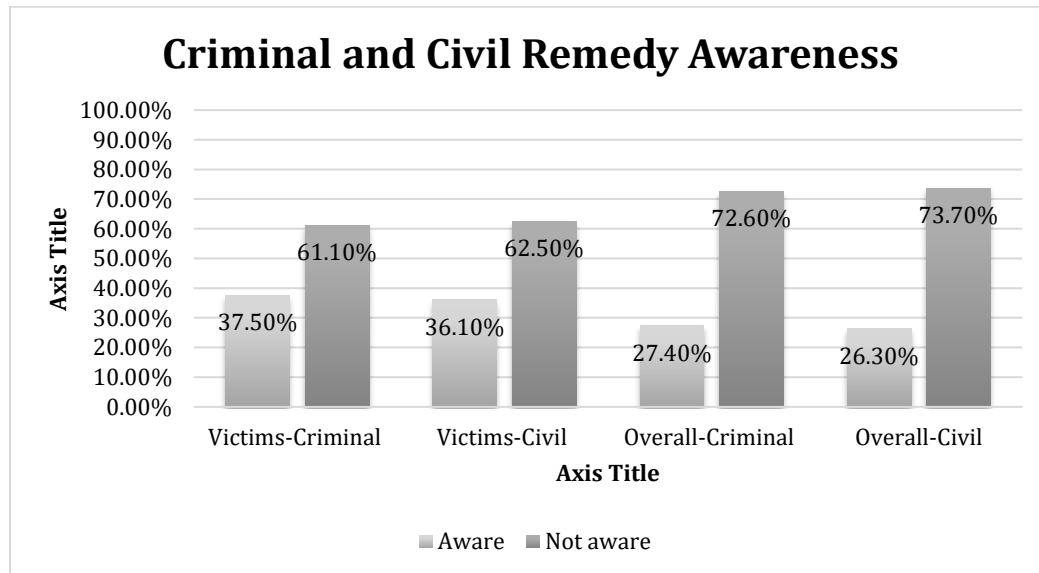


Figure 3. North Dakota criminal and civil remedy awareness.

Research Question 8

Is illegal sexting behavior, being reported by college students, to college authorities and/or law enforcement? Also, with education of the ND century code provided in the survey instrument, will sexting that violates the law be reported in the future by college students?

All survey participants were asked: *Regarding the reporting of illegal sexting behavior according to North Dakota legislation, select the action you have done or would do.* For the entities of college authorities and/or law enforcement, respondents could select more than one action of *have reported to, will in the future, and/or will not report.*

As shown in Table 29, there were 41 respondents who have reported illegal sexting behavior to law enforcement. There were 45 respondents who have reported illegal sexting behavior to college authorities. Every citizen, whether a student or not, has the opportunity to report criminal behavior to law enforcement. If you are a college student, you have the extra avenues to report illegalities to college authorities including the Title IX office, campus security, or any college employee who is a mandated reporter.

Table 29

Past Reporting by College Students of Illegal Sexting

Variable	Have Reported to
Law Enforcement	41
College Authorities	45

After being informed of North Dakota law governing the illegal distribution of intimate images without or against consent, would respondents be more willing to report violations of the statute to law enforcement or college authorities. There were 425 (78.7%) respondents that stated that they will report illegal sexting behavior to law

enforcement and/or 406 (75.6%) respondents stated that they will report illegal sexting behavior to college authorities in the future. As shown in Table 30, 115 (21.3%) participants responded that they will not be more likely to report illegal sexting behavior to law enforcement and/or 131 (24.4%) responded that they will not report illegal sexting behavior to college authorities.

Table 30

Future Reporting by College Students of Illegal Sexting

Variable	Will in the future	Will not report	Total
Law Enforcement	425 (78.7)	115 (21.3)	540 (100.0)
College Authorities	406 (75.6)	131 (24.4)	537 (100.0)

CHAPTER V

CONCLUSIONS

Discussion

Jessica Logan didn't have any options to stop her ex-boyfriend from originally sharing her sexually explicit image without her consent. She subsequently didn't have any options to stop all of the persons who the image was dispersed to and what they did with the image. This research was inspired by Jessica Logan after she took her life at the age of 18, due to the stress placed on her as a result of the image being shared and the lack of options available to her as an adult, to stop the sharing and the bullying aftermath.

Of the 624 college students from Minot State University (Minot, North Dakota) who participated in this research, there were 410 (65.7%) who admitted to either sending, receiving or forwarding sexts and 214 (34.3%) who indicated that they do not sext. This was similar to Crimmins and Seigfried-Spellar (2017), who found 68% of their 508 adult sample engaged in sexting. However, both in the current study and Crimmins and Seigfried-Spellar study, rates were much lower than found in Stasko and Geller's (2015) study who reported 88% of their sample had participated in sexting.

Sexting has become so commonplace that it has been labeled by the media as the "new first base" (Joyce, 2014). The age at which most 18-24-year-olds in this research acquired their first smartphone was likely around the same critical time when

sexuality was important to developing social relationships. These relationships included when two parties wanted to connect with a casual physical encounter, or “hook up”. As stated by Humbach (2010), today’s adolescents want to fit in like any other prior generation. A requirement of fitting in is snapping photos on their smartphones because most of their peers and classmates do. For today’s generation, nudes are the currency of love. Due to the familiarity of casual sexual encounters among this peer group, it is suggestive that the smartphone is a factor within this sexual environment. The sharing of sexually explicit photos is not only part of this environment, but it boosts opportunities of “hooking up”.

In 2008, when sexting was not known as commonplace or “the new first base”, the type of sexting that sent Jessica spiraling emotionally was the forwarding/sharing of her sexually explicit image. The results from this research regarding the amount of this type of sexting were initially not what was expected. There were only 33 respondents who admitted to sending, receiving and forwarding sexts, and only 1 respondent who forwarded only. When asked “now that you have been informed of the North Dakota law prohibiting certain aspects of sexting between adults, what is your likelihood of”, there were 46 respondents who indicated that they have participated in forwarding a sext of an adult. But it wasn’t the simple act of forwarding/sharing of Jessica’s sexually explicit image that led to her death, but that it was forwarded without her consent and there was intent to cause emotional harm to her.

