



Psychiatry & Behavioral Sciences Section – 2007

I23 My Space or Yours? Issue of Consent in the Age of Cybersexuality

Risa B. Grand, MD*, Kaushal K. Sharma, MD, and Mark Jaffe, MD, USC Institute of Psychiatry, Law and Behavioral Science, PO Box 86125, Los Angeles, CA 90086-0125

After attending this presentation, attendees will gain an enhanced understanding and awareness of the conflicts and issues of consent by minors in Internet-related sexual activity.

This presentation will impact the forensic community and/or humanity by demonstrating how this is an important issue that has a significant impact on the fields of forensic psychiatry and psychology for cases involving minors or adult sex offenders. Criminal activity involving relationships established on Internet communities like MySpace.com is increasingly common.

The popularity of Internet “communities” is rising exponentially. In 2006, MySpace.com, a social networking website, boasts 68 million members. Because such sites do not require age verification, there are no accurate estimates of the number of minors accessing their “space.” However, as individuals who regularly interact with junior high or high school age adolescents can attest to, the popularity of MySpace.com and similar sites in this population is enormous. Therefore, it is reasonable to assume that a large number of users are minors. Although MySpace.com advises its members that they need to be at least 14-years-old to use their site, there is no way for the site to enforce this policy. There are many minors who have postings that indicate they are younger than 14-years-old.

American youth are typically more adept at utilizing text messages, instant messages, and other electronic technology than most adults. According to the 2005 Census, there are over 17 million minors aged 14 through 17 living in the United States. The National Telecommunications and Information Administration reports that 75.6% of minors in this age range use the Internet. While this high-tech literacy confers some advantages, it also exposes many young people to unregulated sites where they can potentially interact with adults who can easily misrepresent their age, income, occupation, and social and marital status. In recent years there are increasing reports in news media announcing the arrest of adults who met underage (or presumed underage) minors through Internet communities.

The widespread use of this relatively new technology and the potential for it to lead to criminal activity and harmful behavior are important issues that now face forensic psychiatry. Primary among these are issues of consent. Age of consent is defined as the age in which persons are bound to their words and acts. Most states in the U.S. limit the age under which parties can get married by requiring that people be at least 18 years of age or legally emancipated minors. Inferred from this law, society believes that a person must be of a certain age to be physically, emotionally, and cognitively mature enough to enter into a marital or sexual relationship. Issues of consent regarding sexual relationships are complex, vary by state, and typically depend on accurate data regarding the gender and age of the individuals involved in the relationship. For example, in California, the most populous state in the country, the issue of “old enough” to give consent in such a relationship is different than the legal age of adulthood.

Many states define “statutory rape” if a person is over a certain age to give consent, but is under the age of marriage. In California, if a person engages in sex with anyone under the age of 14, they will be charged with child molestation. If the age of the consenting minor is above 14 but less than 18, the adult is charged with unlawful sexual intercourse with a minor. Laws related to sexual behavior are considerably different than other state statutes regarding the behavior of minors. For example, each of the states do not allow smoking, drinking and gambling for under age minors, and most importantly, there are well established methods of verifying age in order to prevent under age minors from engaging in these activities. Social networking websites like MySpace.com do not employ any methods of age verification. The focus of the paper is to examine the legal and ethical issues involved in social networking through Internet communities. Further, a consideration of web-based relationships involving minors and issues of consent are addressed in the paper.

Consent, Cybersex, Child Molestation