



Manassas City  
Police Department

## MANASSAS CITY POLICE DEPARTMENT

### PRESS RELEASE

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#### Juvenile Sexting Case Update

August 1, 2014

With the advances in computer and cell phone technology and the prevalence of these communication devices among our young people in particular, this jurisdiction like many others in the country is experiencing more and more incidents of “sexting”. Often it occurs in the context of juveniles taking sexually explicit photographs of themselves and sharing those pictures with other juveniles who may or may not be known to them. When this type of activity is reported, often by parents whose own efforts to stop the sexting have failed, it is the responsibility of law enforcement to investigate the alleged violation of law and the Commonwealth’s Attorney to determine whether it is appropriate to prosecute. Sexting activities do not always involve a willing boyfriend/girlfriend exchanging pictures of him- or herself. Sometimes relationships end and photos of this nature are disseminated out of revenge, or a threat to disseminate the existing photos is made to “blackmail” the other juvenile to produce more.

In Virginia, the existing laws to address this situation are limited and clear. Whether a juvenile takes sexually explicit photos of himself or herself or of another juvenile, existing law defines that as possession of child pornography. If it is shared with another, existing law defines that as distribution of child pornography. No criminal offense committed by a juvenile is a felony or a misdemeanor. It is a “delinquent act” subject to the jurisdiction and unique dispositional alternatives of the juvenile court system. It is not now and never has been the policy of the Commonwealth’s Attorneys’ Office to seek a permanent conviction on a juvenile for possession or production of child pornography in cases of peer to peer sexting. Further, the Commonwealth’s Attorneys’ Office has never requested that such juveniles be placed on the sex offender registry. The most common recommendation by the Commonwealth’s Attorneys’ Office to the juvenile court is that these cases be deferred for dismissal at a future time with probation conditions including forfeiture and destruction of the electronic devices because images cannot truly be permanently “deleted.” There are also instances where counseling or limitations on the use of electronic devices is appropriate.

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However, those juveniles (through the attorneys representing them) must agree to such dispositions in order to avoid a trial in which our adversarial legal system determines the outcome. Our police and prosecutors recognize the unique responsibility we have to protect our young people, even sometimes from themselves.

In the sexting case that has recently garnered so much attention, the investigating detective with the Manassas City Police Department was instructed by a member of the Commonwealth's Attorneys' Office to obtain a search warrant in order to photograph, for evidentiary purposes, the genitalia of the defendant. Upon consultation with the identification expert, the prosecutor subsequently authorized a second search warrant seeking a photograph of the erect penis of the defendant. While that procedure was being pursued, it was determined during the internal review process that such a search warrant would not be executed, and it was allowed to expire according to law. Many have expressed concern at what they believe to be an extreme measure in this type of case. However, when a criminal defendant, adult or juvenile, decides to exercise his or her right to a trial, it is necessary for the prosecution to explore all *legal* avenues of evidence collection in order to prepare for trial. While those legal avenues may be explored, they are not always pursued and are sometimes, as in this case, abandoned. This is particularly appropriate after a balancing of the interests involved, and when further evaluation confirms the sufficiency of the other evidence supporting the guilt of the accused.

The Commonwealth's Attorneys' Office and the Manassas City Police Department encourage parents to be proactive in discussing the potential consequences of sexting with their children, and to be vigilant in monitoring the legal and responsible use of their children's electronic devices.

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