

NAME: Gary Schill (MODEL LESSON PLAN)
LESSON: Criminal Law – Sexting and Child Pornography Laws (Opinion Poll)
SOURCE: None
TIME: (50 Minutes)
STUDENTS: Lesson designed for class of 20 students
MATERIALS: PowerPoint technology, whiteboard/markers, copies of opinion poll questions for all students

NOTE: *This lesson was designed following three class periods in which the topic discussed was rape, and in particular, the Steubenville rape case. See link, but any video overview of the case or a more recent video would suffice. <http://www.cnn.com/2013/03/17/justice/ohio-steubenville-case>. The students were so engaged that it took 3 class periods to discuss the events, ramifications, and policies of what occurred. As a result, this lesson relates to the Steubenville rape case in that it focuses on social media and technology that everyone, including high school students, use on a daily basis. As a teacher, you may find students have a desire to talk about this topic for various reasons. In light of that, this lesson has been prepared with natural breakpoints so that you, as the teacher, may consider teaching at a pace that students can express their comments and questions.*

I. Goals: This lesson helps students:

- a. Understand that sexting has legal and other potential life-altering consequences.
- b. Gain knowledge how the law on social media is evolving in an attempt to modernize older laws in order to apply the law to modern issues.

II. Objectives:

- a. Knowledge Objectives: As a result of this class, students will be able to:
 - i. Understand the real-life consequences that could potentially result due to sexting.
 - ii. Understand some of the difficulties in determining an appropriate punishment for youth who are caught sexting.
- b. Skills Objectives: As a result of this class, students will be better able to:
 - i. Articulate why this topic can be a controversial as it relates to youth and adults.
 - ii. Explain and justify their opinions about sexting.
- c. Attitude Objectives: As a result of this class, students will be better able to:
 - i. Act and speak with maturity about the sexting.
 - ii. Recognize the importance of respecting others.

III. Classroom Methods

- a. Introduction to the Topic (**5 Minutes**)
 - i. Begin PowerPoint with the first slide, i.e., Ground Rules – Sexting:
 1. Please show respect for your classmates.
 2. The subject matter should be approached with maturity.
 3. The subject matter can be personal for many people.
 4. Please remember the feelings of others in the room before you speak.
 5. Anyone not following these rules will be asked to leave.
 - ii. Define – What is Sexting?
 1. Merriam-Webster defines sexting as the sending of sexually explicit messages or images by cell phone.

- iii. Handout Opinion Poll.
 - 1. Have the students privately complete round 1 of the opinion poll. Do not have them share their opinions. The first round is only to have them determine what they think prior to the entire discussion. Prior to the conclusion of class, about 15-20 minutes, students will complete round 2 of the opinion poll and will stand in class where they agree and will discuss their opinions. The sequence is only to determine whether or not their opinions have changed following the brief lecture.
- iv. Show students the quote by Emily Bazelon, dated 4/11/2013. *“We have to get kids talking about how sexting affects their lives. We have to address the empathy gap technology can induce, by building kids’ social and emotional skills from a young age on up and guiding them into the world of social media and the internet, rather than pushing them through the door and expecting them to figure it out on their own.... Sexting is a problem we can address – and we have to.”*
<http://www.concordmonitor.com/home/5639854-95/sexting-steubenville-and-suicide-scary-patterns>
- b. Show YouTube clip: **(10 minutes)**
 - i. <http://www.cbc.ca/player/AudioMobile/Maritime+Noon/ID/2374375198/>
 - ii. Ask students if they have any questions about the video.
 - 1. Do they have any thoughts about what they just listened to?
- c. Discuss what are the issues: **(10 minutes)**
 - i. A growing trend:
 - 1. “As technology has advanced and cell phones have the capability to record and send photos and video, the practice of sending suggestive and explicit pictures has increased, especially among teens.” (About.com)
 - ii. Statistics indicate the following:
 - 1. In 2008 a “survey conducted by the National Campaign to Prevent Teen and Unplanned Pregnancy and Cosmogirl.com between September 25, 2008, and October 3, 2008 “polled approximately 1,280 teens and young adults.... the pertinent statistics focus on 653 of these participants who were teenagers between the ages of thirteen and nineteen. [] Among the 653 teens, 75% said they knew that sending sexually suggestive content, whether messages or images, would have “serious negative consequences.”[] Still, ... 20% of the teens said that they had electronically sent or posted on the internet nude or semi-nude pictures or videos of themselves.” *Eric S. Latzer, The Search for A Sensible Sexting Solution: A Call for Legislative Action, 41 Seton Hall L. Rev. 1039, 1042-43 (2011)*
 - 2. “51% of teen girls cite pressure from guys as a reason to send explicit messages, while only 18% of teen boys say so. This is of concern where there is already a power imbalance in a relationship or an issue with self-esteem.” (About.com)