This type of sexting is now known across the United States as revenge porn and/or nonconsensual pornography and there are 46 states + DC and one territory that have laws prohibiting this behavior including the state of North Dakota (Cyber Civil

Rights Initiative, n.d.). The results signifying that there is a higher incidence of forwarding than directly indicated by respondents, specifically involving elements of revenge porn/nonconsensual pornography include: 72 (17.6%) respondents who indicated that a forwarded sext was in violation of the North Dakota century code; and 22 (5.4%) respondents who admitted to non-conformist sexting in violation of the North Dakota century code.

Of those who sext, 88.9% of respondents answered that sharing sexually explicit images is a violation of privacy. This result logically correlates with the minimal 5.4% of sexters who commit non-conformist sexting, which indicates that sharing sexually explicit images is not prevalent. Therefore, forwarding situations like the one Jessica Logan found herself in, are rare. The results indicate that the majority of sexting has a more playful nature whether sexually or platonically.

The research revealed that the most common motivations for sending and receiving sexts was *to initiate sexual activity, to be sexy/flirtatious, sexual suggestion with hopes for a relationship and joke/or for fun*. The most common motivation for forwarding sexts was *joke/or for fun*. Previous studies had similar results in terms of the motivations for sexting but different diction including fun, sexual experimentation, to gain the romantic attention of another, healthy form of flirtation, and romance or pranks/jokes (Delevi & Weisskirch, 2013; Walker et al., 2013). Drouin and Tobin (2014) found that motivations for sexting were flirtation, foreplay, fulfilling a partner's needs, and intimacy. Hudson and Fetro (2015) found in a sample of college students that current sexters who had sent a sext within the last 30 days, were not motivated to sext because of any social pressure, but because they wanted to. Any type of sexting, with these

motivations in mind, are usually safest within committed, mature adult relationships as Podlas (2011) stated:

Many young adults see nothing wrong with sexting. To them, it is simply another way to flirt, cultivate romance, or express their sexuality. In fact, sexting is tamer than many sexual activities and cannot result in pregnancy or an STD. Other people, including various researchers describe sexting as normal, albeit digital component of a sexual relationship likening it to other adolescent explorations of sexuality. (p. 3)

In contrary, Drouin, Ross, and Tobin (2015) found that 1/5 of their sample of adults felt coerced into sexting. And although higher results to Drouin et al.'s study were expected in this study, only 13% of sexters stated *I felt pressure to sext* and 18% sexted *to maintain a relationship*. There were 113 participants who responded that *I did not ask for the sext*, but 108 of those were for sexts that they received, therefore explaining that motivation due to no control over receiving a sext and therefore reducing its negativity.

This research had respondents who indicated that they have sexted in violation of the North Dakota Century Code. The most common motivation for non-conformist sexters was *joke/or for fun* spread out evenly among sending, receiving and forwarding. Also common was *to be sexy/flirtatious*. These motivations suggest that initial fun, flirty behavior may lead to behavior that could be non-conformist.

Sexts being shared without the consent of the person in the image was the most common violation by non-conformist sexters and against victims of non-conformist sexts. The top motivations for victims were the same as for sexters: *to initiate sexual activity*, *to be sexy/flirtatious*, and *sexual suggestion with hopes for a relationship*. Therefore, these

results suggest there is no differentiation for why one sexts and why one sexts who indicates they are a victim. They have a common thread of why they sext, which is with sexual undertones.

There were no specific survey questions asking whether one felt safe within the sexting relationships they were referring to regarding the motivations. The top motivations for those who indicated that they sext, suggest that the sexting is not only voluntary, but sexually exciting (whether to initiate or entice sexual encounters), and to be used to enhance humor within one's life. For all groups of sexters, motives are relatively benign and similar.

This benign and similar experience is available to persons all over the United States including those in rural areas or at smaller universities such as the research respondents at Minot State University. When this research was developing, there was a lack of surety that persons in the state of North Dakota or other rural areas, had the same opportunity as persons in big cities to access technology. As of today, according to nd.gov, the official portal of the North Dakota State Government, "North Dakota continues to be at the forefront of offering broadband services to even the most rural communities in the state, despite having one of the lowest population densities in the nation" (North Dakota, n.d.-b, para. 4). The same types of cell phones and smart phones that urban area residents could purchase have always been available to citizens of rural areas. Some people in rural areas might not have purchased a more advanced mobile phone with more technological capabilities if internet was not available where they lived or travelled. Despite advanced technology, not all places in North Dakota have cell towers therefore providing only limited internet access resulting in "dead zones" for

certain residents. But as of today, according to nd.gov, the official portal of the North Dakota State Government, “the ND Association of Telephone Cooperatives tells us that more than 95% of our population has access to broadband services” (North Dakota, n.d.-b, para. 4).

College students across the nation demand connective technology, typically in the form of instant access to the internet. The same desire to have access to the worldwide web at your fingertips exists in rural areas and rural universities including in the state of North Dakota. The speed with which one can hook up to the web has drastically changed since dial up internet connections, which still exist in parts of the country (Anderson, 2018). “Rural Americans often have no access to high speed-internet, or it can be expensive and not reliable... AOL is still selling dial-up internet services to around 2.1 million people every year” (Bond, 2017, para. 5). According to nd.gov, the official portal of the North Dakota State Government, “we’re ranked #2 in the nation for ultra-fast internet access (besting most of our neighbors); thirty percent of our households have access to internet faster than 1 Gbps (billions of bits per second)” (North Dakota, n.d.-a, para. 1). The technology of the internet, regardless of speed, makes the sending and/or forwarding of a sext immediate with your smart phone.

Two questions to determine if where a respondent was raised would impact their sexting behavior, were asked in the survey. These questions were: *Were you raised in North Dakota (Yes or No)* and *What type of environment were you raised in (50,000 or more, 2500-49,999, less than 2500)*. The survey found that 46.2% were raised in North Dakota and 53.8% were not raised in North Dakota. In addition, 182 were raised in a

50,000 plus community, 245 were raised in a community of 2500-49,999, and 197 were raised in a less than 2500 populated community.

Upon analysis, it was observed that whether one was raised in North Dakota or not had no impact on overall sexting behaviors. In addition, the size of the environment one was raised in also had no real impact on sexting or not, conformist sexting or not, or being a victim of non-conformist sexting. Therefore, these results suggest that when referring to equal availability to be able to send, receive and forward sexually explicit photos, there is no isolated nature because the internet, access to it and smartphone technology provide the opportunity to be global... regardless if you live in a rural environment or not.

