

A Response to "The Trouble With Texting"

Sexting, the practice of sending provocative photos of oneself to friends, has become alarmingly popular among teens in recent years. Educators, administrators, and government officials have been working to find a solution to what they see as a harmful trend, but have had much difficulty controlling teen activity. It has been suggested by some that the dissemination of what are seen as provocative images be made a criminal offense.

When discussing the matter of whether or not "sexting," as it is commonly called, should be considered a crime, there are three simple questions we must ask ourselves. The first being, why should it? Whom does sexting hurt that it should be illegal? Amanda Doe asserted that she was "not hurting anybody." If this is true of sexting, then the only reason to make it a crime would be to protect the perpetrator from embarrassment and harassment. Having a criminal record at age fifteen is unlikely to accomplish this task. If the harm is limited to the one who sends the "provocative" picture, then punishment must be the responsibility of the teen's parents. In Miller v. Skumanick, 605 F.Supp.2d 634 (M.D.Pa,2009), it is argued that any outside attempts to discipline minors for something that is not a dangerous crime is a violation of the parents' Fourteenth Amendment rights.

If, however, one argues that sending a "provocative" photo harms the people who see it, we cannot simply address sexting as an isolated practice. If a teenager turns on the television or flips through a magazine and sees, for example, an advertisement for Victoria's Secret, have they not just been exposed to a "provocative" picture? If the worry is for the people, including minors, who would find it near impossible to avoid such images, how can one say that a provocative lingerie ad is any less harmful than the picture Amanda Doe sent to her friends?

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Should all racy billboards, posters, and commercials be banned as well for the harm they cause to society? If so, where do we draw the line? Does “provocative” mean different things for boys than for girls? To make sexting a crime, someone would have to decide what is provocative and what is not, leaving far too much up to personal and fallible interpretation.

The second question we must ask ourselves is, why should we not make sexting a crime? What is the risk? Probably the most obvious answer here would be that punishing someone for taking and sending a picture of herself violates that teen’s First Amendment right to free speech. As I mentioned before, were sexting a crime, guidelines would have to be drawn up determining what constituted a “provocative” picture. As opinions on the subject would be highly subjective and vary from person to person, it would be difficult for a regular citizen to know when she was violating the law. It would no longer be obvious when someone was simply exercising her rights, and when she was being criminally provocative. As a result, such measures would likely infringe upon one’s right to free expression. As Amanda Doe and others who commit similar deeds rarely intend to harm anyone, and their actions do not limit the rights of any of the other people involved, it would be unreasonable to assume that “sexters” are a serious danger to society to the point where it is necessary to curb their rights in order to limit their activity.

For those who remain unconvinced, in addressing the possible harm caused by the dissemination of provocative photos among teens, it is important to note that there are many aspects of American life, culture, and politics that might be considered abuses of the right to free speech. Lying and distortion of facts by some members of the media is one example. However, we as a country have declined to limit these abuses for fear of going too far. We have chosen to err on the side of too much expression rather than too little. While many citizens are angered by these abuses, the alternative would be, once again, to subject this fundamental American right to

limitations based on personal beliefs and decisions, an inherent violation of the First Amendment, defeating its purpose. Although sexting is probably not a wise pastime, for practical reasons, how could we prove, factually, that it is worse than any other so-called negative forms of expression?

If, then, we are not to make sexting a crime, we must ask ourselves a third question. What to do? Even if sending provocative images is not so terrible that it should be illegal, it still often reflects poor judgment and a general disrespect for personal privacy. Therefore, making sexting illegal would eradicate the practice, but not the motive behind it. Instead, we need to dig deeper and address the problem at its roots. Provocative sexual images pervade modern popular culture, giving teenagers ideas as to how they should portray themselves to their peers. This is the problem that must be addressed. Instead of waiting for someone to get caught sexting so they can be used as an example for everyone else, we should try preventative measures that would be more likely to help fix the problem, while causing much less anger and hurt. Rather than funding rehabilitation programs for those caught with provocative images on their phones or computers, the state should seek to implement an updated sexual education course throughout the school system. These classes should discuss sexuality, image, healthy relationships, and respect, as well as the issues of freedom of speech, and privacy and technology. In this way, we can help end a troublesome trend without taking away rights, and in the process teach students about important realities and good values.

Works Cited

Miller v. Skumanick, 605 F.Supp.2d 634 (M.D.Pa., 2009)