



# **Not Just 'Revenge Pornography': Australians' Experiences of Image-Based Abuse**

## **A SUMMARY REPORT**

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## Key survey findings

- 1 in 5 Australians have experienced image-based abuse
- Victims of image-based abuse experience high levels of psychological distress
- Women and men are equally likely to report being a victim
- Perpetrators of image-based abuse are most likely to be male, and known to the victim
- Men and young adults are more likely to voluntarily share a nude or sexual image of themselves
- Women are more likely than men to fear for their safety due to image-based abuse
- Abuse risk is higher for those who share sexual selfies, but they are not the only victims
- 1 in 2 Australians with a disability report being a victim of image-based abuse
- 1 in 2 Indigenous Australians report image-based abuse victimisation
- Image-based abuse victimisation is higher for lesbian, gay and bisexual Australians
- Young people aged 16 to 29 years are also at higher risk of image-based abuse
- 4 in 5 Australians agree it should be a crime to share sexual or nude images without permission

## What is image-based abuse?

'Revenge pornography' is a media-generated term that is used to describe the non-consensual distribution of nude or sexual images online or via mobile phones. A narrow definition focuses on the non-consensual sharing of nude or sexual images by ex-partners, for the purpose of revenge. Yet more recently, scholars, practitioners, activists and other commentators have pointed to diverse perpetrator motivations. Our previous research has shown, for instance, that images are being used to coerce, threaten, harass, objectify and abuse either by persons known to the victim (friends, family members, intimate partners, ex-partners, acquaintances), or strangers, and for a wide variety of reasons, including control, intimidation, sexual gratification, monetary gain and social status building. We, along with other researchers and practitioners, have observed that these types of behaviours extend well beyond a 'relationship going sour' scenario, finding that victims of image-based abuse may also have experienced domestic or family violence, sexual violence, stalking, sexual harassment and other forms of interpersonal violence.<sup>1</sup>

The term 'revenge pornography' also treats the images themselves as a form of pornography, regardless of the type of image, or the circumstances in which the image was either produced or disseminated. Although many would agree that 'pornography' is notoriously difficult to define, the word itself comes from the Greek word 'pornographos' which derives from the words for 'prostitute' and 'to write or to record'. The term has of course significantly evolved in more recent times with an ever-expanding internet pornography industry, the increasing popularity of 'amateur porn', as well as non-heterosexual forms of pornography.<sup>2</sup> The problem with the term 'revenge porn' then is that it likens the non-consensual creation, distribution (or threat of distribution) to the sub-genre of legal, commercial pornography. Non-consensual images might not be what an ordinary person in the community would consider 'pornography', and indeed, images might not even be created or distributed for sexual gratification purposes. For instance, in NSW, a nurse took an image of a patient's genitals while she was under

anaesthetic possibly, the victim suspected, to ridicule her body size.<sup>3</sup> It is thus important to explicitly name the behaviour as a form of abuse, whether that abuse occurs through an interpersonal violation, breach of trust, exploitation, public shaming and/or harassment. Finally, much of the focus to date on 'revenge pornography' has been almost exclusively on the distribution or sharing of non-consensual imagery, yet more attention needs to be paid to the other malicious or devious ways in which images are being used as tools of harassment, humiliation and abuse. For example, many perpetrators use threats to share nude or sexual images in order to force the victim to engage in an unwanted sexual act, or prevent them from leaving the relationship or obtaining an intervention order, or to blackmail them for monetary payment, sexual favours or other related acts. Although these threats, also known as 'sextortion', might be made to a partner or ex-partner, threats are also directed to temporary visa migrants, sex workers or trafficked persons in order to circumvent them from settling in Australia, or returning to their communities or villages. Perpetrators also target victims on online dating sites after having obtained nude or sexual images from them consensually, coercively or deceptively and then used the existence of those images to demand more images or payment or some other unwanted act (one form of this is known as 'webcam blackmail'). Threats to distribute nude or sexual images might also be made possible through the actions of thieves or computer hackers who gain access to a victim's computer or personal device, and who are then able to download their files and use intimate images as a form of blackmail and extortion.<sup>4</sup> A further example relates to the non-consensual creation of nude or sexual images, which include covert 'upskirting' or 'downblousing' in public spaces; secret recordings of the victim in private spaces engaged in a sexual act, bathing, toileting, dressing or undressing; or 'coercive sexting', which involves coercing or forcing someone to send nude or sexual images.<sup>5</sup>

In our research on image-based abuse, we have sought to understand the highly diverse and complex ways in which images are being used as a form of control, abuse, humiliation and gratification that goes well beyond the 'jilted ex-lover' scenario. Indeed, many victims of image-based abuse may be simply unaware that their images are being traded and shared via mobile phones and on internet sites. We label this phenomenon 'image-based abuse' or 'image-based sexual