Thus, in the state of North Dakota as the ability to be “wired” and have consistent wireless cell phone service and coverage throughout the state including the remote areas increased, so did smart phone ownership and use. Therefore, instead of having to be at home and plugged in via an internet line, you could move freely almost anywhere in North Dakota with your revolutionary pocket computer/smart phone and share thoughts, websites, and sexually explicit photos. It is undeniable that the ease and accessibility of the smartphone cannot be matched by other devices since 79.6% of survey respondents stated they had not shared sexually explicit photos on a device other than a cell phone. In addition, the majority of participants stated that they would not figure out a way to share sexually explicit images if there was no camera, no internet, no social network and no access to contacts on their smartphone.

Without the smartphone, sharing sexually explicit photos would not necessarily cease, but would likely be greatly limited. But it cannot be ignored that even if you

remove the smartphone from the sharing of sexually explicit photos equation, persons, whether you live in rural areas or not, will still find a way to share these photos. This is supported by results of this survey wherein 20.4% of participants stated they have shared sexually explicit photos on something other than their cellphone (Laptop, iPad or Tablet, Desktop).

All 624 (100%) participants in this research had a cell phone and 618 (99%) indicated that the type was a smartphone. These results are consistent with the latest percentages from the Pew Research Center (2019), 96% of Americans own a cell phone, with 81% owning a smart phone. In addition, Vitelli (2013) notes that among college undergraduates "...96 percent own smartphones vs 82 percent of adults overall). Since 2004, smartphone use has grown by more than 5000 percent and the demand for more voice and data services is still greater than ever" (para.1).

When asked if sexting on a cell phone was common among college students, 333 (53.4%) participants stated yes, which is similar to the findings of sexting as a common behavior among adults by Crimmins and Siegfried-Spellar (2017). Interestingly for the subgroups of sexters and non-sexters, 67.8% of those who sext answered *yes* while 70.6% of non- sexters indicated *they did not know*. These opposing results for each sub-group suggests that those who do not sext do not know how common sexting is or not, and those who do sext believe sexting is common among college students.

Even with a majority of state's passing laws, according to Bates (2017), there is a lack of sexting, nonconsensual pornography and/or revenge porn legislation consistency in the US and beyond:

For example, Alaska’s nonconsensual pornography law is classified as “harassment in the second degree,” whereas New Jersey’s legislation is “invasion of privacy, third degree” (Goldberg, 2016). In Canada, nonconsensual pornography is a criminal offense that is punishable by up to 5 years in prison (Criminal Code, s. 162.1 (1) (a)). In the United Kingdom, nonconsensual pornography is covered under section 33 of the 2015 Criminal Justice and Courts Act and is punishable by up to 2 years in prison. (p. 39)

This lack of consistency makes it difficult for persons who sext and persons who don’t, to know what is legal or illegal. In addition, it is difficult to understand what it means to be victimized by illegal sexting or not.

Jessica Logan took her life in July of 2008. Her suicide, as well as other sexting related deaths, resulted in media attention that placed pressure on various state legislatures. In April 2009, the state of North Dakota prohibited certain types of sexting, specifically revenge porn/nonconsensual pornography, rather quickly compared to other states. Amendments and additions were made in April 2011 and April 2015. The 2015 amendment not only provided more specificity on what type of sexting constitutes a criminal violation (which is a misdemeanor crime with a potential of one year in jail and a \$3,000 fine), but the North Dakota legislature granted the opportunity for victims of revenge porn to seek civil remedies regardless of a charge or conviction (N.D. Cent. Code §12.1-17-07.2, 2015; North Dakota Legislative Branch, 2011).

Participants were provided N.D. Cent. Code §12.1-17-07.2 and then were asked their likelihood of participation regarding certain types of sexting. The vast majority of those who sext stated that *they have never participated and still will not send* (89.0%), or

forward (88.7%) sexts that violate one's reasonable expectation of privacy, send (88.1%) or forward (88.4%) sexts without consent of the person in the image and send (91.2%) or forward (90.6%) sexts to cause emotional harm. Respondents who sext stated that *they have participated and am now less likely to continue to send (6.4%), or forward (6.1%) sexts that violate one's reasonable expectation of privacy, send (6.6%) or forward (6.4%) sexts without consent of the person in the image and send (4.7%) or forward (4.7%) sexts to cause emotional harm.*

Becker (1966) defines outsiders of social groups "as individuals who break a rule agreed on by the group" (pp. 1-2). Attempting to understand the behavior of those who share sexts in violation of the ND century code, which serves as rules set by society. Becker's work (which pre-dates modern sexting behavior) states that: Social rules define situation and the kinds of behavior appropriate to them, specifying some actions as "right" and forbidding others as "wrong." When a rule is enforced, the person who is supposed to have broken it may be seen as a special kind of person, one who cannot be trusted to live by the rules agreed on by the group. He is regarded as an outsider (Becker, 1966; Gay, 2000).

The rule breaking within the sexting group is the forwarding of sexts without consent of the person in the image, aka revenge porn or non-consensual pornography. This is not only frowned upon within the sexter social group but has received the force of law and been deemed as a criminal violation in many instances in many states. The rules that sexters create within their social group usually involve the protection of sexts within the interaction it originally began (Becker, 1966; Gay 2000).

The findings in the survey indicate that the vast majority of college students have never sexted violating North Dakota century code AND still will not after being provided the language of the statute. There was a maximum of 24 participants who indicated that they have been educated and less likely to continue sexting, after being shown N.D. Cent. Code §12.1-17-07.2. This very low number of respondents who indicated they were directly deterred by being given the language of the law, suggests that more needs to be done to deter the behavior and reduce the number of victims.

In 1764, Cesare Beccaria (1738-1794) published his signature work entitled “On Crimes and Punishment” which advocated that the principle of deterrence of crime was crucial to reducing criminal behavior for those persons who are rational. The three major characteristics to maintain deterrence are certainty, severity and celerity. Certainty and the public nature of the punishment when a criminal act occurs, has the most weight when attempting to deter persons from behavior. The more concrete one’s punishment is after committing a crime, the more a rational person should be deterred. Severity is the extent of punishment that can happen when a criminal act occurs. Severity only works if the punishment is in proportion to the crime and therefore exceeds the benefit of committing the crime, wherein a rational person would then shun committing that act. Celerity of punishment is how quickly the punishment occurs after the criminal act is committed. The closer the punishment occurs to the criminal act being committed, the more deterrent effect it achieves (Beccaria, 1764/1986; Bernard, Snipes, & Gerould, 2015).

