

POLICY TRENDS IN TECHNOLOGY

A review of legislation concerning technology and interpersonal violence

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Presentation Goals & Objectives

Goals: To inform participants on state and national policy trends addressing technology, provide information on private-sector contributions and community-based initiatives, explore the impact of current Colorado laws pertaining to technology on survivors, and discuss possible implications of pending legislation designed to create a misdemeanor charge for teen sexting behavior.

Objectives:

- Examine Policy Trends
- Explore Legal Issues Surrounding Teen Sexting
- Identify Gaps in Legislation – “Where do we go from here?”



National Policy Trends Addressing Technology Safety

- Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355 or the [Violence Against Women Act \(VAWA\)](#)
 - VAWA 2005, section 106, amended [18 USC § 2265](#), governing the Full Faith and Credit given the protection orders
 - Grants to protect privacy; [42 USC § 14043b](#)
 - Develop safe uses of technology



National Policy Trends Addressing Technology Safety

- Stalking [18 USCS § 2261A](#);
“Amy Boyer’s Law” [42 U.S.C. § 1320 B](#)
– Cyberstalking; [18 U.S.C. § 875\(c\)](#); [47 U.S.C. § 223](#);
- At present, no federal law directly addresses cyberbullying. In some cases, cyberbullying overlaps with discriminatory harassment covered by federal civil rights laws.



National Policy Trends Addressing Technology Safety

- U.S. federal law provides specific protections against threatening electronic communications:
 - [18 U.S.C. § 875\(c\)](#) criminalizes interstate and foreign telephone or electronic communications containing a threat to abduct or injure another individual
 - [18 U.S.C. § 2510-2516](#) addresses wiretapping and provides protections against illegally tapping someone's telephone, and
 - [47 U.S.C. § 223](#) of the Communication Decency Act prohibits interstate or foreign telecommunication that is used with the intent to annoy, abuse, threaten, or harass another
- Title 42 of the Civil Rights Act may be utilized to address online victimization:
 - This statute has been interpreted to prohibit sexual harassment in work environments, thus, sexual harassment via e-mail may be prosecuted under this statute



National Policy Trends Addressing Technology Safety

- Sexual Exploitation of Children [18 U.S.C. § 2251](#)
 - [18 U.S.C. § 2425](#); communication to solicit or entice a child into unlawful sexual activity
- Communications Decency Act, passed as part of the Telecommunications Act of 1996; 47 U.S.C. § 230
 - Craigslist and Backpage liability for “adult services”



The “Right to be Forgotten”

- EU Court ruled individuals have the right – under certain conditions – to ask search engines to removes links with personal information about them.
 - Applied 1995 Data Protection Directive to search engines
 - Information must be inaccurate, inadequate, irrelevant, or excessive
 - Case-by-case basis, not absolute



State Policy Trends Addressing Technology Safety

- California antistalking law (1990) in response to the murder of actress Rebecca Schaeffer and five other Orange County women
- By 1993, all 50 states had enacted stalking laws
 - all but 4 states currently have statutes that include stalking through electronic methods (2005).
- Cases from around the country demonstrate that state stalking laws have been interpreted to include stalking by video or GPS surveillance.



State Policy Trends Addressing Technology Safety

- In 2004, the Stalking Resource Center launched a model initiative focused on analyzing the state stalking codes.
- States should ask three questions:
 1. Will the language used in the law cover all conduct and communications that future advances in technology may generate?
 2. Does the law require or imply the need for direct physical contact between the perpetrator and the victim, or can electronic monitoring and surveillance be considered stalking?
 3. Does the law cover third-party contact initiated by the stalker?



Community-based Policy Trends Addressing Technology Safety

- National, State, & Local Helplines
- DNA collection, Telemedicine, & SAFE
- Take Back the Tech!
- Sophisticated computer systems/integrated database – ALICE/Osnium software
- Sexual Health Innovations – Callisto



Community-based Policy Trends Addressing Technology Safety

- [Take Back the Tech!](#)
- Internet Communication Technology and Violence Against Women
 - Communication Rights
 - Blackmail
 - Cyberstalking
 - Hate Speech



Community-based Policy Trends Addressing Technology Safety

- [Sexual Health Innovations](#)
- [Callisto Project](#)
 - Increase Reporting
 - Improve the Detail and Accuracy of Reports
 - Strengthen Student Trust of the Institution
 - Protect Confidentiality and Data Security
- Reporting options, perpetrator matching program, information and referrals