1 Powell, A. & Henry, N. (2017). *Sexual Violence in a Digital Age*. Basingstoke, UK: Palgrave Macmillan; Henry, N. & Powell, A. (2015). 'Beyond the Sext: Technology Mediated Sexual Violence and Harassment of Adult Women'. *Australian and New Zealand Journal of Criminology*, 48(1), 104–118. See also Citron, D. & Franks, M. (2014). 'Criminalizing Revenge Porn'. *Wake Forest Law Review*, 49(2), 345–391; Women's Legal Service (WLS) NSW (2015, December 23). 'Submission to the Federal Senate Inquiry into the Phenomenon Colloquially Referred to as "Revenge Porn", Which Involves Sharing Private Sexual Images and Recordings of a Person Without Their Consent, With the Intention to Cause that Person Harm': <http://www.aph.gov.au/DocumentStore.ashx?id=c9f76900-ed28-47a5-a787-401376f99723&subId=407551>

2 Kendrick, W. M. (1987). *The Secret Museum: Pornography in Modern Culture*. Berkeley, CA: University of California Press

3 Scott, S. (2015, November 6). 'Sydney Nurse Who Took Explicit Photo of Patient Under Anaesthetic Still Practising in NSW'. *ABC News*: <http://www.abc.net.au/news/2015-11-06/sydney-nurse-takes-explicit-photo-of-patient/6916174>

4 Wolak, J. & Finkelhor, D. (2016). *Sextortion: Findings from an Online Survey About Threats to Expose Sexual Images*. Crimes Against Children Research Center, University of New Hampshire: <http://www.unh.edu/ccrc/Sextortion%20Report%20final%206-22-2016.pdf>

5 Englander, E. (2015). 'Coerced Sexting and Revenge Porn Among Teens'. *Bullying, Teen Aggression & Social Media*, 1(2), 19–21; Drouin, M. & Tobin, E. (2014). 'Unwanted But Consensual Sexting Among Young Adults'. *Computers in Human Behavior*, 31, 412–418.

abuse'.<sup>6</sup> We recognise that for many victims, discovering that their images have been made public, constitutes a violation of their sexual autonomy and dignity. These behaviours can have significant and long-term implications and impacts. As such, it is important to label this behaviour for what it is - a form of abuse. Government agencies, such as the Australian Office of the e-Safety Commissioner, are likewise increasingly replacing the term 'revenge pornography' with 'image-based abuse', and are beginning to recognise the serious nature, scope and impact of such harms.

## About the study

Our previous research into digital harassment and abuse<sup>7</sup> found that image-based sexual abuse was an important issue for further research. In a 2014 survey, we found that 1 in 10 (10%) Australians, both women and men, reported that a nude or semi-nude image of them had been distributed without their permission. We found that 1 in 10 (10.7%) Australians said that someone had taken a nude or semi-nude image of them without their permission and that 9.6% had reported that someone had threatened to post nude or semi-nude images of them online or send them onto others.

Our previous study was not exclusively focused on image-based abuse. It also looked at a range of other abusive behaviours involving digital technologies, such as online sexual harassment, gender-based hate speech and intimate partner stalking. Since investigating the issue of sexual violence and digital technologies since 2009,<sup>8</sup> we have witnessed alarming shifts in the ways in which images are being used by a diverse range of perpetrators for multiple reasons. Our research identified clear gaps in knowledge concerning the extent, nature and impacts of image-based abuse, as well as the range of legal and non-legal responses to both addressing this issue and preventing it from occurring in the first place.

This report presents key findings from the first stage of a larger program of research conducted by Dr Nicola Henry (RMIT University), Dr Anastasia Powell (RMIT University), and Dr Asher Flynn (Monash University), with funding from La Trobe University, the Australian Criminology Research Council, and the Australian Research Council. The research examines the extent, nature and impacts of image-based abuse among youth and adults (aged 16 to 49) in Australia, New Zealand and the United Kingdom, and the legal and non-legal responses to image-based abuse in a comparative, cross-country context.

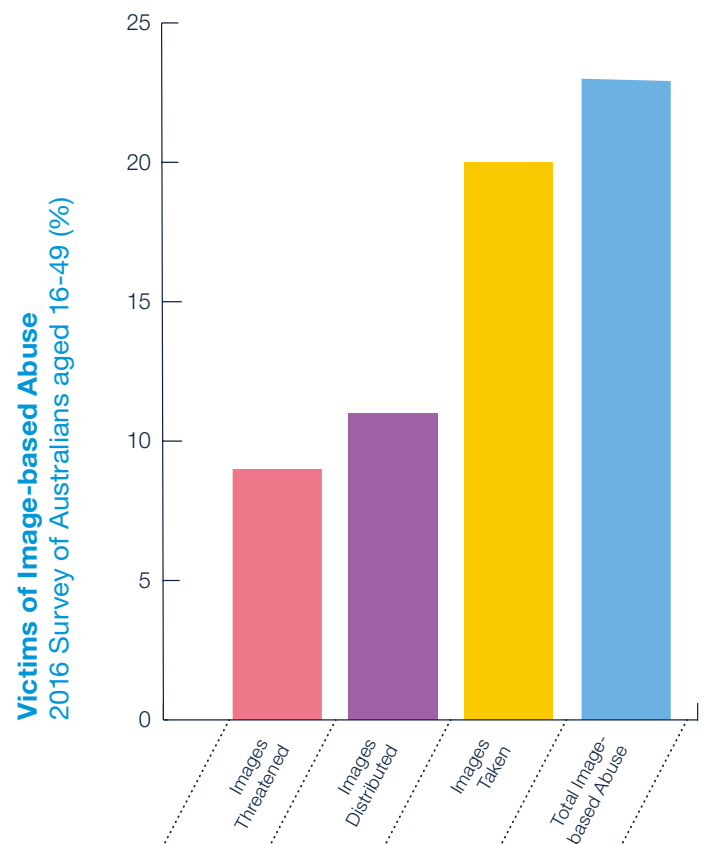
The findings presented here are from our national (Australian) online survey of 4,274 participants, 2,406 of which were female (56%) and 1,868 male (44%).<sup>9</sup> Participants ranged in age from 16 to 49, with an average age of 34 years. In addition, 3,764 (88%) participants identified as heterosexual and 510 (12%) identified as lesbian, gay or bisexual (hereafter, LGB). Of those identifying as LGB, 244 identified as female (48%), and 266 (52%) identified as male. All participants were informed that the purpose of the study was

