

Washington Coalition of Sexual Assault Programs

# Addressing Harm Caused in the Exchange of Intimate Images by Minors

2019 Report to the Legislature

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Washington Coalition of Sexual Assault Programs

Workgroup Recommendations: HB 1742 Responsible Teen Communications

**ABOUT THE WASHINGTON COALITION OF SEXUAL ASSAULT PROGRAMS**

The Washington Coalition of Sexual Assault Programs (WCSAP) is a non-profit organization that strives to unite agencies engaged in the elimination of sexual violence. WCSAP provides information, training and expertise to program and individual members who support victims, family and friends, the general public, and all those whose lives have been affected by sexual assault.

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## EXECUTIVE SUMMARY

The prevention of sexual harm, whether in the context of rape or intimate images forwarded without consent, require gendered norms change, empathy building, and comprehensive education on sex and sexuality throughout developmental stages.

A comprehensive response to teen sexting includes the promotion of safe and responsible use of technology. It is important, however, that such technology be regarded as a behavioral facilitator, and not an underlying cause<sup>1</sup>. Focusing on teens' access to digital technology as a primary culprit, risks diverting attention from more fundamental social, emotional, and developmental factors that may be associated with teens' engagement in harmful or risky behaviors.

Therefore, we support efforts to openly and directly address issues of human sexuality with young people. Comprehensive sexual health education (K-12) is vital to stem the tide of sexual violence, in all its forms. This includes, the promotion of healthy relationships based on mutual respect, coercion, and intimidation; skills for how to identify and respond to attitudes and behaviors that contribute to sexual violence; and emphasize the importance of affirmative consent, all of which must be inclusive of the spectrum of disability, gender, and sexual orientation.

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<sup>1</sup> Harris, Andrew, Elizabeth Letourneau, and Judith Davidson. "Building a Prevention Framework to Address Teen Sexting Behaviors," October 30, 2013. <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/244001.pdf>.  
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## WCSAP Role and Workgroup Process

Passing in the 2019 Legislative Session, HB 1742, the Responsible Teen Communications Act, named the Washington Coalition of Sexual Assault Programs (WCSAP) as the lead agency tasked with coordinating a workgroup to create recommendations and produce a report to the legislature.

To carry out this work, WCSAP reached out to persons within the entities named in the bill (Appendix D) with an initial survey gauging availability to contribute to this workgroup, applicability of those surveyed on teen sexting to their regular scope of work, and initial questions to begin to formulate themes for recommendations.

Those entities who received the survey were also invited to attend three workgroup meetings via Zoom in October and November.

Because of the quick turnaround of this report and to foster more geographical inclusion, we utilized surveys and Zoom calls for group work as opposed to in-person meetings. The timeline of activities is included in Appendix A.

An ad hoc group of sexual assault and dating violence prevention professionals also created materials for preventionists who have regular interactions with young people to use in their existing prevention work that included data collection tools. The tools created included a presentation on sexting, sexting scenarios, and data collection surveys (Appendix B). Existing prevention groups provided the opportunity to focus group with youth with familiar facilitators their thoughts on intervention and prevention of harm caused by the intimate exchange of images. These focus groups took place at:

1. Ninth grade health class in Cathlamet, Southwest Washington (Rural)
2. Peer Empowerment Education League, Tacoma
3. Oasis Youth Center, Tacoma (LGBT specific)

Data collected from these groups were sent to WCSAP who worked with staff from the Office of the Superintendent of Public Instruction to code and analyze.

In addition to these focus groups, an online survey was created and shared to collect information from young people relating to their views on prevention and intervention of sexting behavior.

The enclosed recommendations are shaped from the work done in these various activities and with input from respondents.

## About These Recommendations

As a workgroup, our goal is not to end sexting for young people. Sexting is a part of normal sexual development in a realm unfamiliar to the governing generation. Our goal is to recommend intervention and prevention approaches to mitigate harm caused when sexting is used to pressure, humiliate, or abuse in peer groups.

This group was not tasked with addressing adults who exploit or abuse minors using the intimate exchange of images nor the distribution of child pornography. However, we do feel that primary prevention efforts as recommended in this report can have long-term impacts on youth as they become adults to decrease this exploitation.

Critical to our analysis and recommendations is the 2013 report “Building a Prevention Framework to Address Teen Sexting Behaviors”. This report is referenced throughout this document and is recommended reading for enhanced research citations. The author’s framework of the Ecology of Teen Sexting (Appendix C) encompasses the nuances this workgroup finds vital to the development of intervention and prevention approaches.

We also concur with the applicable approaches to prevent broader sexual violence and harmful sexual and bullying behaviors through approaches outlined in the 2019 Erin’s Law workgroup report “Recommendations for Sexual Abuse Prevention Education in Washington State K–12 Schools.”

## BACKGROUND AND FOUNDATIONAL INFORMATION ON SEXTING

### National Research and Statistics

National studies have found that between four and 20 percent of teens have sent an image.

A 2011 Associate Press and MTV Digital Abuse Study<sup>2</sup> found that...

- Youth are more likely to receive than they are to send sexually explicit images and sexually charged messages.
- About half of those who sent a sexually explicit image felt pressured to do so.
- Sending a “sext” is far more prevalent among young adults (19%) compared to teens (7%)
- Among those who have sexted, ten percent have done so with people they only know online, marking a sizeable decrease. This has trended downward.

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<sup>2</sup> “Executive Summary.” Associated Press-MTV Digital Abuse Study, 2011. [http://www.athinline.org/pdfs/MTV-AP\\_2011\\_Research\\_Study-Exec\\_Summary.pdf](http://www.athinline.org/pdfs/MTV-AP_2011_Research_Study-Exec_Summary.pdf).

Most studies<sup>3</sup> used the sending of semi-nude or nude images as the definition for sexting. The only study (and the oldest study) that asked about messages (not just images) found twice as many sent sexually suggestive words in a message<sup>4</sup>.

The number who have received an intimate image is slightly higher, the number who have forwarded is considerably lower.

Likelihood for sexting increases with age, so older teens are more likely to have sent an explicit image and sexting behavior peaks in the mid-twenties to mid-thirties<sup>5</sup>.

Most teens who sent sexually explicit images did so with someone they were dating<sup>6</sup>.

Half of all who sent an image felt pressured to do so<sup>7</sup>.

