



GENERAL ORDER

SEXTING

Implementation Date: April 18, 2013

Revokes: New Order

GENERAL ORDER – 67

67.1 INTRODUCTION

The purpose of this policy is to establish uniform guidelines for the response to incidents involving a violation of the sexting law.

67.2 DEFINITIONS

Child Pornography – any image depicting a minor engaged in sexual conduct.

Harmful to Minors – any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

- (a) Predominantly appeals to a prurient, shameful, or morbid interest
- (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- (c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

Minor – any person under the age of 18 years.

Nudity – the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion

thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. (A mother's breastfeeding of her baby does not under any circumstances constitute nudity, irrespective of whether or not the nipple is covered during or incidental to feeding).

Sexting – use of a computer, or device capable of electronic data transmission to transmit or distribute to another minor any photograph or video of any person which depicts nudity and is harmful to minors, or possess a photograph or video of any person that was transmitted or distributed by another minor which depicts nudity and is harmful to minors.

Sexual Conduct – actual or simulated intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

67.3 POLICY/PROCEDURE

67.3.1 Sexting

Florida State Statute 847.001 covers the crime of Sexting.

67.3.2 Sexting Investigations

When investigating alleged sexting violations, officers shall:

- A. Determine the age of the subject in possession of the picture or pictures.
 - B. Determine who sent the pictures, or to whom the pictures were sent
 - C. Complete an original incident report using the header "Sexting".
 - D. Obtain a written or recorded statement from the person reporting the incident, to include:
 - 1. Who sent the photo(s).
 - 2. Phone numbers or IP address associated with where photo(s) were sent to or sent from.
 - 3. When the photo(s) were received or sent.
 - E. Obtain a consent to search form to look at the device from the parent or legal guardian. Do not impound the phone or computer.
 - F. Determine if the photo is a depiction which violates the sexting law or whether it constitutes a violation of child pornography or pornography. If photo or photos depict child pornography or other violations, the officer shall notify a Special Victims Unit detective to handle further investigation.
 - G. If the photo depicts a violation of the Sexting statute, the officer should document the pictures, i.e. take photo with department issued digital camera and save as evidence.
- Note:** Due to the age of victims and suspects in these cases, the photos will depict minor aged children and should be handled with the utmost confidentiality.
- H. Complete a not in custody juvenile transcript to be sent to the State Attorney's Office for a violation of the Sexting law.
 - I. Forward a copy of incident report, evidence, and juvenile transcript to the Special Victim's Unit.

67.3.3 Handling of Sexting Violations

The Broward County State Attorney's Office has formulated a procedure for the handling of violations of the sexting law.

- A. The State Attorney's Office will receive all documentation and juvenile transcripts and determine if the offense is a first time violation or not.
- B. A first time violation will be a non-criminal offense and the court will be requested to make a finding of guilt and impose either a \$60.00 fine or 8 hours of community service
- C. A second offense after having committed a non-criminal violation is a misdemeanor of the first degree.
- D. A third and all subsequent offenses will be a felony of the third degree if the minor has been found to have committed a misdemeanor sexting act.
- E. In the event that it becomes known that a third or subsequent violation has occurred, an in custody arrest shall not be made unless directed by the Special Victim's Unit supervisor or his designee.

67.3.4 Tracking of Sexting Violations

Due to the procedure set forth by the State Attorney's Office a copy of all paperwork associated with a sexting violation will be forwarded to the Special Victim's Unit. A member of the Special Victim's Unit will track all incoming reports to determine repeat violations or violators.

APPROVED

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Chief of Police