to examine attitudes and experiences of sex, technology and relationships. This study was approved by an institutional ethics committee following guidelines as prescribed by the Australian National Statement on Ethical Conduct in Human Research.

In our research to date, we have also interviewed a range of experts including police, legal services, as well as sexual and domestic violence support services, to find out more about Australians who have sought advice and support in relation to image-based abuse. We asked these experts about the kinds of situations Australians were experiencing and what changes might be needed to supplement current support services and legal responses. These insights have directly informed our recommendations for policy and legal reform, as well as our continuing research into victim experiences of image-based abuse.

## 1 in 5 Australians have experienced image-based abuse

Overall, our 2016 survey found that 1 in 5 (23%) respondents reported experiencing at least one form of image-based abuse victimisation. This includes photos or videos where a person was nude, where their breasts or genitals were visible, where they were engaged in a sex act, or where they were showering or bathing. It also includes 'upskirting' and 'downblousing' images.



6 Dr Anastasia Powell cited in Marriner, C. (2015, October 5). 'Revenge Porn: Government Urged to Make it Illegal'. *Sydney Morning Herald*: <<http://www.smh.com.au/national/government-urged-to-outlaw-revenge-porn-20150926-gjvod5.html>>. UK law professors Clare McGlynn and Erika Rackley have been at the forefront of changing the language of 'revenge porn' and replacing it with the term 'image-based sexual abuse'. See McGlynn, C. & Rackley, E. (2015, November). 'Submission on the Abusive Behaviour and Sexual Harm (Scotland) Bill 2015 (ABSH 3)'. [www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/93304.aspx](http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/93304.aspx), and 'Not Porn, but Abuse: Let's Call it Image-Based Sexual Abuse'; McGlynn, C. & Rackley, E. (2016, March 9). *Everyday Victim Blaming*: <<http://everydayvictimblaming.com/news/not-revenge-porn-but-abuse-lets-call-it-image-based-sexual-abuse-by-%E2%80%8Fmcglynnclare-erikarackley/>>.

7 Powell, A. & Henry, N. (2015). *Digital Harassment and Abuse of Adult Australians. A Summary Report*. Melbourne: RMIT University.

8 See Powell, A. (2010). 'Configuring Consent: Emerging Technologies, Unauthorised Sexual Images and Sexual Assault'. *Australian and New Zealand Journal of Criminology*, 43(1), 76-79.

9 We also included transgender and non-binary gender participants, however the number of responses were small with just 29 participants, precluding robust statistical analyses for this group.

Most common were sexual or nude images being taken without the respondent's consent, with 1 in 5 (20%) reporting these experiences. This finding sheds light on the scale of victimisation where photos or video of a nude or sexual nature are taken of a person without their permission. And it is important to note that these figures are likely to be undercounted by our survey since victims could only report victimisation where they discovered, or later became aware, that an image was taken of them.

Also common was sexual or nude images being sent onto others or distributed without consent, with 1 in 10 (11%) Australians surveyed reporting these experiences. The most common sites where victims reported their images had been distributed included: mobile phone messaging, email, Snapchat, Facebook, and other online sites (such as Reddit, Tumblr, and blogging sites), with 40% of victims saying their images were distributed across multiple devices and platforms. The finding that interpersonal communications sources, such as mobile phone, email and social media, were most commonly used is an important one but it also has a clear limitation. Our survey can only capture those victims who have become aware that their images have been distributed. Interpersonal communication platforms and devices are therefore likely to be highly common in our survey, because these are the kinds of places where victims are most likely to be made aware of the misuse of their images. Interestingly, very few participants said that their images were shared on 'revenge pornography' websites, or other online websites; yet it is highly likely that if those sites were used, victims would not know that their images were circulating there.