The laws are also to be rational and subsequently punishment is to be proportionate to the level of harm done for deterrence to be effective. As deterrence

applies to revenge porn/sexting or non-consensual pornography (NCP) and the 40 plus states that have passed laws:

...these laws are relatively new, not all of them create a criminal cause of action, and in the ones that do, the vast majority only hold penalties of a misdemeanor. This is a step in the right direction but thus far, have not proven to be successful as a deterrent or regulator of the act of distributing NCP. A significant cause for this is that misdemeanors often do not have the same deterrent effect as other criminal penalties do because law enforcement will often disregard these charges so as not to waste resources on what is viewed as a minor offense. (Esposito, 2018, p. 162)

North Dakota Century Code established that violation of N.D. Cent. Code §12.1-17-07.2. is a Class A misdemeanor. In addition, regardless of criminal conviction or not, civil remedies are available (N.D. Cent. Code § 32-03-58 Distribution of intimate images without or against consent). These remedies establish Beccaria's proportionality of punishment as it relates to the crime of distribution of intimate images without consent. However, there are no known cases in North Dakota that have been publicly prosecuted, convicted and sentenced under the new law. Beccaria's principle of making the law and trials public has not been met so as to deter future sexting behaviors. In addition, the lack of prosecution and conviction also reduces the impact of Beccaria's theory of deterrence in the form of certainty of punishment and celerity of punishment, which in turn could influence a rational persons decision to sext in terms of weighing the pros and cons of committing a crime (Beccaria, 1794/1986).

To supplement Beccaria's deterrence principles, we could also focus on preventing the act of non-conformist sexting with a focus on education. This education on a grassroots level could be provided when those persons receive their smartphone, the most common device used when sexting. Although the specific educational knowledge that was provided to respondents is unclear, of the 624 survey participants, 53.5% were given education regarding the possible negative outcomes (besides billing or roaming charges) that come with the capabilities of the mobile cell phone, while 46.5% were not. While the data shows that most people were given education on the possible negative outcomes that come with the capabilities of cellphones, 65.7% of the sample took the risk and still participated in some form of sexting, and 17.6% of sexters were victims of sexts that violated North Dakota century code.

Therefore, if the persons who are participating in this behavior are not necessarily deterred by overall smartphone education and there is minimal immediate deterrence when provided the N.D. Cent. Code §12.1-17-07.2, what else can be done to limit sexting that is in violation of laws and resulting in victimization? Century code's in various states are incredibly extensive and you cannot expect every law enforcement officer, campus security officer, state's attorney's office, and Title IX office to know about every law that impacts the citizens they are to protect. It is positive that the legislatures have created laws prohibiting the behavior, but does it matter if the persons who can enforce the law are not aware?

Although all of these entities are important in knowing the law, since the demographic of this research was college students, Title IX offices are integral to deterring sexting behavior that is in violation of state laws:

Passed by Congress on June 23, 1972, Title IX of the Education Amendments of 1972 bars sex discrimination in education programs and activities offered by entities receiving federal financial assistance. In 2011 alone, Title IX covered over 49 million students enrolled in more than 98,000 elementary and secondary schools.³ Title IX also protects more than 20 million students enrolled in postsecondary education. (United States Department of Justice, 2012, p. 2)

Title IX had a 40-year primary focus on equal opportunities for women at educational institutions primarily within athletic activities. On April 4, 2011, the Department of Education “issued a policy guidance which made clear that Title IX’s protections against sexual harassment and sexual violence apply to all students, including athletes” (Women’s Sports Foundation, 2019, passage 34).

In 2014, a White House Task Force to Protect Students from Sexual assault, issued guidelines to colleges to combat rape, with a supportive President Barack Obama. Due to these federal guidelines, colleges and universities created:

Title IX offices focused on education, training, and compliance around sexual assault, as well as on the investigation and enforcement of sexual misconduct claims...Title IX explicitly requires every educational institution to designate “at least one employee to serve as its Title IX compliance coordinator”. (Taylor, 2016, para. 7-8)

The importance of Title IX offices being aware of what constitutes illegal sexting and the subsequent education they could provide to the entire student body could help deter behavior. In addition, providing knowledge of the law to both perpetrators and victims could not only deter illegal sexting behavior but assist in the reporting of these

crimes. The research showed that there has been limited reporting of illegal sexting to college authorities (which would be the Title IX office), with only 45 respondents stating they have done so. The positive is that 406 respondents stated that they will report to college authorities in the future.

If college students are victims of illegal sexts and report to a properly educated Title IX office, this could lead to subsequent reporting to law enforcement and therefore potential charges and convictions. The research showed that reporting illegal sexting to law enforcement is lacking as well. There were only 41 respondents of the sample who reported illegal sexting behavior to law enforcement which aligns with a chronically low reporting rate to law enforcement for any type of sexual offense (Karmen, 2019). What is promising is that a very high number of respondents (425) stated that they will report illegal sexting behavior to law enforcement in the future.

Even if one is aware of the law and education is provided, there are still many obstacles to reporting. As shown by the results of this research, persons seem to struggle with correctly self-identifying as victims. In essence, they need to not only know what happened to them was illegal, but also choose to report and be identified as a victim.

When asked “if you have ever been depressed when someone has misused your sext”, 33 responded yes. When asked “if you have ever wanted to hurt yourself because of someone misusing your sext”, 11 participants responded yes. These respondents were a combination of identifying as victims, not identifying as victims and uncertain if they were victims. This is a significant number of persons who acknowledge that they have had some notably detrimental emotional impact as a result of a misuse of their sext.

Therefore, if one is already experiencing negative emotional trauma as a result of their sext, will they really want to report? They risk rehashing the trauma, also known as “revictimizing” which has been proven to be emotionally, mentally and physically difficult for victims, regardless of the intended or desired outcome. And even if damage has already been done to one’s reputation via the inability to stop a forwarded image, there is additional risk to the victims or their supporters’ reputations in pursuit of a criminal or civil remedy (Karmen, 2019).

With these results and the existence of laws, a criminal remedy and/or a civil remedy might not be enough for victims of non-conformist sexts. If one is depressed or wishes to hurt themselves, services must be made available to deal with the root of that hurt and the aftermath that comes if your sexually explicit image is shared. And these mental health services should be provided regardless if one had their reasonable expectation of privacy violated with a sext, or had a sext shared without their consent, or had a sext shared to cause them emotional harm.