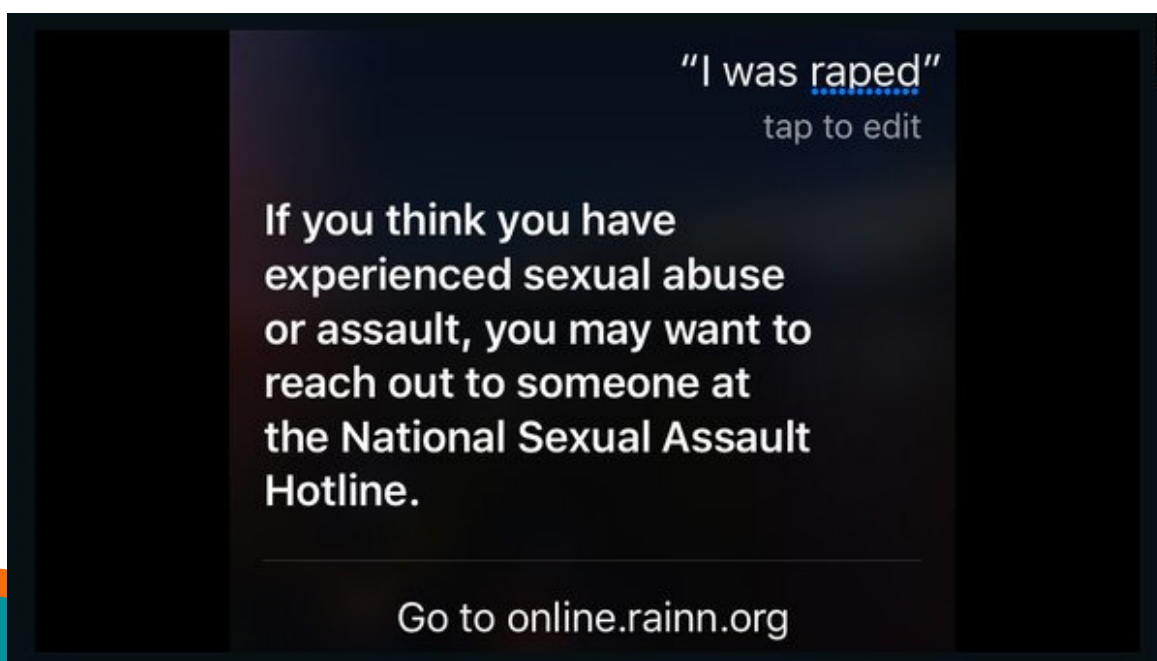


Private-sector Policy Trends Addressing Technology Safety

- [Verizon Wireless HopeLine](#) Program
- Through a partnership between [Apple & RAINN](#), [Siri's response](#) to statements like "I was raped" has been updated to provide a more thoughtful response.
- Google and Samsung are undertaking similar initiatives.



Private-sector Policy Trends Addressing Technology Safety



Private-sector “Rape Prevention & Detection” Product Trends and Technology

- Drink Safe Technologies



With New Technology,
Never Again Wonder
If Your Drink Is **Safe**.



Private-sector “Rape Prevention & Detection” Product Trends and Technology

Undercover Colors
2 Love My Lips



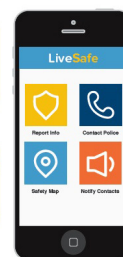
Private-sector “Rape Prevention & Detection” Product Trends and Technology

- Mobile Apps



Safety, at your fingertips

Make a Difference
See something shady?
With a few clicks, send
picture, video, and text
information to campus
officials.



Stay Protected
Call campus officials
whenever you need
help.

**Safety Info, Right
When You Need It**
View the latest reports
in Menlo College, and
receive safety broadcasts
straight into your phone.

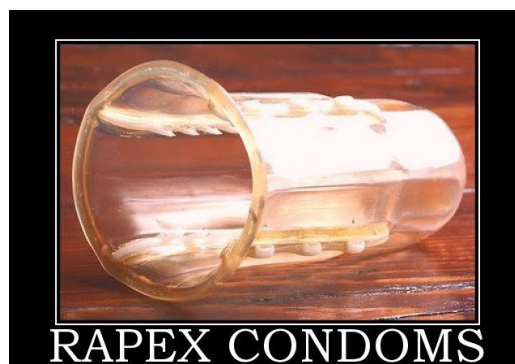
Peace of Mind
Let LiveSafe be your
constant companion.
With the push of a
button allow friends
and family to walk you
home when you need it.

- 1 Download the LiveSafe app on iTunes or Google Play
- 2 Select Menlo College as your agency
- 3 Fill out your user profile



Private Sector “Rape Prevention & Detection” Product Trends and Technology

Electric Anti-Rape Bra
RapeX Condoms



Private Sector “Rape Prevention & Detection” Product Trends and Technology

- What are possible limitations of “Rape Prevention & Detection” products?