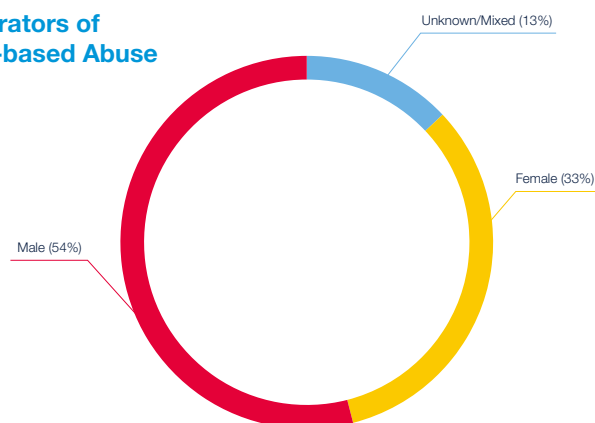
In our survey, we found a large cross-over between the non-consensual creation and distribution of images. Of those who had experienced a nude or sexual image of them being taken without their consent, 45% also said an image of them had been distributed without their consent. But again, this is likely to be an underestimate since many victims will never discover that their images have either been taken or distributed.

Finally, 9% of survey respondents had experienced threats that a sexual or nude image would be sent onto others or distributed without their consent. Though threats were the least common form of image-based abuse in our study, these experiences are particularly harmful for victims, not only because of the consequences that can flow if the image is made public, but also owing to the acts that emerge from such threats, including unwanted sexual acts, restrictions of movement, exclusion from social life and monetary deprivation.<sup>10</sup>

### Victims of image-based abuse experience high levels of psychological distress

In our survey, we found that, 80% of victims who had experienced threats to distribute an image reported high levels of psychological distress, consistent with a diagnosis of moderate to severe depression and/or anxiety disorder. Levels of psychological distress were also high for other victims of image-based abuse, with 67% of those whose images were taken without their consent, and 75% of those whose images were distributed, also reporting symptoms of moderate to severe depression and/or anxiety.<sup>11</sup>

### Perpetrators of Image-based Abuse



Overall, victims of any image-based abuse were almost twice as likely as non-victims to report experiencing high levels of psychological distress. This is a highly important finding as it demonstrates the severity of the harm that is associated with image-based abuse victimisation.

### Women and men are equally likely to report being a victim

Female (22%) and male (23%) respondents were equally likely to report experience of at least one form of image-based abuse. We thus found no statistically significant differences in overall victimisation rates by gender. Nor did our survey find any significant differences in victimisation by languages other than English (LOTE) spoken at home, nativity (i.e. whether a participant was Australian-born or foreign-born), level of education, or income bracket. However, the image-based abuse our participants experienced did differ by gender in both perpetration and nature, as described further below.

### Perpetrators of image-based abuse are most likely to be male, and known to the victim

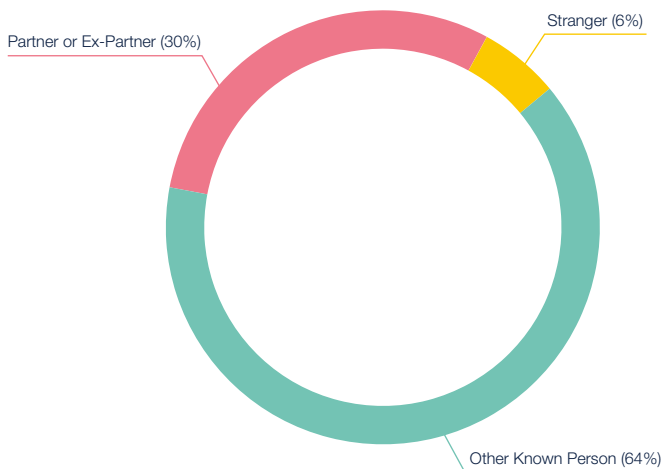
The majority (54%) of victims of image-based abuse reported that the perpetrator was male, with victims reporting 33% of perpetrators were female, and 13% were either unknown or a mixed group of both male and female perpetrators (see Figure above). These patterns differed only a little by the gender of the victim, with females (57%) slightly more likely than males (50%) to be victimised by a male perpetrator, and females (30%) slightly less likely than males (35%) to be victimised by a female perpetrator. What these findings suggest is that image-based abuse, while gendered in some ways, is not only a gender-specific form of abuse and harassment.

Both men and women experienced the majority of image-based abuse from known people such as acquaintances, friends and/or family members. Women (39%) were more likely than men (30%) to be victimised by an intimate partner or ex-partner (see Figure below). In particular, women's experiences of threats to distribute a nude or sexual image were much more likely to come from a partner or ex-partner (38%). This was compared to men's experiences of such threats from a partner or ex-partner (23%). The highest category for partner or ex-partner image-based abuse was women's