Most youth, even those who engage in sexting behaviors, already think that sending sexts of someone under eighteen is wrong, or that kids their age are too young to do it<sup>8</sup>.

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*“[You can be] a little bit more bold over text, because you wouldn't say certain things in person. ... You just wouldn't say certain things in, like, talking face to face with them because that might be kind of awkward.”*

*-- Pew Research Center, Teen Voices: Dating in the Digital Age*

*<http://www.pewinternet.org/online-romance/>*

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<sup>3</sup> “Teens Online & Wireless Safety Survey.” Cox Communications, 2009.

<http://www.cox.com/wcm/en/aboutus/datasheet/takecharge/2009-teen-survey.pdf>. and Lenhart, Amanda. “Teens and Sexting.” Pew Research Center: Internet, Science & Tech, September 24, 2018. <http://www.pewinternet.org/2009/12/15/teens-and-sexting/>.

<sup>4</sup> “Sex and Tech: Results from a Survey of Teens and Young Adults.” Power to Decide (Formerly The National Campaign to Prevent Teen and Unplanned Pregnancy), 2008. <https://powertodecide.org/what-we-do/information/resource-library/sex-and-tech-results-survey-teens-and-young-adults>.

<sup>5</sup> “Teens Online & Wireless Safety Survey.” Cox Communications, 2009. <http://www.cox.com/wcm/en/aboutus/datasheet/takecharge/2009-teen-survey.pdf>

<sup>6</sup> “Sex and Tech: Results from a Survey of Teens and Young Adults.” Power to Decide (Formerly The National Campaign to Prevent Teen and Unplanned Pregnancy), 2008. <https://powertodecide.org/what-we-do/information/resource-library/sex-and-tech-results-survey-teens-and-young-adults>.

<sup>7</sup> The Urban Institute’s Technology Teen Dating Violence and Abuse, and Bullying <http://www.urban.org/research/publication/technology-teen-dating-violence-and-abuse-and-bullying>

<sup>8</sup> “Teens Online & Wireless Safety Survey.” Cox Communications, 2009. <http://www.cox.com/wcm/en/aboutus/datasheet/takecharge/2009-teen-survey.pdf>.



## Defining Sexting

Considerations for addressing, intervening, and preventing sexting behaviors requires a common definition of sexting. We recognize the challenge to create laws, policies, and guidelines for addressing point-in-time behaviors dependent on dynamics of technology, likely to look different year to year.

Education on sex and safety both within and outside the digital realm is a comprehensive approach to preventing harmful behaviors along a spectrum of violent, sexually abusive, and bullying behaviors and not as dependent on specific technology knowledge and navigation.

Images, videos, or text messages with sexual content that is sent by message, app, or social media on a phone or computer.

This includes:

- Activities such as sending, receiving, forwarding, requesting, coercing
- Format such as images, videos or explicit text
- Content such as suggestive, nudity, threats, violence
- Settings such as home or school or purely online; messaging, social media or apps
- Situations such as flirting, dating, abusive, bullying, larger groups, etc.

## Images Versus Words

Most discourse surrounding sexting has focused primarily (if not exclusively) on intimate images/videos. Young people in one focus group discussed the nuances and had questions about the legalities involved in a number of scenarios. These scenarios, while tangential, show that text messages might play a more profound role than photos for young people, particularly as they illustrate their knowledge (to varying degrees) about the illegality of sexual images sent via text and other platforms.

Visual sexual material depicting minors carries distinctive legal status and, as such, text content is of secondary concern to sexting policies and interventions that are specifically oriented

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*“Youth and adult focus groups not only struggled to define the term, but also underscored the vast range of behavioral contexts, motivations, and interpersonal dynamics that might be involved in these behaviors. Moreover, discussions within our focus groups and during our stakeholder summit with practitioners from school and justice backgrounds suggested a wide range of views concerning which types of situations and behaviors should command our immediate attention.”*

*- Building a Prevention Framework to Address Teen Sexting Behaviors*

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toward responding to the creation and distribution of child pornography<sup>9</sup>. However, when placed into the context of bullying or harassment, online solicitation by adults, or teen dating violence, the role of words is significant. Sexually explicit text messages that “cross the line” may potentially prove more troubling and harmful than some activities involving the transmission of images.

### Situational Context

- Some behaviors involve private exchanges between two people, while others may implicate a larger group.
- Some occur in the context of stable relationships, while others may involve more transitory social connections.
- Some transpire in the spirit of mutual trust, while others may involve disregard for oneself or others, subtle manipulation, or overt intent to harm.
- Some may be sporadic or “one time” occurrences, while others may be part of sustained patterns of behavior.

Such distinctions are important for developing balanced responses to sexting incidents and effective prevention and harm reduction strategies.

Understanding of situational context helps us to distinguish between the challenges of mitigating harm associated with atypical, high-risk situations (for example, those involving strangers) and those associated with normal sexual development and relationships among teens.

### Interpersonal Dynamics

The report “Building a Prevention Framework to Address Teen Sexting Behaviors” uses a framework as a means of anchoring this discussion of the situational dynamics and exploring the implications for policy and practice. They situation sexting dynamics along a spectrum, ranging from **mutual trust** to **intent to harm**. Between these two extremes is the rather vast and nuanced territory of **self-interest**, in which behaviors are primarily driven by individual needs and goals, with varying degrees of concern for the needs of others involved<sup>10</sup>.

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<sup>9</sup> Harris, Andrew, Elizabeth Letourneau, and Judith Davidson. “Building a Prevention Framework to Address Teen Sexting Behaviors,” October 30, 2013. <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/244001.pdf>.

<sup>10</sup> Harris, Andrew, Elizabeth Letourneau, and Judith Davidson. “Building a Prevention Framework to Address Teen Sexting Behaviors,” October 30, 2013. <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/244001.pdf>.

### Mutual Interest

Generally associated with private exchanges within the bounds of established intimate relationships, sexting scenarios involving mutual interest may be thought of as those in which behaviors are undertaken in the spirit of trust, with the parties sharing common goals and a common understanding.

Of course, images shared in the context of trust may often outlast a relationship, presenting risks and challenges for youth (not mention individuals of any age) due to the permanency of one's "digital footprint."

