

## Explicit Messages, Images Put Careers at Risk

It began with some flirtatious text messages between an advanced individual training instructor and a young female trainee, and it quickly turned physical. The illicit relationship between the staff sergeant, who was almost 40, and the 19-year-old student was their secret, but not for long.

When the young woman, after running into some minor disciplinary trouble, turned in the instructor, the text messages between the two were used as proof of the relationship, and it was the instructor whose career was over.

With growing frequency, soldiers are using cellphones and other digital media to swap sexually explicit images and messages as they conduct relationships — adulterous, underage, violations of fraternization policies, or otherwise inappropriate — that the Army frowns on. Sexting has severed marriages, ended careers and landed some soldiers in jail.

Sexting — the sharing of explicit images and messages via cellphone and other digital media — has made headlines over scandals at civilian schools and driven some states to contemplate legislation.

The Army has no specific policy on sexting. Nor does it maintain data on incidents in which soldiers are investigated or disciplined for sexting. But attorneys who specialize in military justice

say they have seen a spike in inquiries from service members accused of crimes or violations stemming from it. And the digital evidence left behind is frequently undeniable — and usually ruinous.

“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. Soldiers and other troops 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 adult soldiers and civilians, sexting is legal, provided they are not exchanging lewd images of minors. Sexting among soldiers is legal as well, according to attorneys who specialize in military cases. Unlike in the civilian world, however, where compromising photos or messages might be scandalous, those same pictures and texts can cost soldiers their careers because the activity that’s connected to them may constitute fraternization or inappropriate behavior.

Many single service members and couples embrace discreet sexting 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 would say the majority of sex offenses and adultery these days involve some form of text messages," said attorney Greg Rinckey

, a former Army judge advocate general and managing partner of the law firm Tully Rinckey PLLC. "For almost every officer or enlisted who consults me about adultery, there are text messages."

Observers say the military has no special monopoly on illicit sexual contact of this sort. Former New York congressman Anthony Weiner, who is married, resigned his seat in scandal earlier this year after racy cellphone photos he sent to young women via Twitter became public.

The apparent surge in illicit sexual activity among service members appears to have followed the proliferation of smartphones and Internet access downrange, said Jerry Powell, director of the Fayetteville Family Life Center, a faith-based counseling center near Fort Bragg, N.C.

When Powell, a former Army chaplain, was in Iraq in 2005, it was "not common at all" for deployed soldiers to have cellphones, nor was this an issue.

"Everything has changed; the Internet was not that easy to access," he said. "Now no matter what your rank, everybody has a cellphone, and it has instant email and Web access."

#### 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.

"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."

In July, Lt. Col. Lonnie McNair, commander of the Raleigh Recruiting Battalion in North Carolina, was suspended after a sergeant in the unit accused McNair of having an affair with his wife. A forensic exam of the wife's phone, paid for by the sergeant, revealed that McNair and the wife exchanged text messages to arrange liaisons, trade sexual talk and share photos.

The sergeant accused McNair of sending a picture of his genitals to the sergeant's wife. McNair refused to comment on the allegations.

In 2008 at Fort Leonard Wood, Mo., a dozen drill sergeants and trainers were punished for having forbidden sexual contact with female trainees. According to published reports, the women in many cases initiated the relationship, often through text messages or social networking sites.

A staff sergeant with 577th Engineer Battalion had sex with a trainee and later tried to get her

to delete text messages between them and to deny the relationship. He was sentenced to a reduction in rank to E-3 and five months' confinement.

In April, a Texas woman came forward to accuse a 35-year-old Army recruiter who visited her high school in 2009 of sexually assaulting her and later sending her sexually explicit text messages for weeks.

In 2009, a 27-year-old private from Fort Campbell, Ky., was arrested in the company of a 15-year-old girl and accused of sending her text messages expressing his intent to impregnate her.

According to published reports, he allegedly instructed another underage girl to send him a picture of her genital area, which she did.

Some observers note 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.

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."

The temptation for sexting can be hard to resist. People engage in sexting because it's easy and instantaneously gratifying, according to behavioral health experts.

#### Sexting and sexual addiction

Sexting is addictive, and a gateway to more destructive behavior, according to Michael Leahy, a self-described recovering sex addict, inspirational speaker and author of five sex books, including "Porn Nation."

"Sexting is the crack cocaine of sexual addiction," Leahy said.

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.

"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 like ... 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 average 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 soldiers 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 said wireless technology has raised the stakes.

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

### Digital lipstick

For married soldiers, digital lipstick on the collar can have just as devastating an effect as the real thing, said Powell, the counselor and former chaplain in Fayetteville.

“The great majority I’ve seen, one partner finds out about the affair by checking the cellphone logs, or by getting a password and checking email accounts,” he said.

Powell said one Army wife he is treating did not suspect her husband at all, but idly checked his cellphone one evening and discovered calls and text messages between him and another woman. It all began while the soldier was deployed.

“Lots of minutes, many times a day, and that’s when it all broke,” Powell said. “She was devastated.”

Just as service members live on the edge at work, they can “walk on the edge emotionally” by engaging in forbidden relationships online.

“When you’re downrange and you’re dirty and you’re tired and you’re hungry, and you’re looking for that emotional edge, it’s very easy to find on the Internet,” Powell said.