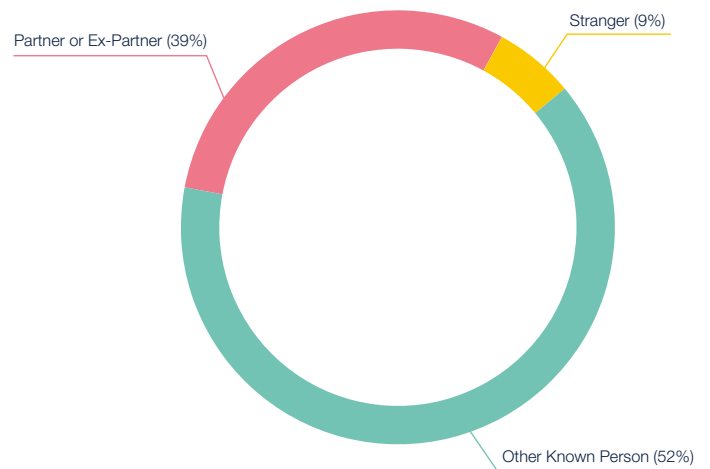
10 Wolak, J. & Finkelhor, D. (2016). *Sextortion: Findings from an Online Survey About Threats to Expose Sexual Images*. Crimes Against Children Research Center, University of New Hampshire: <http://www.unh.edu/ccrc/Sextortion%20Report%20final%206-22-2016.pdf>

11 As scored by the 10-point Kessler Scale (K10), an internationally recognised and robust measure of mental health and wellbeing.

## Perpetrator Relationship Male Victims



## Perpetrator Relationship Female Victims



experiences of nude or sexual images being taken of them without permission: 45% of female victims said it was a partner or ex-partner who did this, compared with 39% of male victims. Female victims (12%) were also more likely than male victims (5%) to experience a stranger having ever taken a nude or sexual image of them without permission. This is likely to reflect gender differences in image-taking behaviours such as 'upskirting' and 'downblousing', as well as other voyeuristic or surreptitious images.

### Men and young adults are more likely to voluntarily share a nude or sexual image of themselves

Overall, consensual sexual self-image ('selfie') behaviours were a relatively common experience for our survey respondents, with almost half (47%) of participants (aged 16 to 49) voluntarily sending someone a sexual image of themselves at least once. Pressured and/or unwanted sexual self-image behaviours were also common, with 30% of participants reporting that they had ever sent a sexual self-image either under pressure or when they didn't really want to.

Young people aged 20 to 29 years (61%) were the most likely to voluntarily send another person a sexual selfie. This was followed by 52% of 16 to 19 year olds, and 30 to 39 year olds, sharing sexual self-images. Those aged 40 to 49 years (38%) were less likely to do so, perhaps reflecting broader patterns of technology use and image-sharing among middle-aged adults.

Males (54%) were more likely than females (47%) to have ever sent another person a sexual self-image. Men were also more likely than women to send a sexual self-image to someone they only knew online (37% of men compared to 21% of women), and to someone they had just met (31% of men compared to 17% of women).

What these findings suggest is that women are much more cautious about who they share a sexual image with. Yet, importantly, this caution does not appear to make women in general any less likely to be victimised. In fact, it seems that there is further a gendered nature to image-based abuse; such that women are less likely to share sexual self-images in the first place, yet are just as likely as men to be victims of the misuse of those images.

### Women are more likely than men to fear for their safety due to image-based abuse

Overall, 28% of victims of images being taken without consent reported that they were very or extremely fearful for their safety as a result. Levels of fear reporting by victims increased where images were distributed without consent (39%), and were highest where threats to distribute images had been made (46%). Feeling afraid for one's safety is a key indicator of potential stalking and/or domestic violence, with many legal definitions of stalking and abuse (such as for the purposes of an intervention order) requiring that the victim fears for their safety.

Women victims of image-based abuse were more likely than men to report feeling afraid for their safety. For example, for images taken without consent, 32% of women victims reported fear for their safety, as compared to 23% of men. For images distributed, 40% of women and 36% of men said they felt afraid, while for images threatened 50% of women and 42% of men reported that they felt fearful for their safety. This is an important finding especially in light of the finding above that women are also more likely than men to experience image-based abuse from a male perpetrator, and from a partner or ex-partner. It suggests that some forms of image-based abuse may be associated with stalking and/or domestic violence victimisation - particularly for women victims.

### Abuse risk is higher for those who share sexual selfies, but they are not the only victims

Participants who disclosed engaging in consensual sexual self-image behaviors (37%) were significantly more likely to have been victimised than those who had not ever sent a sexual selfie (10%). Similarly, those who had experienced pressured/unwanted sexual self-images (46%) were significantly more likely to be victimised than those who did not report these pressured/unwanted experiences (13%). But it is important to note that even among those who say they have never consensually sent, or been pressured to send, someone else a sexual self-image, 1 in 10 were still victims of image-based abuse. This can be understood in light of the finding that many victims have experienced someone taking a nude or sexual photo or video of them without their permission.



## 1 in 2 Australians with a disability report being a victim of image-based abuse

More than half of the participants who responded 'yes' to either 'always' or 'sometimes' needing assistance with their daily living activities, body movement activities and/or communication needs, reported experiencing at least one form of image-based sexual abuse (56.1%). This was significantly more than those participants who did not disclose needing such assistance (17.6%). Of the different forms of image-based abuse, 53% of participants with a disability reported experiencing the taking of a nude or sexual image without their permission; while 42% reported such an image had been distributed, and 41% said that they had experienced threats relating to the distribution of nude or sexual images.

