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YourNavy

The DANGERS of SEXTING

Explicit images, messages put sailors' careers at risk

By William H. McMichael
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The husband of a Navy officer had begun noticing that his wife seemed to be becoming more distant. She was less active in family gatherings, leaving the room or texting on her cellphone instead of paying attention, using the phone late at night and suddenly turning it off when approached.

The person on the other end of her conversations was a Marine officer stationed at the same East Coast base. The two field-grade officers were sending each other explicit photos of themselves. The angry husband turned them both in. Adultery and conduct unbecoming an officer charges followed; earlier this year, their careers came to a screeching halt.

Sexting — the sharing of explicit images and messages via cellphone and other digital media — isn't just a problem in middle schools anymore. Increasingly, it's wrecking marriages, ending careers and, in some cases, landing troops in jail.

The Navy has no specific policy on

sexting, nor does it maintain data on incidents in which sailors are investigated or disciplined for sexting. But multiple attorneys who specialize in military justice say they have seen a spike in inquiries from sailors accused of crimes or violations stemming from it.

Some involve officers. Some involve enlisted personnel. Some involve both.

"In all these sex cases today, they're sending each other pictures," said Patrick McClain, a retired major and court-martial trial judge with a civilian law practice in Dallas. His caseload involving sexting-related infractions is up noticeably over the last two years, he said. Service members who contact him are often trying to determine whether it's worth paying for legal representation when the evidence against them is so damning.

Among consenting civilian adults, sexting is legal, provided they are not exchanging lewd images of minors. Sexting among sailors is legal as well, but unlike in the civilian world, where compromising photos or messages might be scandalous, those same pictures and texts can cost sailors their careers because the activity that's connected to them may constitute fraternization or inappropriate behavior.

Many single sailors and couples embrace sexting discreetly as a means to maintain a romantic connection through long deployments and other times of extended separation. Others do it to cheat. And the service has a history of

coming down hard on illicit activity and poor judgment.

"I think it's a tremendous deal and we're seeing more and more of it [in] all branches of the services and in the civilian world," said attorney Greg Rinckey, a former Army judge advocate general and managing partner of the law firm Tully Rinckey PLLC. "Look at Rep. [Anthony] Weiner out of New York."

Weiner, who is married, resigned after he admitted having several inappropriate electronic relationships. The picture that Weiner took of himself in his underwear and sent using Twitter from his cellphone is what touched off the scandal.

Getting in trouble

While there's no specific mention of sexting in the Uniform Code of Military Justice, sexting is often accompanied by activities that are covered in the UCMJ. Commanders can use text messages and photos as evidence to prove an extramarital affair or other behavior deemed counter to good order and discipline. Moreover, unsolicited sexting has been highlighted in some sexual assault complaints.

"We see it a lot," said Grover Baxley, a defense attorney who specializes in military law. "In any rape case, you're going to see investigators, or the defense, go and say, 'Hey, can we find any contact between these two individuals either before the alleged act occurred, or even after?' For example, if we can find friendly text messages going back and forth

between the complainant and the accused after an alleged nonconsensual act, that's relevant information."

Sexting, in other words, provides evidence that old-fashioned, hard-wired phone calls didn't provide — particularly in military cases.

"In the old days, someone would complain that the CO is sleeping with the help," said a senior Navy personnel officer who asked to remain anonymous in order to speak candidly. "Investigators would come onboard, ask a few questions and chances are had to close the book because there wasn't any evidence."

"But now, they come on board, check the email, check cellphone and texting records and it's much, much easier to discover if misconduct is going on. People need to realize that and act accordingly."

Baxley agreed. "Five years ago, before texting became so frequent," he said, "we didn't have this ability to retrieve the actual content of conversations. Now, what were formerly 'he said, she said' cases become cases where definitive proof is available."

Sexting can also have ramifications beyond criminal prosecution, one veteran defense attorney said.

In a recent case, several of a sailor's computer hard drives were searched after he came under investigation; it had been alleged

that the sailor possessed about eight images of what "possibly" could be classified as child pornography, said Alan Hahn, a lawyer based in San Diego. The command took no UCMJ action, Hahn said, but issued the sailor a letter of caution.

But the Department of the Navy Central Adjudication Facility issued a letter of intent to deny the sailor's security clearance. After a personal appearance before a Defense Department Office of Hearings and Appeals administrative judge, DONCAF decided not to revoke the sailor's clearance. But it took the sailor nearly two years to get through the process.

"I think the point for sailors is that sexting, in addition to potential UCMJ or other administrative action, could lead, even if there is no UCMJ action, to DONCAF attempting to revoke the clearance," Hahn said. "Sexting could fall under several of the 13 areas of concern with security



ILLUSTRATIONS BY JOHN HARMAN/STAFF

clearances, such as personal conduct, criminal activity, sexual behavior and misuse of information technology systems.”

The popularity of texting, coupled with the ease of using a cellphone’s camera and the ability to instantly transmit images, have ushered in an era in which people take a more casual view of once carefully calculated efforts to conceal sexually explicit behavior, some observers note.

“There used to be social mores that prevented people from taking their photos down to Fotomat and having them developed,” said Neal Puckett, a retired Marine lieutenant colonel and court-martial lawyer in Alexandria, Va., whose practice has experienced more inquiries from service members seeking help with sexting cases. “It wasn’t illegal, but you just wouldn’t do that.”

The consequences of having images and compromising messages fall into the wrong hands can cause trouble for any service member, said Jack Zimmermann, a retired Marine prosecutor and criminal trial judge based in Houston.