### Intent to Harm

These are scenarios that include instances involving overt deception, extortion, and circulation of images with deliberate intent to embarrass or humiliate. Cases at this end of the spectrum appear to be a clear minority. The teens with whom we spoke expressed concern about schools and parents failing to distinguish these types of cases from what they viewed as more common benign and private activities, and further suggested that these concerns may have a "chilling effect" on teens' willingness to come forward and seek guidance related to more common sexting situations.

### Self Interest

Between the two polar ends of the spectrum, we find the middle ground Harris, Letourneau, and Davidson labeled self-interest, reflecting a majority of sexting scenarios.

Within this domain, teens involved are seeking the fulfillment of implicit or explicit needs or goals. For example:

- "Perhaps this will make this person like me"
- "Perhaps it will attract his attention"
- "Perhaps it will raise my status by getting a laugh from my peers."

These three distinctions are not to suggest that behaviors linked to mutual interest or self-interest are not without consequences or that teens should not be accountable for the unintended consequences of their poor decisions on others. It does, however, provide the foundation for systems of response, prevention, and harm reduction that are adjusted to respond to the range of potential motivations.

### Indirect Participants

The motivational continuum presented above focuses primarily on the relationships between those who might be directly involved in a given "sexting" incident (e.g., that between the "sender" and "receiver"). A full consideration of interpersonal dynamics, however, should also account for indirect actors who may not be directly implicated but may nonetheless play significant roles.

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## PREVENTION RECCOMENDATIONS

### Primary Prevention<sup>11</sup>

The most effective approach to combating the problem of sexual violence is primary prevention. Primary prevention focuses on stopping the perpetration of sexual abuse before it starts. It involves changing the attitudes, beliefs, and behaviors that contribute to violence, including changing societal norms and expectations. Primary prevention strategies should include multiple components that address all levels of the social-ecological model. The actions and behaviors of individuals are influenced by the relationships they see around them (e.g., parents or guardians, peers, and teachers), community values and norms (e.g., power dynamics, rules and policies, and expectations), and messages from the larger society (e.g., media and laws). Addressing all of these levels simultaneously can potentially stop violence before it happens. Primary prevention approaches identified through this process include:

**Offering K–12 comprehensive sexual health education.**<sup>12</sup> Responses to teen sexting that fail to account for adolescent psychosexual developmental factors are bound to fall short. Sexting behaviors can be largely framed and understood in the context of the normative developmental processes of adolescence and emerging adulthood.

**Providing social-emotional learning programs.** Addressing harmful sexting behaviors sits at an intersection of sexual violence and bullying prevention approaches. Fortunately, they are closely connected. Social-emotional Learning has been recognized as a foundation of anti-bullying initiatives in schools and effective responses to teen sexting must embrace a similarly holistic approach.

**Teaching about boundaries and consent.** Teaching people to respect the boundaries of others. Teaching people they have the right to body autonomy and to choose when, where, how, and with whom they choose to share intimate images or touch.

**Engaging in social norms work** that changes attitudes and behaviors related to sexual assault, dating violence, and bullying behaviors. Peers and friends may play positive mitigating roles through the reinforcement of socially acceptable norms and boundaries or direct intervention as bystanders. Promotion and facilitation of peer-driven interventions should represent a core element of prevention and harm reduction strategies.

**Addressing gender inequality** and differences in power by changing policies and social norms to support gender equity.

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<sup>11</sup> Dils, Laurie, and Andrea Wessel. "Recommendations for Sexual Abuse Prevention Education in Washington State K–12 Schools," 2019. [https://www.k12.wa.us/sites/default/files/public/hivsexualhealth/pubdocs/Erin's Law Report.pdf](https://www.k12.wa.us/sites/default/files/public/hivsexualhealth/pubdocs/Erin's%20Law%20Report.pdf).

<sup>12</sup> Schneider, Madeline, and Jennifer S. Hirsch. "Comprehensive Sexuality Education as a Primary Prevention Strategy for Sexual Violence Perpetration." *Trauma, Violence, & Abuse*, February 2018, 152483801877285. <https://doi.org/10.1177/1524838018772855>.

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**Creating a culture of respect and empathy** within a school or community in which violence and bullying is not accepted. Developing, communicating, and modeling school values and expectations that promote good citizenship, healthy boundaries, and consent.

It's important to frame the above with the following:

- Exploring social, romantic and sexual relationships and boundaries is developmentally appropriate, and that is happening in a connected world, in terms of technology.
- Efforts to promote safe and responsible technology use should be grounded in the same core principles as those surrounding safe and responsible off-line practices.

It is also important to consider the gendered context in which sexting is occurring. Broadly, risk reduction responses should focus on respecting consent and not pressuring others rather than focusing on refusal skills often targeted at women and girls.

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*"I've heard from a handful of educators that they focus on "empowering" girls to stand up to boys' pressure for nude photos by "just saying no," which just reinforces and perpetuates gendered roles of women being gatekeepers to rampant male sexuality. I think ensuring that educators don't teach from this framework is v(ery) important!"*

*- Sexual assault preventionist*

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### Secondary Prevention<sup>13</sup>

Secondary prevention is the immediate response to sexual violence while it is occurring or soon after it occurs. The goal of secondary prevention is to reduce the potential short-term harm that can result from bullying or violence caused by sexting. It includes improving how people respond to survivors, ensuring that survivors have access to services, and raising awareness in the community about the nature of sexual abuse to increase understanding of survivors' experiences and needs. Examples of secondary prevention include:

- Training staff on how to respond to a disclosure of harmful sexting behaviors.
- "Delete and don't repeat"<sup>14</sup> for those who receive nonconsensual or forwarded intimate images or other inappropriate content.
- Working with young people to get content removed or deleted from sites, phones, etc.

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<sup>13</sup> Dils, Laurie, and Andrea Wessel. "Recommendations for Sexual Abuse Prevention Education in Washington State K-12 Schools," 2019. [https://www.k12.wa.us/sites/default/files/public/hivsexualhealth/pubdocs/Erin's Law Report.pdf](https://www.k12.wa.us/sites/default/files/public/hivsexualhealth/pubdocs/Erin's%20Law%20Report.pdf).

<sup>14</sup> "Sexting Handbook." Common Sense Media, 2015.

[https://www.common Sense Media.org/sites/default/files/uploads/landing\\_pages/sexting\\_handbook\\_ce\\_1020\\_1\\_.pdf](https://www.common Sense Media.org/sites/default/files/uploads/landing_pages/sexting_handbook_ce_1020_1_.pdf).