Limitations

Although the sample size was large with 624 respondents, the MSU population has primarily Caucasian enrollment and subsequently the sample resulted in a low number of minorities responding to this survey. This limited the diversity of the sample and the ability to make inferences about sexting behaviors across races.

The respondents in this survey were overwhelmingly female (70.8%). This amount was 10% higher than the Minot State university group. In addition, females were the most common gender for all sub-groups. Previous literature has produced inconsistent findings on gender differences in sexting patterns. Gordon- Messer et al.

(2013), indicated that men were more likely to sext because of the larger amounts of sexts they receive. Therefore, this increases the likelihood that males are sharing sexually explicit photos in a non-conformist manner. Perhaps some non-conformist sexters at Minot State University opted to not participate in the survey at all. The email that was sent to all MSU students requesting their participation included the research title: Cellphones, Sexting and Crime. The word “Crime” could have had a negative effect on someone’s choice to participate in the survey, IF they were unsure of the legality of their sexting behavior or they knew that their sexting behavior was potentially in violation of any laws. The self-selection to not respond to the survey, resulting in a larger percentage of female respondents, could have been impacted by this email language.

The sexting prevalence, nature, motivations and legislation legality perception was measured by a self-report survey; and self-report surveys have known issues. These include false reporting whether due to awareness of sexting legality or not, a sense of sexting’s immoral nature, or simply not telling the truth about sexting acts. There is also an overall lack of reporting and a lack of recall of past behaviors, which can lead to inaccuracies or mis-reporting. Adding to potential inaccuracy could be embarrassment and self-concept issues. Another limitation could be a lack of understanding of just what sending, receiving and/or forwarding a sext entails, even if definitions are provided. The low response numbers of self-reported forwarding of sexts within this research could prove these limitations to be true, since over half of the respondents believe that sexting is common behavior among college students. A Qualtrics anonymous internet-based survey was utilized to protect the privacy of the individuals who completed it and subsequently encouraging truthful reporting.

There was an inability to authenticate the amount of self-reported sexting through a comparison to cell phone company or social media software data. Cell phone companies such as Verizon, and software apps such as Snapchat, retain information on their servers that could provide more accuracy on the amount of sexting that is actually taking place, versus what people self-report. Future researchers could also gather more qualitative data to assist with the understanding of the amount, nature, motivations, and legal perceptions of sexting behavior.

The number of questions was restricted so the survey was reasonable in length to not negatively impact response rates. Reversely, the survey may still have been perceived as too long, which reduced who began the survey and also who completed it. Participants may have used the does not apply auto check as an excuse not to answer some questions lessening the amount of data collected. Therefore, a survey structural change would be to implement the instant removal of the auto check “does not apply” as soon as a participant selects any option for the “choose all that apply” questions.

It is acknowledged that this is one group of students, at one university, in one particular state. Researchers should be careful with generalizations broader than their study. However, with this research, the sample has strong similarities to several findings in the literature. For instance, the overall percentage of persons who responded that they send, receive and/or forward sexts was like other studies, as was the possibility of being 18-24 years of age as a sexter. In addition, the motivations for sending, receiving and/or forwarding sexually explicit photos were akin to previous sexting literature.

Due also to the study being exploratory in nature, the results can be used as a type of case study and subsequently some broad findings may also be relevant to the larger

population of those involved in sexting. Research questions were developed to probe and analyze the responses of various individual groups such as those who sext, those who do not sext, those who sext in a conformist manner, those who sext in a non-conformist manner and those who are victims of non-conformist sexts. With this information from individual groups, one can then gain insight and extrapolate on the sexting phenomenon from which these groups originate (Babbie, 2015).

Findings and Directions for Future Research

There were very few participants who indicated that they forward sexually explicit images, specifically in a way that was similar to what Jessica Logan experienced. Most respondents indicated that sharing a sext would be a violation of privacy and most respondents also denoted that sending and forwarding sexts with certain elements was in violation of the century code. But an important notation and in conflict to accurate knowledge of sexting legality, was that a majority of the respondents also felt that receiving sexts was in violation of the century code. Did the word *Crime* in the survey startle the survey population into answering a certain way? Did the nature of self-report data produce an underestimation of non-conformist behavior? Future research should attempt to elicit more accurate responses about the number of non-conformist sexts and the motive of sexts. Perhaps incorporating qualitative methods would achieve higher accuracy, so the researcher can determine whether sent sexts or forwarded sexts are in violation of century codes.

Although there were few people who indicated that they sext in a non-conformist manner, there were a significant number of respondents who indicated that they were victims of non-conformist sexts. Therefore, the importance of the creation of the law and

providing proper education is required. In addition, there were inconsistencies across questions wherein other participants responded in a way that would technically designate them as victims of sexts that were in violation of the century code, even if they did not identify as such themselves. Therefore, future research should attempt to obtain more accurate numbers on who are victims of non-conformist sexts, and why they choose to self-identify or not.

The majority of respondents received education on the possible negative outcomes that come with the capabilities of the mobile cell phone, yet most indicated they still participate in sexting. More interestingly, a high number of persons who indicated they were victims of non-conformist sexts, also revealed they received education on the possible negative outcomes that come with the capabilities of the mobile cell phone. Therefore, future research should not only determine what type of education has been given to persons who sext, including those who are victims of non-conformist sexts, but also what type of education might assist in lessening non-conformist sexting or sexting that could result in victims.

After being informed of the North Dakota Century Code, whether respondents participated in sexting or not, the majority indicated that knowing the law won't change the likelihood of future sexting. Therefore, just having read the law or being informed of it is not a significant deterrence in and of itself. Future research should try to determine what exactly would deter those person's who ARE participating in non-conformist sexting.

Finally, there were very few persons who have ever reported illegal sexting to either law enforcement or college authorities. Nonetheless, there were incredibly high

numbers of respondents who said that they will report illegal sexting behavior in the future. Therefore, future research should attempt to track and see if there is an increase in the number of persons who report this behavior after being made aware of their rights and remedies. This tracking should not only be based on self-reporting within a survey, but also verified with both law enforcement and Title IX office accounts.

Conclusions

This exploratory study set out to see if college students at Minot State University in North Dakota are sexting (sending, receiving and/or forwarding) on their smartphones, who is sexting, and who is not sexting. In conjunction with the newer North Dakota laws, this study also assessed motivations, nonconformist sexting behaviors, potential victims, if participants believed certain sexting elements were crimes, and if education about the law would potentially change behaviors.

