

CASE STUDY CHEAT SHEET

Sexting



QUESTIONS:

1. A 14 yr old boy texts his 14 yr old girlfriend: "Hey, send me a sexy pic of you ;)"

Has he done anything wrong?

If so, what has he done wrong?

This question is directed at getting the students to understand what 'procuring' (or obtaining) child pornography can mean. This is a borderline case but is designed to demonstrate how something - seemingly harmless - can be a crime.

This is now subject to exception under s 70AAA of the *Crimes Act* provided that they are within 2 years of the youngest person who is in the image.

What could happen to him as a result?

He could be prosecuted for 'procuring child pornography'.

This is now subject to exception under s 70AAA of the *Crimes Act* provided that they are within 2 years of the youngest person who is in the image.

His girlfriend texts back: "Tell me what you want."

2. If he texts her back describing what he wants her to do, is this a crime? Is sending a sexually descriptive message via text, 'sexting'?

Sexually explicit written messages via text can also be considered child pornography. Child pornography is defined to include a publication which describes a minor engaging in a sexual act or context.

70AAA exception only applies to images. This may still be an offence.

3. What might be the legal consequences for the boy in this case?

If an exception does not apply, the boy could be charged with procuring or transmitting child pornography, both have potential terms of imprisonment attached (Max: 10 years per incident – in this case 2 charges)

Persons found guilty of child pornography offences are automatically placed on a sex offenders' register for 8 years for one crime, 15 for 2, and life for 3 or more. (Note: this is not a publically available register, but prevents the person ever working with children, may affect international travel by visa limitations and the register can have regular reporting requirements.)

CASE STUDY CHEAT SHEET

Cyber Bullying: 'Would you say it to her face?'

The schoolgirls arrested 'for cyberbullying their former friend with a fake Facebook page'

By DANIEL BATES
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Two schoolgirls have been arrested after allegedly cyberbullying a classmate by creating a fake Facebook page for her then posting obscene pictures and comments on it.

Taylor Wynn, 15, and McKenzie Barker, 16, are said to have doctored photographs of their victim so that she appeared naked in a series of degrading poses.

They also posted appalling comments on the profile such as: 'As you may know, I am a huge whore. I love d*** so much.'



Accused: McKenzie Barker, left, and Taylor Wynn are said to have created a fake Facebook page in the name of their former friend

QUESTIONS:

1. What could be the consequences for the victim who is being bullied?

General bullying consequences: low self-esteem, lack quality friendships, lower marks at school, may lead to depression, anxiety and, in extreme cases, suicide

2. What offences do you think these girls were charged with?

This case study is from the USA and the girls were charged with stalking; however, in Australia, they could be charged with publishing child pornography, possessing child pornography, stalking by way of repeated acts of publishing offensive material with an intention to cause mental harm. (They could also be charged with a number of identity theft crimes, but that is beyond what the students should know).

3. If you were asked to be involved in this behaviour by a friend, what could you do to avoid being involved?

This is a chance for the students to be creative. Some suggestions include: standing up to your friends (the downsides of this can be discussed, including fear of becoming the subject of bullying); making the decision not be involved, trying to divert their attention, telling someone trusted before things get out of control (like for Kate in *Tagged*.)

CASE STUDY CHEAT SHEET

TROLLING



QUESTIONS:

1. What could be the results for the victim who is being bullied?

As above for 'cyber-bullying case study'

2. What could the legal consequences be if you 'trolled' someone? What if you 'liked' a nasty comment? Or made a comment yourself?

Trolling is the act of provoking someone to get angry online only to ridicule them for falling for it. This behaviour is bullying in nature as it is designed to belittle someone and may cause mental harm. If it is done as a course of conduct (i.e. not just one comment, but a series) a person can be charged under Victorian law with stalking or under Commonwealth law for use a carriage service to harass someone. See page ... 'Liking' or making a nasty comment is a similar type of conduct and a person could be charged as above.

3. If you were asked to be involved in this behaviour by a friend, like Raz was in Tagged, what could you do to avoid being involved? What factors would be involved in your decision?

As above for 'cyber-bullying case study'

CASE STUDY CHEAT SHEET

Selfies...



QUESTIONS:

This girl had her mobile confiscated at school. The teacher found this photo and some nude self-portraits. They had not been sent to anyone.