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## Supportive Adults

The responses were clear from youth focus group and survey participants for the need for supportive adults in addressing sexting that gets out of control, makes them uncomfortable, where they feel pressured, their images get shared without permission, and other situations along the exchange of intimate images. Young people acknowledged the importance of their accountability for bad decisions but desired non-shaming support and resources from adult helpers. Overwhelming, young people wanted help to get the images/texts/content removed.

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*"I would want to be helped instead of shamed for it."*  
*-Ninth grader*

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For caregivers, it can be tempting to take punitive approaches like taking away the phone, or to checking the child's messages every day. There are important reasons to take a more nuanced approaches. Sexting can be used as a tool of abuse; half of all who sent an image felt pressured to do so. If a conversation is shut down, the young person might not feel safe coming back to that adult if they have a problem or are scared.<sup>15</sup> It is apparent that supportive adults are of great importance to young people and are key to the mitigation of systems involvement of young people as well as the prevention of harmful sexting and bullying behaviors.

In addition, teens whose parents said they looked at the contents of their child's cell phone were no more or less likely to send or receive nude or nearly nude images on their phones.<sup>16</sup>

Both adult-centered and youth-centered workshops for parents are encouraged for a comprehensive and balanced approach.

- **Adult-centered initiatives** focus on the needs of adults, generally related to improving their ability to control and manage youth technology use.
- **Youth-centered parent workshops** would be one that develops parental understanding of both the positive and negative dimensions of teen experiences with social media, and provides parents with the tools to engage in constructive dialogue with their teens about navigating some of the challenges that they may face related to online activities.

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<sup>15</sup> "Executive Summary." Associated Press-MTV Digital Abuse Study, 2011. [http://www.athinline.org/pdfs/MTV-AP\\_2011\\_Research\\_Study-Exec\\_Summary.pdf](http://www.athinline.org/pdfs/MTV-AP_2011_Research_Study-Exec_Summary.pdf). and "Sex and Tech: Results from a Survey of Teens and Young Adults." Power to Decide (Formerly The National Campaign to Prevent Teen and Unplanned Pregnancy), 2008. <https://powertodecide.org/what-we-do/information/resource-library/sex-and-tech-results-survey-teens-and-young-adults>.

<sup>16</sup> Lenhart, Amanda. "Teens and Sexting." Pew Research Center: Internet, Science & Tech, September 24, 2018. <http://www.pewinternet.org/2009/12/15/teens-and-sexting/>.

## Risk Reduction and Reducing Stigma

Many sexual abuse prevention programs focus primarily on risk-reduction strategies, which are efforts aimed at lowering one's risk of victimization. These strategies are commonly used, but they do not represent best practices. In addition to ample research showing that these strategies are ineffective, these strategies may inappropriately place responsibility on potential victims to prevent their own victimization. Risk-reduction strategies are considered secondary prevention, as they aim to interrupt or reduce the harm done by an action, but primary prevention stops the action from occurring in the first place.

Risk reduction conversations about sexting can look like:

- **Exploring feelings**- How does it feel? Flirty and fun? Embarrassed or scared?
- **Exploring motivation**- Does it make you feel happy and excited to send or receive it?
- **Exploring intimacy**- Does it give you the closeness you want in the relationship?
- **Exploring boundaries**- Does it need to be a sexier picture than you want it to be? Does it feel like you can say no?
- **Safety planning**- If so, let's talk about how to say no.
- If not, let's talk about safeguarding your privacy.
- Let's look at the privacy policy of the social media platform.
- Let's talk about what could go wrong.

The answers to these conversation starters is less important than the act of engaging in these conversations. They can plant seeds for future decision making of the young person. The King County Sexual Violence Recourse Center's P.O.P created 100 Conversations<sup>17</sup> for caregivers to have conversations about sex and technology with young people in their lives. (Appendix E).

Young people surveyed and engaged in focus groups had a clear desire for honest and frank conversations about what could happen when engaging in sexting behavior, specifically actions that they see as consensual and not intended to harm. Three areas of consequences were identified:

1. **What are the laws?** Young people want to know legal and other punitive actions that could happen when engaging in sexting behaviors. Information is an important aspect of self-regulation and bystander intervention.

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*"Give me resources and explain the law in an understandable way."*

*-Youth survey participant*

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<sup>17</sup> "Cybersafety: Where to Focus," 100 Conversations (P.O.P., King County Sexual Assault Resource Center), accessed November 29, 2019, <http://www.100conversations.org/where-to-focus/>

2. **Emotional and relational consequences.** Because of the importance of peers to the age groups surveyed, including the consequences to reputation, navigating gossip and rumors, the potential for forwarding and/or screen shots shared beyond their control, impact on friendships, school success, and feelings of embarrassment are, at times, of higher importance.
3. **Long-term consequences.** Long-term consequences are connected to both emotional/relational and punitive consequences. The focus here is on technology safety, leaked photos (surfacing after high school), and use of images in cyberbullying.

Messages to youth surrounding sexting and its consequences should be credible, consistent, and grounded in the realities of teens' social experience. Communications that emphasize positive engagement and enthusiastic consent present empowering messages, offer constructive guidance, and facilitate normative change are likely to resonate. Threat-based messages that rely on instilling fear are unlikely to work, and may do more harm than good<sup>18</sup>.

The creation or use of a risk assessment tool when a young person is engaging in sexting behaviors (that have not been identified as overtly harmful) can be helpful for adults supporting young people and determining potential harmful or risky behavior. Caregivers, educators, and other supportive adults must be capable of distinguishing between cases that are associated with overt intent to harm from those that fall further down the spectrum (as described in previous section).

### Just Say No Strategies

There may still be value in using this strategy in some contexts (e.g., teaching young children to say no if someone is treating or touching them in a way that is hurtful or harmful), but it is critical to combine them with primary prevention strategies such as teaching young children how to respect others' boundaries and teaching adults how to protect children from being sexually abused and stressing that abuse is never the fault of the young person harmed.