If Jessica Logan had her sexually explicit image sent without her consent and to cause emotional harm by her ex-boyfriend in the state of North Dakota today, this is the likely path she would have, with support from the research. She would have fallen in the sexting group, the conformist sexting group, and the victim of non-conformist sexts group. If she, as an 18-year-old, was to go to a school resource officer in her high school today, and report herself as a victim, it would be rare. It is not only rare and somewhat subjective to identify herself as a victim in accordance with the law, but also to conquer the obstacles that many victims of sexual offenses have. In addition, it is simply rare to report sexually based offenses to school authorities and/or law enforcement.

If the school resource officer was properly educated on the law, then that officer would inform Jessica of the law and present the evidentiary material to the state's

attorney. If the state's attorney took the case and chose to prosecute, Jessica's ex-boyfriend, and the multiple others who shared it, would be charged with a Class A misdemeanor for each time they shared the photo. The maximum penalty for the illegal distribution of Jessica's photo without her consent per misdemeanor would be a maximum penalty of imprisonment for three hundred sixty days, a fine of three thousand dollars, or both. In addition, Jessica would have the ability to pursue civil remedies, even if the state's attorney chose NOT to prosecute the case and there was no conviction.

The sharing of sexually explicit photos existed prior to the smartphone and prior to Jessica's untimely death in 2008. This research suggests that the smartphone's ease and accessibility increase sharing prevalence. If education can be provided to those who might be potential perpetrators and/or victims, then perhaps a reduction of this behavior and susceptibility to its non-conformity would result.

In addition, it is imperative that those persons who can directly educate about and/or enforce the law such as university Title IX offices, law enforcement, and state's attorney's offices, are themselves fully aware of the law and its remedies. It is also hopeful that Title IX offices could provide educational campaigns within their colleges informing students of the healthy ways one can be involved in a sexting relationship as well as the potential negatives that can result if one participates in this behavior. Many victims of non-conformist sexts had a much higher level of regret, depression and desire to hurt themselves than persons who were not victims. Thus, it is imperative that along with education about the law to try to reduce illegal sexting and victimization, that mental health services are provided to people who have had a sext violate their reasonable

expectation of privacy or that was sent without their consent or which caused them emotional harm.

Once made aware of the law, the vast majority of respondents stated that they will now report illegal sexting activity to college authorities and law enforcement. With more education and knowledge being provided to college students, time will tell if a high level of reporting of non-conformist sexting will take place. What is also pressing is understanding the potential negative impacts of non-conformist sexting and lessening the harms of various aspects of sexting. This can be done by knowledge of the law and criminal and civil remedies by law enforcement, state's attorneys, title IX offices, university administrators, and all of society spreading that knowledge. The spread of this accurate knowledge, at a grassroots level, could reduce the likelihood of another sexting situation involving someone like Jessica Logan, taking their life.

APPENDIX Survey

Cellphones, Sexting and Crime

Start of Block: Demographics

Q1 My name is Melissa Spelchen (701-858-3465), assistant professor of Criminal Justice at Minot State University and the primary researcher of this study. Both the University of North Dakota and Minot State University Institutional Review Board's approved this research, which will be initially dedicated to my dissertation, as part of my doctoral requirements for my PhD from UND. I am receiving no payment from agencies, organizations or companies to conduct this research.

Results will be reported exclusively in aggregate form with no presentation of individual data. Your responses will be kept completely confidential and will be used for research purposes only. As the primary researcher, and due to nature of the questions, and the anonymity of the respondents, I will not be able to report any possible crimes that might be described on this survey. Therefore again, all of your answers will be completely confidential and there is no ability for me to connect any names to any answers. Any future publications that are based off this research will have no identifying information of any kind. The purpose of this study is to assess the sexting behaviors of young adults using their cell phones in a state where there is new legislation addressing certain aspects of sexting for adults. The survey will take approximately 15-20 minutes to complete. You must be 18 years of age to complete this survey and your participation is voluntary with no risk to you. Also, you may cease your participation in this survey at any point by simply clicking out of the webpage. It is important to know that your submitted, completed survey indicates your consent to participate in this survey.

A page to print with coupons from Subway and Taco Johns will be provided once you have completed the survey.

Finally, the data of this survey will be kept on a password locked and encrypted computer and any hard copies will be kept in a locked cabinet of a locked office. Data from this survey will be completely destroyed in December 2021. After you have completed the questions of the survey, a separate screen will appear giving you the option to have access to a printable page of valuable coupons from local businesses. I sincerely thank you for your time, and honesty in completing this survey. If you have questions regarding your rights as a research subject, you may contact the Minot State University Institutional Review Board- Dr. Linda Cresap (858-3316), linda.cresap@minotstateu.edu; or The University of North Dakota Institutional Review Board (701-777-4279), UND.irb@research.UND.edu.

If you would like to report a crime or visit with someone on campus after completing this survey, you can contact the: Minot Police Department 852-0111; MSU Student Counselor- Nancy Mickelson (858-3371), nancy.mickelson@minotstateu.edu; and/or MSU Title IX Coordinator- Lisa Dooley (858-3447), lisa.dooley@minotstateu.edu.



Q2 Do you currently have a cell phone?

- Yes (1)
- No (2)

Skip To: Q6 If Do you currently have a cell phone? = No

Q3 What type of cell phone do you have?

- Smart phone (e.g.iPhone, Blackberry, Droid, Galaxy, Windows, etc.) (1)
- Non Smart cell phone (please continue to answer all questions) (2)
- Other (3) _____

Skip To: Q5 If What type of cell phone do you have? = Non Smart cell phone (please continue to answer all questions)

Q4 How many years have you had a smartphone?

- Less than a year (1)
- 1-5 years (2)
- 6-10 years (3)
- More than 10 years (4)
-

Q5 Were you ever given any education regarding the possible negative outcomes (besides billing or roaming charges) that come with the capabilities of the mobile cell phone?

- Yes (1)
- No (2)



Q6 What is your age?

Skip To: End of Survey If What is your age? <= 17

Page Break

Q7 Were you raised in North Dakota?

- Yes (1)
- No (2)

Q8 What type of environment were you raised in?

- Urban (50,000 or more) (1)
- Suburban (2500-49,999) (2)
- Rural (less than 2500) (3)

Q9 What gender do you identify with?

- Male (1)
 - Female (2)
 - Fill in (3) _____
-

Q10 What is your race/ethnicity?

- Caucasian (1)
 - African American (2)
 - American Indian/Alaskan Native (3)
 - Hispanic (4)
 - Asian (5)
 - Other (Please specify) (6) _____
-

Q11 What is your relationship status?