Like other respondents generally, those disclosing a disability were most likely to experience image-based abuse from known people such as acquaintances, friends and/or family. But the patterns in victim relationship to a known (non-partner) perpetrator were stronger for those participants disclosing a disability. For example, for victims of the non-consensual taking of nude or sexual images, 63% of those with a disability said it was a known (non-partner) person, compared with 41% of those not disclosing a disability. For victims of the distribution of a nude or sexual image, 74% of those with a disability said it was a (non-partner) known person, as compared with 52% of those not disclosing a disability. For victims of the threat of distribution, 76% of those with a disability said it was a (non-partner) known person who threatened to send on their nude or sexual image, as compared with 41% of those not disclosing a disability.

These findings may also reflect broader patterns of victimisation of those Australians needing assistance with their daily living activities, body movement activities and/or communication needs, whereby carers, who would often be acquaintances or family members, are among the perpetrators of abuse towards those with a disability.

## 1 in 2 Indigenous Australians report image-based abuse victimisation

Those who identified as having Aboriginal or Torres Strait Islander descent were twice as likely to be victimized (50%) than non-indigenous participants (22%). Victimisation was highest for the taking of nude or sexual images without permission where 47% of indigenous Australians surveyed experienced this abuse, compared with 19% of non-indigenous Australians. 37% of indigenous Australians reported a nude or sexual image had been distributed of them without consent, as compared to 9% for non-indigenous Australians; while 36% had been threatened with the distribution of a nude or sexual image, compared with 8% of non-indigenous Australians.

There were no significant differences in the gender of the perpetrator between indigenous and non-indigenous Australians; of victims both were most commonly abused by a male perpetrator (59%). As with Australians generally, indigenous Australians were most likely to experience image-based abuse from known (non-partner) perpetrators; though were even more likely than non-indigenous Australians to experience image-based abuse from acquaintances, friends and/or family members.

## Image-based abuse victimisation is higher for lesbian, gay and bisexual Australians

Participants who identified as LGB were significantly more likely (36%) than heterosexual-identifying participants (21%) to report experiencing image-based sexual abuse. Gay and bisexual males were slightly more likely (39%) than lesbian and bisexual females (33%) to report being victims of image-based abuse. Gay and bisexual males were also the most likely of any group to report

consensually taking and sending sexual self images, with 79% reporting doing so, compared with 64% of lesbian and gay females, 48% of heterosexual males, and 41% of heterosexual females taking and sending sexual selfies.

Like the patterns of image-based abuse more generally, nude or sexual images being taken without consent was the most common form of image-based abuse for LGB participants, with 33% reporting experiencing this abuse, as compared with 19% of heterosexual-identifying participants. Of LGB participants, 21% reported at least one experience of the non-consensual distribution of a nude or sexual image, compared with 9% of those identifying as heterosexual. Finally, for LGB participants, 18% reported experiencing threats of distribution, as compared with 7% of heterosexual-identifying participants.

LGB victims of image-based abuse were among those most likely to be victimised by a male perpetrator. For example, 68% of LGB victims of the non-consensual taking of a nude or sexual image, reported that their perpetrator was male, compared with 57% of heterosexual victims. Though not unsurprisingly, there was an interaction between sexuality and gender, with gay and bisexual male victims of non-consensual nude or sexual image taking more likely to report being victimised by other men (80%). This was followed by heterosexual-identifying female victims (68% reported their perpetrator was male), and then lesbian and bisexual female victims (51% reported their perpetrator was male). Heterosexual-identifying male victims meanwhile were equally likely to report that their perpetrator was male (43%) as they were that their perpetrator was female (43%). This pattern in findings was similar for the non-consensual distribution of nude or sexual images, with 71% of gay and bisexual male victims reporting a male perpetrator, followed by 55% of heterosexual female victims, 50% of heterosexual male victims, and 44% of lesbian and bisexual female victims reporting a male perpetrator.

## Young people aged 16 to 29 years are also at higher risk

1 in 3 young people aged 16 to 19 years (30.9%) and 1 in 4 of those aged 20 to 29 years (27.0%), reported at least one form of image-based abuse victimisation. This was significantly greater than those aged 30 to 39 years (22.45), and 40 to 49 years (18.1%).

Young people aged 16 to 19 and 20 to 29 were also more likely to experience image-based abuse from known people such as friends or family members, than from intimate partners or ex-partners. This was particularly true for the distribution of nude or sexual images without consent where 30% of those aged 16 to 19 said it was a partner or ex-partner, while 64% said it was another known person. In comparison, 40% of respondents aged 40 to 49 years, who had had a nude or sexual image distributed without consent said it was a partner or ex-partner who did this, while 49% said it was another known person.

## 4 in 5 Australians agree it should be a crime to share sexual or nude images without permission

A majority of Australians (80%) agreed with the statement: 'It should be a crime for someone to share a nude or sexual image of another person without that person's permission'. Females (84%) were slightly more likely than males (77%) to endorse the criminalisation of image-based abuse. Both victims and non-victims of image-based abuse were just as likely to agree that it should be a crime, indicating that there is a broad agreement within the Australian community as to the seriousness of this issue, regardless of whether someone has experienced it personally.