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*“To whoever is listening, talking to your kid, don’t try to tell them not to have sex, and do this and that, because it’s not going to stop it. Just try to help them, try to talk about being safe, just like...try to educate.”*

*-Male teen*

*“Building a Prevention Framework to Address Teen Sexting Behaviors”*

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<sup>18</sup> Harris, Andrew, Elizabeth Letourneau, and Judith Davidson. “Building a Prevention Framework to Address Teen Sexting Behaviors,” October 30, 2013. <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/244001.pdf>.  
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## LAW & POLICY RECCOMENDATIONS

Juvenile offenses with depictions of minors, HB 1742 (Representative Frame) acknowledges that exchange of intimate images by minors is increasingly common, and that such actions may lead to harm and long-term consequences for youth. The legislature intends to develop age appropriate prevention and interventions to prevent harm and to hold accountable youth who harm others through exchange of intimate images.

The Responsible Teen Communication Act exempts minors from being charged for crimes involving depictions of a minor engaged in sexually explicit conduct. It creates a new class of crimes that apply exclusively to minors and limits the criminal culpability of a minor dealing in depictions of another minor thirteen years of age or older engaged in sexually explicit conduct to a gross misdemeanor.

It also exempts a minor from criminal culpability for dealing in depictions of themselves engaged in sexually explicit conduct unless the minor sells the depiction. The bill requires a prosecutor to divert certain qualifying offenses involving dealing in depictions of a minor if it is a juvenile's first violation of such an offense.

Our workgroup has generally found this bill a step in the right direction to address sexting behaviors and have additional recommendations for consideration in tandem with those for school and community-based responses in a holistic approach. The following are modified recommendations from the 2013 report “Building a Prevention Framework to Address Teen Sexting Behaviors”<sup>19</sup> within the context of our workgroup’s findings:

1. As intended in HB 1742, particular attention should be paid to safeguarding the needs and interests of youth who are depicted in “sexted” visual content. Youth should never be subject to legal action based solely on their appearance in such content, absent the presence of aggravated circumstances.
2. Safe Harbor provision for those who share content classified as illegal under pressure, coercion, or abusive circumstances.
3. Judicial discretion in all cases involving juvenile defendants implicated in sexting cases, accounting for situational context, developmental factors, and the digital reality of teens’ experience.
4. Diversion mechanisms that provide the juvenile court with wide latitude about case dispositions. Such diversion initiatives should include active engagement of families, schools, and community organizations. Concrete actions to include in diversion programs as recommended by youth surveyed and in focus groups are as follows:

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<sup>19</sup> Harris, Andrew, Elizabeth Letourneau, and Judith Davidson. “Building a Prevention Framework to Address Teen Sexting Behaviors,” October 30, 2013. <https://www.ncjrs.gov/pdffiles1/ojjdp/grants/244001.pdf>.

- i. Take down the images and/or delete from phones and other sites. This includes the young person taking action to talk to their peers about deleting shared photos.
  - ii. Learn about the impact on the victim / or on victims in general if the person harmed is not willing to engage in that.
  - iii. Apologize to the individual(s) harmed.
  - iv. Take a class to learn about the issue (risk/dangers/long-term consequences) but also includes prevention focused information like consent and boundaries.
  - v. Volunteer. Engage in community service related to issue for which the young person caused harm (e.g., collect old cell phones for a domestic violence program or janitorial work for a rape crisis center.)
  - vi. Restorative Justice. Provide the opportunity for the individual(s) who was harmed to request repair—this could look like asking the perpetrator to talk to peers to clear the harmed person’s reputation.
5. Educational policy related to teen sexting should be built on collaboration and support, not legislative statute. Measures such as those that mandate schools to develop “anti-sexting” curricula and policies are likely to prove unfruitful and even counter-productive. Effective public policy in this area calls for a more collaborative approach in which school systems are actively engaged in the policy process and provided with support and resources to invest in initiatives that promote healthy sexual, psychosocial and emotional development.
6. And, as recommended in the prevention section, policymakers must support efforts to openly and directly address issues of human sexuality within schools. Comprehensive sexual health education (K-12) is vital to stem the tide of sexual violence, in all its forms. The State of Washington must prioritize the promotion of healthy relationships based on mutual respect and affection free from violence, coercion, and intimidation; skills for how to identify and respond to attitudes and behaviors that contribute to sexual violence; and emphasize the importance of affirmative consent, all of which must be inclusive of the spectrum of disability, gender, and sexual orientation.

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# HB 1742

- JUL. 10** ● Initial Workgroup planning meeting, WCSAP and OSPI.
- SEPT. 4** ● Survey opened broadly to named entities in the bill language.
- SEPT. 20** ● Prevention workgroup creation of youth data collection.
- OCT. 11** ● Sexting presentation, data collection worksheet, and youth survey
- OCT. 22** ● Workgroup Meeting #1
- NOV. 5** ● Workgroup Meeting #2
- NOV. 19** ● Workgroup Meeting #3
- NOV. 21** ● WCSAP and OSPI data coding and analysis.

## *Before You Begin...*

### **Youth & Adult Awareness Presentations on Sexting (SHB 1742 Edition)**

You are receiving an updated facilitator guide in response to WA SHB 1742, the Responsible Teen Communications Act. This bill intends to develop age-appropriate prevention and interventions to prevent harm and to hold youth accountable who harm others through exchange of intimate images.

As the lead of a workgroup that will create a report with recommendations on how to implement this bill on December 1<sup>st</sup>, 2019, WCSAP has modified this resource so that facilitators can record data that can be included in the report. The information we are looking for from youth is the answer to the following questions:

- What should teens know about sexting?
- What should happen to young people who share pictures without consent or pressure people to send pictures?
- What kind of support from adult allies would young people find helpful?

Some of the activities include flipcharts or worksheets where this information can be recorded. After you facilitate this and have the data, you can send it to WCSAP in whatever way works best for you. You can take pictures of the materials, scan them, compile them in a spreadsheet, or mail them to us. (We'll reimburse you!)

Please contact [Prevention@WCSAP.org](mailto:Prevention@WCSAP.org) if you have any questions!

The intent of this presentation is to provide a starting place or a template for your program when responding to requests, typically from schools, for basic information or awareness raising presentations. We have included the key points and best practice approaches to discussing the topic and expect you may customize some aspects of the slides to meet your community's needs, experiences, and resources.

- Think about your audience:
  - Most of these slides are for both caregivers and educators. However, some slides are designed solely for either caregivers OR educators, so please feel free to turn on these slides as appropriate to your audience.
  - Add in any specifics related to South Dakota law/policy.
- The slides contain detailed notes and considerations for the trainer.
- There are two 'Key Points' handouts for this presentation: for youth and for adults. Advocates may take these, use them in their own community presentations, or use them as handouts for clients.