- Married (1)
 - Committed relationship (not married) (2)
 - Non committed relationship (3)
 - Single (4)
 - I choose not to answer (5)
-

Page Break

Q12 Definitions for the purpose of this survey:

Sext: "sexually explicit image" that can be sent, received or forwarded Sent sext: the original distribution of a sext by you on your cell phone to a recipient with the expectation of the photo being kept private by that recipient Received sext: the receipt of a sext on your cell phone Forwarded sext: the secondary distribution or sharing of a sext that you received on your cell phone

Q13 Is sexting on a cell phone common behavior among college students?

- Yes (1)
 - No (2)
 - I do not know (3)
-

Q13 Have you ever sexted with a device other than a cell phone? (Laptop, iPad or Tablet, Desktop, etc.)

- Yes (1)
- No (2)

End of Block: Demographics

Start of Block: Questions on Sending, Receiving and Forwarding

Q15 Have you ever done the following with your cell phone? Check all that apply.

- Sent a sext (1)
- Received a sext (2)
- Forwarded a sext (3)
- Does not apply (4)

Skip To: End of Block If Have you ever done the following with your cell phone? Check all that apply. = Does not apply



Q16 Approximately how many sexts have you **received** on your cell phone in the past 30 days?

Q17 When you receive sexts, do you:

- Delete (1)
- Keep (2)
- Keep and Forward (3)

Page Break _____

Q18 Due to the advanced technology of your cellphone, do you sext more often than if you did not have this device?

- Yes (1)
- No (2)
- Does not apply (3)
-

Q19 Due to the advanced technology of the your cellphone, do you sext more people than if you did not have this device?

- Yes (1)
- No (2)
- Does not apply (3)
-

Page Break



Q20 Approximately how many sexts have you **sent** on your cellphone in the past 30 days?



Q21 Approximately how many sexts have you **forwarded (shared)** on your cell phone in the past 30 days?

Page Break

Q22 Have you ever regretted sexting on your cellphone because of an impulsive decision?

- Yes (1)
- No (2)
- Does not apply (3)
-

Q23 Have you ever regretted sexting on your cell phone because of the inability to delete or retrieve the image that you sent?

- Yes (1)
- No (2)
- Does not apply (3)
-

Q24 Have you ever regretted sexting on your cell phone because of the amount of people who COULD have access to the image?

- Yes (1)
- No (2)
- Does not apply (3)
-

Page Break

Q25 If there was no camera on your cell phone- would you still figure out a way to sext?

- Yes (1)
- No (2)
-

Q26 If there was no internet on your smartphone- would you still figure out a way to sext?

- Yes (1)
- No (2)
- Do not use internet on smartphone (3)
-

Q27 If there were no social networks on your smartphone- would you still figure out a way to sext?

- Yes (1)
- No (2)
- Do not use social networks on smartphone (3)
-

Q28 If there was no access to contacts on your cell phone- would you still figure out a way to sext?

- Yes (1)
- No (2)
- Do not use contacts on smartphone (3)
-

Q29 The following questions deal with the person (s) that is/are IN the images that you have ever sexted with your cell phone. Please take into consideration all the sexts you have sent, received or forwarded (shared).



Q30 What has been your relationship to the person(s) in the images? Please select all that apply for all the sexting you have participated in, whether you have sent, received and/or forwarded (shared). If you make a selection under those columns please uncheck the default of does not apply. If an option does not apply to your sexting participation, please leave the does not apply box checked.

	Sexts I have sent (1)	Sexts I have received (2)	Sexts I have forwarded (shared) (3)	Does Not apply (4)
Myself (1)				
My current spouse (2)				
My current girlfriend/boyfriend (3)				
Someone I am dating but not serious (4)				
Someone I have a strictly sexual relationship with (5)				
A person that I used to have a relationship with (6)				
A platonic friend (7)				
A family member (8)				
An unknown person (9)				
Other (10)				

Q31 What was the gender of the person(s) in the images (choose all that apply).

	Sexts I have sent (1)	Sexts I have received (2)	Sexts I have forwarded (shared) (3)	Does not apply (4)
Male (1)				
Female (2)				
Uncertain (3)				



Q32 What was the race of the person (s) in the images (choose all that apply).

Please select all that apply for all the sexting you have participated in, whether you have sent, received and/or forwarded (shared). If you make a selection under those columns please uncheck the default of does not apply. If an option does not apply to your sexting participation, please leave the does not apply box checked.

	Sexts I have sent (1)	Sexts I have received (2)	Sexts I have forwarded (shared) (3)	Does not apply (4)
Caucasian (1)				
African American (2)				
American Indian/Alaskan Native (3)				
Hispanic (4)				
Asian (5)				
I do not know the race of the person (6)				
Other (7)				

Page Break

Q33 The following questions deal with the relationship of the person that you ever sent a sext to, received a sext from, or forwarded (shared) a sext to. Please take into consideration all of the sexts you have sent, received or forwarded (shared) and choose all that apply.



Q34 What has been your relationship to the person(s) you sent a sext to, received a sext from or forwarded (shared) a sext to? Please select all that apply for all the sexting you have participated in, whether you have sent, received and/or forwarded (shared). If you make a selection under those columns please uncheck the default of does not apply. If an option does not apply to your sexting participation, please leave the does not apply box checked.

	Persons I sent sexts to (1)	Persons I received sexts from (2)	Persons I forwarded (shared) sexts to (3)	Does not apply (4)
My current spouse (1)				
My current girlfriend or boyfriend (2)				
A former significant other (3)				
Someone I have a strictly sexual relationship with (4)				
Someone I am dating but not serious (5)				
A person that I used to have a relationship with (6)				
A platonic friend (7)				
A family member (8)				
An unknown person (9)				
Other (10)				



Q35 What was the gender of the person(s) you sent a sext to, received a sext from or forwarded (shared) a sext to? (Choose all that apply)

	Persons I sent sexts to (1)	Persons I received sexts from (2)	Persons I forwarded (shared) sexts to (3)	Does not apply (4)
Male (1)				
Female (2)				
Uncertain (3)				



Q36 What was the race of the person(s) you sent a sext to, received a sext from or forwarded (shared) a sext to? Please select all that apply for all the sexting you have participated in, whether you have sent, received and/or forwarded (shared). If you make a selection under those columns please uncheck the default of does not apply. If an option does not apply to your sexting participation, please leave the does not apply box checked.