Colorado Laws Addressing Technology Safety

- DNA Collection laws
 - [C.R.S. § 16-23-103](#)
- Sexual Assault Evidence Collection and Testing
 - [C.R.S. § 24-33.5-113](#)
- DNA Storage laws
 - [C.R.S. § 18-1-1103\(1\)\(2\)](#); [C.R.S. § 16-5-401\(8\)\(9\)](#); [C.R.S. § 16-5-401\(1\)\(a\)](#); [C.R.S. § 18-3-407.5](#)



Colorado Laws Addressing Technology Safety

- Stalking laws
 - [C.R.S. § 18-3-602](#)
- “Revenge Porn” laws
 - [C.R.S. § 18-7-107](#) and [C.R.S. § 18-7-108](#)
- Sexual Exploitation of a Child
 - [C.R.S. § 18-6-403](#)
- Internet luring of a child
 - [C.R.S. § 18-3-306](#)
- Internet Sexual Exploitation of a Child
 - [C.R.S. § 18-3-405.4](#)
- Pandering of a Child
 - [C.R.S. § 18-7-403](#)



2016 Colorado Legislative Session

- [HB 16-1377](#): Task Force Digital Images of Child Abuse Neglect
- [HB 16-1393](#): Search Warrant for Communicable Disease Testing
- [SB 16-075](#): DNA Collection Misdemeanor Vulnerable Persons
- [HB 16-1058](#): Misuse of Electronic Images by a Juvenile



HB 16-1377: Task Force Digital Images of Child Abuse Neglect

- [HB 16-1377](#) concerning the creation of a Task Force on the collection and security of digital images of evidence of child abuse or neglect.
- The bill creates a Task Force to examine the existing system of collecting, documenting, and securing digital images of evidence of suspected child abuse or neglect and serves to make best practices recommendations to stakeholders.
- **Status: Introduced in Senate – Assigned to Health and Human Services on 4/1/16**



HB 16-1393: Search Warrant for Communicable Disease Testing

- [HB 16-1393](#) concerning procedures for ordering testing for communicable diseases.
- The bill repeals current law and authorizes a court to issue a search warrant for a person's bodily fluid if probable cause exists that an assault has been committed and that the person's bodily fluid came into contact with another person
- Status: Introduced in House – Assigned to Judiciary on 3/17/16



SB 16-075: DNA Collection Misdemeanor Vulnerable Persons

- [SB 16-075](#) concerning collection of a DNA sample from offenders convicted of misdemeanors against vulnerable persons.
- The bill would expand the required collection of a DNA sample to include persons convicted of select misdemeanors
- Status: Postponed Indefinitely on 3/29/16



SB 16-075: DNA Collection Misdemeanor Vulnerable Persons

- Currently there are over 6,100 unmatched forensic samples in the Colorado DNA database.
- New York State DNA Database
 - statistics
- The Case for Misdemeanor DNA Collection



HB 16-1058: Misuse of Electronic Images by a Juvenile

- [HB 16-1058](#) concerning creating the crime of misuse of electronic images by a juvenile.
- The bill creates a misdemeanor offense and prohibits a juvenile from knowingly distributing, displaying, or publishing through electronic means, or possessing, a sexually explicit image of himself or herself or of another juvenile – victims who participate in the making of their own sexually explicit image will be issued a petty offense charge
- Status: Final Action Failed on 4/5/16, however, the bill was not Postponed Indefinitely
... what does this mean?



HB 16-1058: Misuse of Electronic Images by a Juvenile

- **CCASA's concerns with HB 16-1058**
 1. Chilling effect on reporting
 2. How law enforcement will determine the primary aggressor in cases where teens are coerced, threatened, or intimidated
 3. Age of Consent laws and Close-in-Age Exemptions
 4. Differentiate between abusive forms of sexting, such as maliciously distributing a private image, and the relatively harmless practice of consensual sexting



Better Sexting Laws: Decriminalize consensual sexting

- **Repeal all new sexting laws, or at least amend these new laws to exempt teens who produce, distribute, and possess images consensually from prosecution.**
 - Example: North Dakota century code § 12.1-27.1-03.3; The implication is that sexting is legal when it is consensual, and like rape, lack of consent to a sex act defines it as sexual assault.
- **Add close-in-age exceptions to child pornography laws, which would bring them in line with age-span exemptions for statutory rape.**
- **Nebraska and New Mexico currently exempt teens who consensually possess child pornography from prosecution; these laws should be expanded upon to exempt teens who create, share, and/or possess images consensually as well.**



THANK YOU FOR PARTICIPATING!

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April is Sexual Assault Awareness Month!

Join us April 27th, 2016 for Colorado Denim Day and be a part of a worldwide movement to help support survivors and unite communities by taking a stand against sexual violence

For more information visit
coloradodenimday.org