### **Philosophy of this Presentation:**

These slides and resources intentionally and importantly come from a different perspective than some other sexting presentations.

The key messages in this presentation are designed to:

- Avoid scare tactics or the message: "Just Don't Do It."
  - This message won't resonate with young people and has been proven ineffective in other related social health issues.
- To help teens and adults think through sexting in the larger context of healthy relationships.
- To help teens be better equipped to make informed choices.
- To recognize what two national studies found, that half of girls feel pressured to sext, and so talk about how get help if they don't feel like they have a choice or if it's already happened to them.
- To help teens help each other by:
  - Not forwarding a sext.
  - Telling their friends it is not cool to pressure someone to sext.
  - Helping a friend think it through if they have been asked to sext.

### **Trainer Notes:**

- These slides have minimal formatting so that you can drop them into an existing presentation or format to match other presentations your agency has developed.

- There are trainer notes for every slide. Both new and experienced trainers can benefit from reading through everything beforehand.
- Take time to read the background resources and visit the websites we suggest for teens before you deliver the presentation.
- Feel free to adapt the language to your audience.
  - Depending on the age and community you're working with, you might know already that some words should be different. Please feel free to change them in the slides ahead of time, or just use the more tailored words in your verbal presentation.
- Be thoughtful about all the different identities and backgrounds of the teens, families, and communities you are talking to.
  - Don't assume that anyone is straight or that the gender you think you see is how they identify. Use inclusive language so that the audience knows it is okay to be LGBTQI.
  - By modeling inclusive and respectful language, you can help youth practice this with their peers with both youth and adults.

### **Trainer Resources:**

- Building a Prevention Framework to Address Teen "Sexting" Behaviors  
<https://www.ncjrs.gov/pdffiles1/ojjdp/grants/244001.pdf>
  - It is highly recommended that trainers take the time to review this resource, particularly the Findings and the Recommendations for Policy & Practice. This study included focus groups of teens, parents and educators, resulting in extensive quotes which are a rich resource for presentations and discussions, and takes a big picture approach to sexting by both defining it broadly and by placing it in a larger ecological context. It recommends more effective approaches to the issue and was funded by the federal Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- Common Sense Media's Digital Citizenship curricula  
<https://www.common Sense Media.org/educators/scope-and-sequence>
  - This resource was developed for teachers, and has content developed for each age group and is designed to be used in schools. This is a great resource to recommend to educators, and to use for your own presentations to kids, on topics including sexting, privacy, cyberbullying, etc.

- The Major National Studies:
  - Executive Summary: 2011 AP-MTV Digital Abuse Study  
[http://www.athinline.org/pdfs/MTV-AP\\_2011\\_Research\\_Study-Exec\\_Summary.pdf](http://www.athinline.org/pdfs/MTV-AP_2011_Research_Study-Exec_Summary.pdf).  
This is a widely quoted “study that provides an in-depth look at bullying, abuse, and discrimination in the digital age.”
  - Cox Communications Teen Online & Wireless Safety Survey  
<http://www.cox.com/wcm/en/aboutus/datasheet/takecharge/2009-teen-survey.pdf>.  
This is another widely quoted study that was done by Cox in Partnership with the National Center for Missing & Exploited Children® (NCMEC) and John Walsh.
  - The Urban Institute’s Technology Teen Dating Violence and Abuse, and Bullying  
<http://www.urban.org/research/publication/technology-teen-dating-violence-and-abuse-and-bullying>. “This study explores the role of technology in teen dating violence and abuse and teen bullying.”
  - The National Campaign to Prevent Teen and Unplanned Pregnancy’s “Sex and Tech: Results from a Survey of Teens and Young Adults” (2009)  
[https://thenationalcampaign.org/sites/default/files/resource-primary-download/sex\\_and\\_tech\\_summary.pdf](https://thenationalcampaign.org/sites/default/files/resource-primary-download/sex_and_tech_summary.pdf). This is the oldest of the studies, from 2009, and was one of the first to comprehensively approach the issue. Beyond just a report on findings, this includes recommendations for how to help teens navigate the issue.
  
- The Pew Research Center:
  - Teen Voices: Dating in the Digital Age <http://www.pewinternet.org/online-romance/>  
Pew does the most frequent and detailed studies on this topic, and this particular piece is based on focus groups, so has some great quotes and also gives the bigger context of dating and technology use.
  - Teens and Sexting, <http://www.pewinternet.org/2009/12/15/teens-and-sexting/>  
This is one of the older studies, from 2009. They have not done a study solely on sexting since then, but they have questions in other studies that are more recent
  - The Best (and Worst) of Mobile Connectivity  
<http://www.pewinternet.org/2012/11/30/part-v-cell-phone-usage/>  
A chapter of a larger report that includes more recent information on sexting.



## APPENDIX B

Alex and Sam have been dating for about two months. They're both really happy with their relationship and can see it lasting for a long time. However, Sam really wants Alex to send sexy pictures, and Alex is worried that other people might see it. Below are a couple of scenarios that could play out in their relationship.

Read each scenario and answer the following questions:

- 1. If you were friends with Sam and Alex, what can you do to help Alex out?**
- 2. Should Sam face consequences for their actions? If so, what should the consequences be?**

Scenario 1: Sam tells Alex that they're not sure if they can stay in the relationship if Alex doesn't send them sexy pictures. Alex feels pressure because they really like Sam, but don't want to send pictures.

1. \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
\_\_\_\_\_

Scenario 2: Feeling pressured, Alex sends pictures to Sam and sexting becomes a regular part of their relationship. Although their relationship is going well, Alex begins to hear rumors about it. Alex later gets into an argument with one of Sam's friends in class, and finds out that Sam's friend has seen the pictures that Alex sent.

1. \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
\_\_\_\_\_

Scenario 3: Alex and Sam lose interest in each other and break up. A couple of weeks later, Alex finds out that their pictures have been posted online on social media. A lot of Alex's and Sam's friends have seen them.

1. \_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
\_\_\_\_\_

## Let's Talk About... Sexting

### Group Agreements

- Be respectful
- All questions are welcome
- Safe space

### Introduction

- In this presentation we are going to talk about technology, sexting, and relationships
- We want hear from you about your experiences and viewpoints on these issues

### What is sexting?

Images, videos, or text messages with sexy content that is sent by message, app, or social media on a phone or computer.