	Persons I sent a sext to (1)	Persons I received a sexts from (2)	Persons I forwarded (shared) sexts to (3)	Does not apply (4)
Caucasian (1)				
African American (2)				
American Indian/Alaska Village Native (3)				
Hispanic (4)				
Asian (5)				
I do not know the race of the person (6)				
Other (7)				

Page Break



Q37 What was your motivation for sending the sexts or forwarding (sharing) the sexts? If you received a sext, please select the motivation of the sender. Please select all that apply for all the sexting you have participated in, whether you have sent, received and/or forwarded (shared). If you make a selection under those columns please uncheck the default of does not apply. If an option does not apply to your sexting participation, please leave the does not apply box checked.

	Sexts I have sent (1)	Sexts I have received (2)	Sexts I have forwarded (sharing) (3)	Does not apply (4)
Joke or for fun (1)				
Sexual suggestion with hopes for a relationship (2)				
To be sexy/flirtatious (3)				
Initiate sexual activity (4)				
Risk taking to gain attention (5)				
To cause emotional harm (6)				
Revenge (7)				
I felt pressure to (8)				
It was an impulsive act (9)				
I did not ask for the sext (10)				
To maintain relationship (11)				
Other (12)				

Q38 Please answer the following questions to the best of your ability regarding sexting on your cell phone.

	Yes (1)	No (2)	Uncertain (3)
Have you ever taken a picture of someone violating their reasonable expectation of privacy and then sent the picture via sext? (1)			
Have you ever received and possessed a sext of someone whose reasonable expectation of privacy in the image may have been violated? (2)			
Have you ever forwarded a sext of someone whose reasonable expectation of privacy in the image may have been violated? (3)			
Have you ever sent a sext of someone without the consent of person in the image? (4)			
Have you ever forwarded a sext of someone without the consent of person in the image? (5)			
Have you ever sent a sext of someone with intent to cause emotional harm? (6)			
Have you ever forwarded a sext of someone with intent to cause emotional harm? (7)			
Have you ever been the victim of a sext that violated your reasonable expectation of privacy? (8)			
Have you ever been the victim of a sext that was sent without your consent? (9)			
Have you ever been the victim of a sext that intentionally caused you emotional harm? (10)			

Q39 Do you believe when you are sexting that the image will be kept private?

- Yes (1)
- No (2)
- Does not apply (3)
-

Q40 Do you believe that someone sharing a sext is a violation of privacy?

- Yes (1)
- No (2)
-

Page Break

Q41 Have you ever been depressed because of someone misusing your sext?

- Yes (1)
- No (2)
- Does not apply (3)
-

Q42 Have you ever wanted to hurt yourself because of someone misusing your sext?

- Yes (1)
- No (2)
- Does not apply (3)
-

Page Break

Q43 Have you ever had a sext of yourself threatened to be, or shared with another person without your consent?

- Threatened (1)
 - Shared (2)
 - Neither (3)
 - Does not apply (4)
-

Q44 Have you ever had a sext of yourself threatened to be, or shared with multiple people without your consent?

- Threatened (1)
 - Shared (2)
 - Neither (3)
 - Does not apply (4)
-

Q45 Have you ever had a sext of yourself threatened to be, or posted on a website without your consent?

- Threatened (1)
 - Posted (2)
 - Neither (3)
 - Does not apply (4)
-

Page Break

End of Block: Questions on Sending, Receiving and Forwarding

Start of Block: North Dakota Legislation

Q46 Do you think that in North Dakota, it could be a crime for you as an adult if you:

	Yes (1)	No (2)	Uncertain (3)
Send a sext of an adult (1)			
Receive a sext of an adult (2)			
Receive and keep a sext of an adult (3)			
Forward (share) a sext of an adult (4)			
Send a sext of an adult whose reasonable expectation of privacy was violated (5)			
Receive a sext of an adult whose reasonable expectation of privacy was violated (6)			
Forward (share) a sext of an adult whose reasonable expectation of privacy was violated (7)			
Send a sext without consent of person in the image (8)			
Receive a sext without consent of person in the image (9)			
Forward (share) a sext without consent of person in the image (10)			
Send a sext to commit emotional harm (11)			
Forward (share) a sext to commit emotional harm (12)			

Page Break

Q47 Under the 2015 North Dakota law, it is a misdemeanor and civil remedies are available in North Dakota if a person knowingly or intentionally distributes to any third party any intimate image of an individual eighteen years of age or older: 1) consent was not given to distribute the image; 2) Reasonable expectation of privacy was violated; 3) emotional harm is caused to the person to the image (North Dakota Century Code. Section 1. §12.1-17-07.2) .

*Display This Question:**If Do you currently have a cell phone? = Yes**And Have you ever done the following with your cell phone? Check all that apply. = Sent a sext**Or Have you ever done the following with your cell phone? Check all that apply. = Received a sext**Or Have you ever done the following with your cell phone? Check all that apply. = Forwarded a sext*

Q48 Now that you have been informed of the North Dakota law prohibiting certain aspects of sexting between adults, what is your likelihood of (choose one option for each question):

	I have participated and am now more likely to continue (1)	I have participated and am now less likely to continue (2)	I have participated but the law will not make me change (3)	I have never participated but will start (4)	I have never participated and still will not (5)
Send a sext of an adult (1)					
Receive a sext of an adult (2)					
Receive and keep a sext of an adult (3)					
Forward (share) a sext of an adult (4)					
Send a sext of an adult whose reasonable expectation of privacy was violated (5)					
Receive a sext of an					

adult whose reasonable expectation of privacy was violated (6)					
Forward (share) a sext of an adult whose reasonable expectation of privacy was violated (7)					
Send a sext without consent of person in the image (8)					
Receive a sext without consent of person in the image (9)					
Forward (share) a sext without consent of person in the image (10)					
Send a sext to commit emotional harm (11)					
Forward (share) a sext to commit emotional harm (12)					

Q49 Prior to us sharing the ND legislation on illegal sexting behavior with you, were you aware of:

	Yes (1)	No (2)
Criminal remedies (1)	<input type="radio"/>	<input type="radio"/>
Civil remedies (2)	<input type="radio"/>	<input type="radio"/>

Q50 Regarding the reporting of illegal sexting behavior according to North Dakota legislation, select the action you have done or would do:

	Have reported to (1)	Will in the future (2)	Will not report (3)
College authorities (1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Law enforcement (2)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

End of Block: North Dakota Legislation

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