1. What could be the results for the girl taking the photo:

(a) socially?

Students should be able to cover this one.

(b) legally?

This is now subject to exception under s 70AAA of the Crimes Act.

2. Do you think the legal consequences are fair?

This is open discussion for the group. It is relevant to note that there is currently a review of the laws surrounding sexting for young people. The key debate is really how can we protect young people from sexual predators, as the current law intends to do, while not unfairly prejudicing young people who are doing thoughtless things.

CASE STUDY CHEAT SHEET

Exclusion



QUESTIONS:

Nick had been chatting on Facebook with a group of friends from school. The group started making fun of a loser at school and Nick stood up for him. Then the group turned on Nick. They started writing nasty comments to and then blocked him from the chat and 'de-friended' him.

1. How do you think that this would make Nick feel?

Student should be able to identify the feelings of isolation and depression that come from these actions.

2. One boy in the group wrote: "☺" – can he be charged with an offence? If so, which ones?

Exclusive behaviour is bullying in nature as it is designed to belittle someone and may cause mental harm. If it is done as a course of conduct (i.e. not just one comment, but a series) a person can be charged under Victorian law with stalking or under Commonwealth law. If it is one instance, they can be charged with using a carriage service to harass someone, including by excluding them from groups.

3. Do you think the legal consequences are fair?

This is open discussion for the group

4. How else could we stop this behaviour? If you were part of the group, what could you do?

This is a chance for the students to be creative. Some suggestions include: standing up to your friends (the downsides of this can be discussed, including fear of becoming the subject of bullying); making the decision not be involved, trying to divert their attention, telling someone trusted before things get out of control.

CASE STUDY CHEAT SHEET

Snapchat



QUESTIONS:

1. Drago Malfoy sends a snap of Hermynke Gringell with the words "MUDBLOOD" on it to all of his friends at Piggimples.

Has he done anything wrong?

If so, what has he done wrong?

Bullying and harassment, students may also identify this as racism. Discuss what impact this could have on Hermynke. Does the fact that it disappears make it different?

While the snap may disappear in seconds the impact on the victim can be ongoing, even if there isn't a screenshot. Impacts can include low self-esteem, lack quality friendships, lower marks at school, may lead to depression, anxiety and, in extreme cases, suicide.

What could happen to him as a result?

Legal consequences for harassment using a carriage service even if it is only one instance.

If it is part of ongoing actions which hurts Hermynke, then it can be a crime with up to 10 years in prison.

Racial vilification is unlawful and serious cases of racial vilification can attract up to 6 months in prison.

Even if the snap disappears it can still be recovered from the phones which received it and, in some cases, even from the Snapchat servers.

2. If Lady Vold takes a screenshot of the snap and posts it on Facebook, what might be the legal consequences? Is this bullying?

Students should raise issues of who is doing the bullying and how this can spread eg, becoming viral.

CASE STUDY CHEAT SHEET

Instagram



QUESTIONS

An unflattering photo is posted on Instagram of someone without their knowledge. The photo receives lots of likes and people made cruel comments about the image.

1. What could the consequences be for the victim who is being bullied

As above for consequences of bullying. Low self-esteem, lack quality friendships, lower marks at school, may lead to depression, anxiety and, in extreme cases, suicide. The students should be able to answer this question.

2. Could the person who posted the photo be charged with an offence

If it was part of a course of conduct then the conduct could be a type of stalking if it is intended to hurt the person. Hurting the person includes psychological harm. One incident can also lead to charges of harassment using a carriage service.

If the image is explicit they may have committed a summary offence under s 41DA for distribution of an intimate image or s 41DB for threat to distribute an image. Distribution must be contrary to community standards of acceptable conduct to be an offence.

If the subject of the image is minor, it is still an offence to distribute with their consent.

What about people who liked or commented on it?

They could also be charged with offences if their conduct was harassment and bullying. Could also be encouraging further hurtful comments in the future.

3. If you saw this kind of behaviour on Instagram, what could you do?

This is a chance for the students to be creative. Some suggestions include: standing up to your friends (the downsides of this can be discussed, including fear of becoming the subject of bullying); making the decision not to be involved, trying to divert their attention, telling someone trusted before things get out of control.