But for officers, held to a higher standard, the fallout can be especially severe.

“Who would intentionally and willingly snap a photo of themselves by any means knowing that people who work for those officers would see it?” said Zimmermann, a retired Marine colonel. “It could detract from those officers’ authority. It could easily be construed as being such poor judgment that it’s conduct unbecoming.”

That was the case for Capt. David Solms, who

was fired last year as head of Trident Training Facility in Bangor, Wash., for “inappropriate personal behavior.” The investigation cited

an email he tapped out on his BlackBerry to a married female friend.

“Just had some strawberries for dessert, and thought of you at every bite. Next time, I would like to feed some to you ... Maybe with champagne.”

Someone else, the investigation doesn’t say who, saw the email. Solms’ career soon unraveled.

Like ‘crack cocaine’

The temptation for sexting can be hard to resist. People engage in sexting because it’s easy and instantaneously gratifying, accord-

ing to behavioral health experts. Cellphones, smartphones and other hand-held, Web-enabled devices almost all have cameras. In the time it takes to peel off your clothes and pose in front of the bathroom mirror, you can be sending a self-portrait to anyone in your address book.

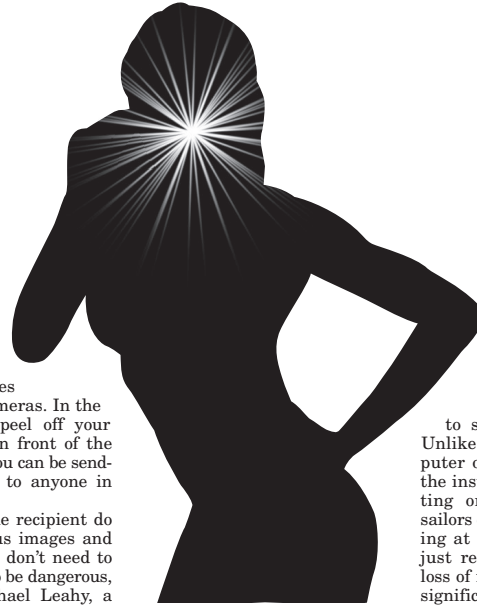
But what will the recipient do with it? Scandalous images and messages don’t need to go viral to be dangerous, said Michael Leahy, a self-described recovering sex addict, inspirational speaker and author of five sex books, including “Porn Nation.”

“Sexting,” he said, “is the crack cocaine of sexual addiction.” Those who do it tend to crave

it, Leahy said, much the way a drug addict needs his next fix. He characterized sexting as a gateway to more-destructive behavior, such as moving from a cyber environment to seeking anonymous sexual encounters in person. Leahy said he has counseled several men whose marriages were on the rocks because of the men’s escalating need for more. Leahy’s 15-year marriage collapsed because of his insatiable need to find sex any way he could, he said.

The behavior that fuels sex addiction is a big problem in the military, he said, especially for troops downrange. Few carry cellphones in the war zone, but email and social networking sites can facilitate sexting and pose the same risks.

“You start as a recreational user, couple hours a week, and in a high-pressure environment, it’s not unreasonable. But what happens when that becomes a couple of hours a day? One of the forms of escalation is going from looking at pictures to voyeurism or exhibition



age soldier prevents even those that realize they have a problem and want help with it from actually seeking it.”

And the behavior is hard to stop upon redeployment. Unlike watching porn on a computer or getting it in an email, the instantaneous nature of sexting on a smartphone means sailors can get a quick fix by looking at a picture they may have just received. Addiction, and a loss of intimacy with a spouse or significant other, may not be far behind.

“Sex addicts don’t have relationships, they have serial sex acts with parts of other people’s bodies,” said Dr. Reid Finlayson, a practicing psychiatrist and sex addiction specialist at Vanderbilt University. “It can be compulsive.”

Yale University military justice scholar Eugene Fidell recalled a contemporary from his days in the military “who carried around a photograph of his girlfriend, and all she was wearing was a smile.” That was the early 1970s. Wireless technology has raised the stakes, he said.

“It is such that with a few key-strokes, something like this can reach thousands of people and inflict great pain on the victim,” he said.

Puckett advises service members use discretion in all things personal, pointing out that people in uniform are under a higher level of scrutiny than the rest of the population.

“The walls we used to use to stay private are kind of disappearing with the digital age. It’s the timeless question,” he said. “What made you think you could get away with this?” □

Staff writers Mark D. Faram, Gina Cavallaro, Andrew deGrandpré, Markeshia Ricks and Scott Fontaine contributed to this report.



Solms

PHONE FACTS

The length of cellphone calls in the U.S. is down, but the rate of texting is skyrocketing. Some fast facts:

■ At the end of 2010, the U.S. had 303 million wireless subscribers, up from 208 million the year before.

■ In the 12 months ending June 2010, more than 1.8 trillion text messages were sent and received. That’s 4.9 billion per day.

■ More than 89 percent of the handsets operating on wireless carriers’ networks are capable of browsing the Web.

SOURCE: CTIA; THE WIRELESS ASSOCIATION

like through peeping or exposing yourself,” he said. “It’s a heightened sexual experience.”

Leahy and his second wife, an active-duty Army sergeant, have helped troops overcome sex addiction through a faith-based program, and they have provided counseling materials to deployed military behavioral health specialists.

But those specialists, while acknowledging there is a problem, say few sex addicts come forward.

“I have only been approached one time in the last six months regarding porn addiction, and the soldier never followed through,” said an Army behavioral health specialist working downrange who asked not to be identified. “I think the overall mentality of your aver-