Sexting can include photos and videos containing nudity, sex acts, or simulated sex acts. It also includes text messages that discuss or propose sex acts.

### Why do people Sext?



### What could go wrong?

- The person who receives the text doesn't like it
- Their friend or parent sees it on their phone
- They forward it
- They (or someone else) post it to the internet
- You get in trouble at home or in school
- You don't want to sext, but someone makes you feel like you have to

### Things to Consider...

1. Relationships can change and sometimes people do hurtful things after a break up or change in relationship
2. Remember that it's possible that an account can get hacked or a device can get lost or stolen
3. Often times people sext because they feel pressure, and not because they want to
4. You should only do it for YOU, not because of pressure from someone else

### The Importance of Trust

- Building trust within a relationship takes time. Your gut feelings and the way someone acts over time are important things to consider.

#### How do you know if you can trust someone?

Having trust in a relationship lowers the risk that bad things will happen

What would you do if...

Activity!

1. Read the scenarios
2. For each scenario, answer the two questions on the worksheet

What should other people know about sexting?

- If you met someone who knew nothing about sexting, what important things would you tell them about the topic?

Who would you turn to...

...if you needed **help**?

How to Turn Down a Sext Request



### What You Can Do

- Your boundaries and comfort are important – it's okay to set your limits and stick to them.
- Friends and dating partners need to respect your limits. And vice versa.
- Stand up for friends who are being pressured, have had their images shared without their permission, or who are pressuring others.
- If you feel unsure if something's okay or unsafe... talk to people you trust like friends, parent or family, teachers, coaches, etc.
- Set good passwords and make sure that sensitive content is password protected

### Online Resources

- A Thin Line: <http://www.athinline.org/>
- That's Not Cool: <https://thatsnotcool.com>
- Healthy relationship and consent resources: <http://www.wcsap.org/consent>
- [Loveisrespect.com](http://loveisrespect.com)

## APPENDIX C

### The Ecology of Teen Sexting

Excerpt from “Building a Prevention Framework to Address Teen Sexting Behaviors” (p. 51-53)

As explored in the introduction section of this report, a critical reading of the research literature and media discourse indicates that teen “sexting” has defied a clear-cut definition. Our findings strongly affirm this general idea. Youth and adult focus groups not only struggled to define the term, but also underscored the vast range of behavioral contexts, motivations, and interpersonal dynamics that might be involved in these behaviors. Moreover, discussions within our focus groups and during our stakeholder summit with practitioners from school and justice backgrounds suggested a wide range of views concerning which types of situations and behaviors should command our immediate attention.

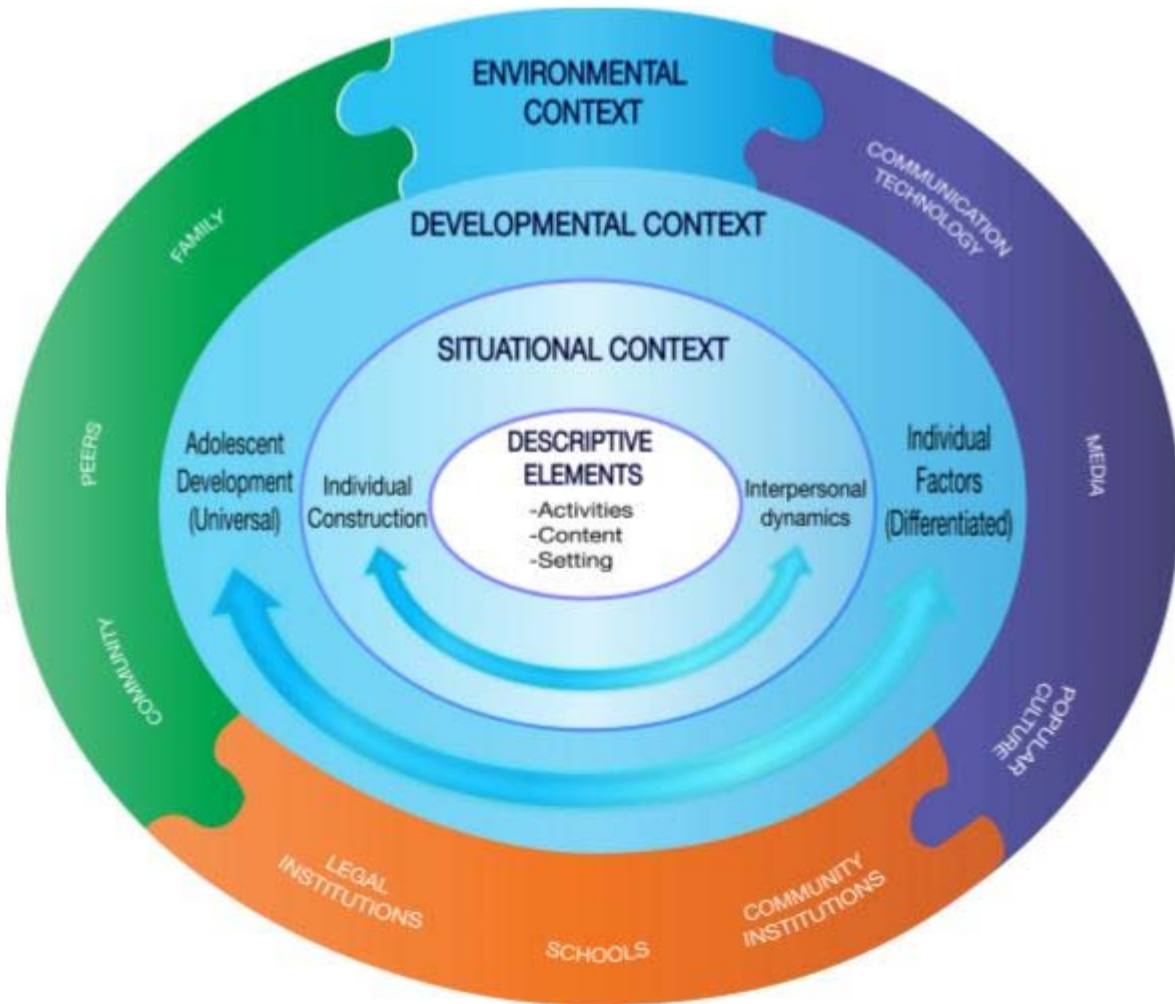
In their 2010 analysis, Wolak and colleagues stressed the need for viable typologies that distinguish between various scenarios and conditions under which these behaviors might occur (Wolak et.al., 2010). Our findings support this general notion, and in fact suggest the need for an even broader framework for understanding - one that not only accounts for variation in sexting behaviors and contexts, but also recognizes the diverse spectrum of developmental, psychological, social, institutional, technological, and cultural forces that might influence these behaviors.