- iii. Other problems:
 - 1. Sharing photos and videos sent privately is easy to do.
 - 2. A digital footprint remains and the images/texts/photos can't be taken back.
 - a. Show link dated March 14, 2013:
 - i. <http://pix11.com/2013/03/14/snapchat-sexting-scandal-at-nj-high-school-could-result-in-child-porn-charges/#axzz2TU9eYTKv>
 - 3. Long-term possible effects:
 - a. lost opportunity to go to college or graduate schools,
 - b. self-esteem,
 - c. suicide,
 - d. dismissal from employment,
 - e. inability find employment,
 - f. dismissal from school,
 - g. lost relationships and friendships,
 - h. felony charges on record, and/or
 - i. requirement to register as sex offender.
 - 4. "Sexting is currently illegal under federal law. It falls under the creation, distribution and possession of child porn and is a felony offense. While some lawmakers are working to change this, others are prosecuting both those taking the pictures and those possessing them." (About.com)
- d. Discuss briefly what authorities are doing: **(5 minutes)**
 - i. Authorities don't know how to charge teens that have sexted.
 - ii. The following excerpts are from *Eric S. Latzer, The Search for A Sensible Sexting Solution: A Call for Legislative Action, 41 Seton Hall L. Rev. 1039, 1056-62 (2011) (emphasis added)*
 - 1. *Focus on Education, forgiveness or lesser-degree of punishment:*
 - a. In **New Jersey** legislators ... sought to provide for "education and forgiveness before arrest and prosecution." The bills, however, have sat idle since their introduction and still await a full assembly vote.
 - b. In **New York**, the assembly has proposed a bill that ... attempts to ... focus on education and criminal-punishment leniency for some teen sexters.
 - c. In **Ohio**, lawmakers [drafted a bill that] would create a misdemeanor punishment for a minor who, "by use of a telecommunications device . . . recklessly create[s], receive[s], exchange[s], send[s], or possess[es] a photograph, video, or other 'material' that shows a minor in a state of 'nudity.'"
 - 2. *Focus on defense or charging underage teens with misdemeanor charges instead of felony charges:*
 - a. In **Nebraska**, the legislature ... enacted two affirmative defenses to felony child pornography charges. The first affirmative defense is applicable to a teen under eighteen years of age who "create[s] . . . or in any manner generate[s]" a sexually explicit picture of himself or herself. The second affirmative defense provides, in part, that a teenager eighteen-years-old or younger who sends a sexually explicit image of himself or herself to a willing recipient who is at least fifteen-years-old can avoid felony charges.

- b. In **Utah** ... juveniles who are prosecuted under the state's child pornography-distribution statute or the “[d]ealing in material harmful to a minor” statute can now only be charged with a misdemeanor as opposed to a felony.
 - c. In **Illinois** ... a minor who “distribute[s] or disseminate[s] an indecent visual depiction of another minor” using a cell phone or a computer “may be [] ordered to obtain counseling” or “perform community service.” ... [T]he Illinois law affords lesser punishment in both consensual and nonconsensual sexting situations but only for the sender.
- 3. *Focus on charging underage teens with felony charges:*
 - a. In **Washington**, sexting can result in state felony charges, including indecency with a child and creation, possession and distribution of child pornography. (About.com)
 - b. In **Pennsylvania**, underage teens can be charged with child pornography for sending nude pictures of themselves or others. (http://www.upi.com/Top_News/2009/04/01/Lawyer-wants-federal-sexting-law/UPI-79331238644351/#ixzz2Q7JrQvMr)
- 4. *Continued from the Latzer article, some states remain silent about sexting:*
 - a. In Iowa and Florida – “Silence even emanates from states that have prosecuted sexting offenders...”
- e. Round 2 of the Opinion Poll: (20 minutes)
 - i. Allow students time to answer the same questions a second time in light of the information that was discussed during class.
 - ii. Have students stand where the identical response is posted in the class.
 - iii. Engage the class in sharing their opinions.
 - iv. Repeat for all five questions.

IV. Evaluation

- a. Opinions and discussion shared during class, especially during 2nd round of the opinion poll

V. Assignment

- a. Brainstorm ideas of what you would do if you found out a friend of yours was sexting. In particular, how would you address the situation?

SEXTING OPINION POLL

Round 1 - Circle the answer that most closely corresponds with your opinion. Round 2 – Circle the answer that most closely corresponds with your opinion when instructed by the teacher.

1. Sexting is a private activity and government/school officials should not ever have the right to impose on a student's privacy to check whether or not the student has been involved in sexting.

Round 1: Strongly Agree Agree Undecided Disagree Strongly Disagree

Round 2: Strongly Agree Agree Undecided Disagree Strongly Disagree

2. A 17-year old should face the same punishment as an adult would face for receiving and distributing a nude picture/message of a 15-year old.

Round 1: Strongly Agree Agree Undecided Disagree Strongly Disagree

Round 2: Strongly Agree Agree Undecided Disagree Strongly Disagree

3. It is okay for a teenager to send a nude picture/message of him/herself or of someone else but only if the teenager is 100% certain that the recipient will not continue to forward or show the picture to others.

Round 1: Strongly Agree Agree Undecided Disagree Strongly Disagree

Round 2: Strongly Agree Agree Undecided Disagree Strongly Disagree

4. Sexting should not be considered illegal by the federal or state government.

Round 1: Strongly Agree Agree Undecided Disagree Strongly Disagree

Round 2: Strongly Agree Agree Undecided Disagree Strongly Disagree

Strongly Agree

Agree

Undecided

Disagree

*Strongly
Disagree*