Despite agreeing that image-based abuse should be a criminal matter, many Australians also held victim-blaming attitudes in response to these harms. For example, 70% of our survey

participants agreed that 'People should know better than to take nude selfies in the first place, even if they never send them to anyone', and 62% agreed 'If a person sends a nude or sexual image to someone else, then they are at least partly responsible if the image ends up online'. Males (67%) were more likely than females (57%) to hold these attitudes. Overall, men (50%) were significantly more likely than women (30%) to hold attitudes that either minimised the harms or blamed the victims of image-based abuse. Given the finding that men are also more likely to be perpetrators of image-based abuse, and often against either a female partner or ex-partner or other male peers, our survey suggests there is a need for community education on this issue.

## Recommendations for reform

### Support and information for a diversity of victims

Our research shows that victims of image-based abuse are diverse, and that the nature and impacts of the abuse they experience also differs widely according to the context in which their images are being misused. Victims who experience image-based abuse in the context of domestic or sexual violence, for example, may need a different and more intensive legal response to protect and support them. Younger victims may be at additional risk of online sexual exploitation and grooming by sexual abusers as a result of their images being circulated. Aboriginal and Torres Strait Islanders may need resourcing to develop culturally relevant information and support from within their communities. Victims with mobility and/or communication difficulties might be particularly vulnerable to image-based abuse, in part due to additional barriers to reporting abuse for these groups - including where their carer may be the perpetrator.

It is crucial that victims of image-based abuse have access to online, telephone and in-person counselling and advice services. Some victims will just want to talk to someone, but many will want to find a way to try and remove their images from circulation on the internet or from people's mobile phones. Some victims will want to pursue legal action, for instance, through the criminal or civil law, and it is vital that support services provide free legal advice on their available options. In the UK (since September 2015), a 'Revenge Porn Helpline' provides free, confidential legal advice and support via email and telephone to victims of image-based abuse. In Australia, there is no such helpline, however, victims can seek advice and counselling from the National Sexual Assault, Domestic and Family Violence Counselling Service (1800RESPECT). For some victims of image-based abuse, sexual or domestic violence counselling might not seem applicable or appropriate, which may leave such victims with limited support options. A dedicated helpline, like the one in the UK, would help to resolve this issue.

The Australian federal Office of the eSafety Children's Commissioner has the power to investigate complaints of offensive online content such as child sexual abuse material, cyberbullying content and other content that promotes, incites or instructs in crime or violence. The Office works collaboratively with social media and internet companies to ensure the removal of such material. At the time of writing this report, the eSafety Commission was in the process of expanding its scope and developing an online safety tool for the removal of image-based abuse material that affects both children and adults. Providing a single-entry point for victims of image-based abuse will assist in providing victims with the remedies that they need, such as advice and counselling, and most importantly, takedown of non-consensual imagery.

## Reform to criminal and civil laws

There are specific laws in Victoria<sup>12</sup> and South Australia<sup>13</sup> that criminalise the distribution of an 'intimate' or 'invasive' image without consent. In both Victoria and South Australia, it is also a criminal offence to threaten to distribute an intimate or invasive image. At the time of writing this report, there were no specific federal laws making image-based abuse a criminal offence. There are also gaps in other Australian state and territory laws where no specific criminal offences exist.

There are, however, existing broader criminal offences in federal, state and territory jurisdictions that might be applicable. For instance, at the federal level under the telecommunications legislation, it is an offence to use of a carriage service to menace, harass or cause offence.<sup>14</sup> This law is broad in scope and many legal and law enforcement experts in our research have commented that it is not well known or enforced for image-base offences. In other states and territories where there are no specific criminal offences in place, perpetrators can be prosecuted under other laws, such as blackmail, voyeurism, indecency and stalking. While there have been proposals to introduce new criminal laws to tackle image-based abuse, to date the federal government has only committed to introducing a civil penalties scheme through the eSafety Commission, which would assist victims in reporting image-based abuse and having the images removed. Other states and territories have proposed new criminal laws, including New South Wales and Western Australia (which will allow restraining orders to prevent a perpetrator from distributing or publishing intimate images, and a two year prison sentence for a breach of that order).

In the absence of specific criminal legislation at the state, territory and federal levels, victims have recourse in the civil law, for instance, under anti-discrimination, copyright and breach of confidence laws. Unfortunately, existing civil laws are limited in addressing image-based abuse, particularly as there are significant costs associated with civil litigation for ordinary Australians who may not have the financial means to bring civil action.

Overall, in Australia there is a piecemeal legislative approach to image-based abuse, with no nationally consistent criminal laws, the majority of jurisdictions do not have specific offences, and the civil law is out of reach for most Australians without the financial resources to seek justice. The harms associated with image-based abuse further warrant it being specifically classified as a federal telecommunications criminal offence. We also support the strengthening of privacy (civil) laws to provide a statutory cause of action for invasion of privacy at state, territory and federal levels.