Our proposed “Ecology of Teen Sexting,” illustrated in the accompanying figure, aims to provide such a framework, and to serve as a foundation for our discussion of the principles that should guide policy and practice responses. The model includes four primary sets of elements:

1. Descriptive elements, including the specific activities, content, settings, and participants that may be subsumed under the “sexting” label;
2. Situational context, particularly related to the interpersonal dynamics and cognitive and emotional states that may be associated with “sexting” behaviors;
3. The developmental context, encompassing the developmental processes that broadly affect teen decisions and behaviors, including those related to sexting;
4. The environmental context, encompassing the external spheres of influence that may affect teen decisions and behaviors, including those related to sexting.

The first two domains (represented by the model’s two innermost circles) aim to describe and highlight the diversity of activities, characteristics, and contexts that might be assigned the “sexting” label. They underscore the fact that we are not dealing with a monolithic phenomenon, but rather phenomena reflecting a diverse range of actions, content characteristics, physical and virtual settings, motivational scenarios, and situational factors.

The latter two domains (represented by the two outermost circles) aim to place “sexting” in the broader context of teen psychosocial development. They remind us that teen “sexting” is not an isolated issue, and that comprehensive responses should focus strongly on the developmental, social, and cultural context in which these behaviors might occur. While the boundaries within and between these domains may in fact be quite porous, the model is intended to isolate and focus upon the broad range of variables implicated in our views of the “sexting problem.” Understanding the inherent diversity within each of these domains represents a critical and essential step in building calibrated and informed responses that are firmly grounded in teens’ everyday reality.



Source:

Harris, Andrew, Elizabeth Letourneau, and Judith Davidson. "Building a Prevention Framework to Address Teen Sexting Behaviors," October 30, 2013.  
<https://www.ncjrs.gov/pdffiles1/ojdp/grants/244001.pdf>.



## APPENDIX D

Individuals and agencies invited to participate in the survey and workgroup.

Alexandra Panagotacos, formerly of Rural Resources Victim Services	Kelley Amburgey-Richardson, WA Supreme Court Gender and Justice Commission
Alice Coil and Vazaskia Crockrell, Department of Social and Health Services	Kiana Swearingen, University of Washington
Amarinthia Torres, Northwest Network of Bi, Trans, Lesbian, and Gay Survivors of Abuse	Laura Merchant and Rebecca Milliman, Harborview Center for Sexual Assault and Traumatic Stress
Andrea Wessel and Laurie Dils, Office of the Superintendent for Public Instruction	Laurie Schacht, YWCA Clark County
Andrew Kashyap and Fajer Saeed Ebrahim, Legal Voice	Leslie Briner, Youth Care
Caleb Luther, Emergency Support Shelter	Mary Ellen Stone and Vanessa Corwin, King County Sexual Assault Resource Center
Carolina Gutierrez, CIELO Project Center for Children & Youth Justice	Michelle Woo, Oasis Youth Center
Charlia Messinger, Partners in Prevention Education	Monte Jewell, YWCA of King and Snohomish Counties
Collin Veenstra, Peer Empowerment Education League	Nadine Gibson, Annie Wright Schools
Dae Shogren, Department of Children, Youth, and Families	Paula Reed, Child Advocacy Centers of Washington
Dana Lockhart and Natalie Dolci, City of Seattle	Richard Torrance and Stephanie Pratt, Office of Crime Victims Advocacy
Emi Koyama, Harm Reduction Consultant	Rosalinda Noriega, Pizza Klatch
Erin Williams, Lutheran Community Services Northwest	Ryan Jackson, The Office of the Lieutenant Governor
Greg Williamson, Department of Early Learning	Tanya Fernandez, Seattle Against Slavery
Ilene Stohl and Tamaso Johnson, Washington State Coalition Against Domestic Violence	The Offices of Representative Beth Doglio and Representative Noel Frame
Jaime Weimer, Washington Association of Sheriffs and Police Chiefs	The Washington Association for the Treatment of Sexual Abusers
Katrin Johnson, Washington State Office of Public Defense	The Washington State Center for Court Research
	Zsa Zsa Power and Panome Thilaphanh, Asian Counseling and Referral Services

## **APPENDIX E**

### Resources

#### **100 Conversations**

This campaign came from King County Sexual Assault Resource Center’s prevention work with young people around digital safety and sexual assault prevention. In response to young people in focus groups and individual meetings who reported that they see a lack of knowledge about sex as one of the main root causes of sexual assault. This resource is a tool for adults and young people to have “the Talk.”

<http://www.100conversations.org/>

#### **Common Sense Media’s Sexting Handbook**

Common Sense Media created this handbook for teens as a tool for navigating sexting which includes risks, how different technology works, legalities, fears, support, and advice.

[https://www.commonsensemedia.org/sites/default/files/uploads/landing\\_pages/sexting\\_handbook\\_ce\\_1020\\_1\\_.pdf](https://www.commonsensemedia.org/sites/default/files/uploads/landing_pages/sexting_handbook_ce_1020_1_.pdf)

#### **Let’s Talk About... Sexting**

The Washington Coalition of Sexual Assault Programs created these packaged presentations to be adapted for communities, schools, and organizations.

<https://www.wcsap.org/resources/publications/special-editions/lets-talk-aboutsexting>

#### **Recommendations for Sexual Abuse Prevention Education in Washington State K–12 Schools**

The findings and recommendations that resulted from the Erin’s Law Workgroup.

<https://www.k12.wa.us/sites/default/files/public/hivsexualhealth/pubdocs/Erin%27s%20Law%20Report.pdf>

#### **That’s Not Cool**

That’s Not Cool is dedicated to decreasing teen dating violence due to technology, and is increasing awareness for healthy teen relationships online. The site includes healthy relationships tools for young people and for adult allies.

<https://thatsnotcool.com/>