## Role for social media platforms and website providers

There is a clear role for social media platforms and website providers in responding to and preventing image-based abuse. Facebook, for example, announced on 5 April 2017 a range of additional measures to combat image-based abuse. Those measures include not only improving the reporting mechanism for victims to alert Facebook that an image of them has been shared without their permission – but also photo-matching technologies that will be used to detect and prevent the image from emerging again on Facebook or its subsidiaries Messenger and Instagram. Facebook has also committed to disabling accounts that share intimate images without permission. Other internet companies have introduced other measures. For instance, in 2015, companies such as Microsoft and Google announced reporting options so that victims can request

<sup>12</sup> *Summary Offences Act 1966* (Vic) (s. 41DA & s. 41DB).

<sup>13</sup> *Summary Offences (Filming and Sexting Offences) Amendment Act 2015* (SA) (s. 26B, s. 26C, s. 26D & s. 26DA).

<sup>14</sup> *Criminal Code Act 1995* (Cth) (s. 474.17).



to have content involving them to be excluded from Bing or Google internet searches. These important measures may provide some relief to victims since once their images are shared, they can be continually distributed and re-posted by others throughout social media networks.

There is also need for social media providers and internet companies to introduce strong and proactive measures that take seriously the harms of image-based abuse, and that seek to create safe online spaces for victims. It is important to note, however, that internet platforms are just one part of the problem. We know from our continuing research on this issue that there are many online sites of distribution of image-based abuse. It will take a much larger effort from multiple service providers to tackle this growing issue.

## Addressing 'sextortion'

In our research, some of the most damaging examples of image-based abuse we have heard of from victims and from service providers, is where the threat of releasing an image is used to harass a victim, or to coerce them in some way. These threats are often referred to as 'sextortion' in public and media debates.

Sextortion can involve threatening to distribute a nude or sexual image, if the victim: reports abuse to police, proceeds with an intervention order, fails to send additional and more explicit sexual images, and/or refuses an ongoing sexual or other relationship with the perpetrator. These threats can be both frightening and damaging for victims.

Our finding that threats of image-based abuse cause greater psychological distress for victims as compared with the taking or distribution of images demonstrates the seriousness of these harms. It is vital that legal, policy and support responses include the threat of distribution of a sexual or nude image in their understanding of image-based abuse.

**It is vital that legal, policy and support responses include 'sextortion' in their understanding of image-based abuse"**

## Community awareness and attitudinal change

Image-based abuse is both relatively common, and linked with serious psychological distress, among both females and males in the Australian community. Yet despite high agreement among Australians that image-based abuse should be a crime - many Australians hold attitudes that blame the victims of image-based abuse. Men in particular are more likely to minimise the harms and blame the victims of image-based abuse. This finding is of particular interest, given that males are also more likely to be perpetrators of image-based abuse - both against female partners or ex-partners and against other male peers or family members. Yet attitudes that blame the victims of image-based abuse are not only problematic among perpetrators or potential perpetrators. Other research into sexual violence and harassment has found that when victims hold self-blaming attitudes they are less likely to seek assistance and

support. Meanwhile, when other members of the community hold such attitudes, they may be ineffective as 'first responders' and inadvertently cause further harm to a victim of image-based abuse who discloses their victimisation for the first time.

Overall, our survey findings suggest there is urgent need for a community education campaign and information resources to:

- Meet the information and support needs of victims
- Encourage 'witnesses' or 'bystanders' to take action to support a victim and/or challenge the perpetrator
- Challenge the culture of victim-blaming that both excuses perpetrator behaviour and prevents victims from seeking assistance

## Conclusion and future research

Image-based abuse has emerged so rapidly that it is inevitable that law and policy are playing catch-up. Yet in the absence of adequate legal and support responses specifically addressing these wrongs, victims have had limited access to justice.

The findings of this research provide vital information about the nature, impacts and scope of image-based abuse among Australians aged 16 to 49 years. Crucially, this research sheds light on the relatively common experience of image-based abuse, its harmful impacts on victims, and the diversity of those affected. Previously, and in the absence of research, it has been assumed that image-based abuse was the passing action of a jilted ex-lover and that it affected primarily women at the hands of men. What the findings presented here show is that image-based abuse is much more common among vulnerable groups, including: indigenous Australians, those with a disability, young adults, as well as lesbian, gay and bisexual members of our community.

Image-based abuse is still a gendered harm in many ways, particularly in the context of partner or ex-partner abuses. Yet the most important finding of this research is that in responding to image-based abuse we need to look beyond a gender analysis, and incorporate a more intersectional approach.

Our research will continue to uncover the extent, nature and impacts of image-based abuse among youth and adults (aged 16 to 45) by extending this study beyond Australia, and incorporating New Zealand and the United Kingdom. Our project partners for the next stage of this research include Professor Clare McGlynn (Durham University, UK), Professor Erika Rackley (University of Birmingham, UK), and Professor Nicola Gavey (University of Auckland, New Zealand). Together, we will continue to seek recognition of the harms of image-based abuse on behalf of victims, advocate for legal and policy reform, and challenge community attitudes that blame the victims and excuse the perpetrators of image-based abuse.

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