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Submission to:

Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000

Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Act 2018.

The Red Rose Foundation welcomes the opportunity to provide a brief submission to the Legal Affairs and Community Safety Committee inquiry into this vital amendment to the Criminal Code.

Red Rose Foundation

The Red Rose Foundation Australia is a national organisation with a specific focus on addressing the issues surrounding domestic violence deaths including homicide, suicide and accidental deaths arising from incidents and or / histories of domestic violence. Research informs that the majority of domestic violence deaths are predictable and preventable. The focus of the foundation is to address systemic gaps in service systems through training, education and research. We are cognisant of the strong links between domestic violence, child abuse and sexual violence.

Aims

The Red Rose Foundation aims to work to eliminate domestic or family violence related deaths by:

1. Monitoring the outcomes and recommendations of all Domestic Violence Death Review Boards across Australia to ensure responses to domestic violence protect potential victims and are as safe as possible.

2. Highlighting the deaths of victims of domestic violence through:
 - a. Organising Red Rose rallies to honor and remember those killed.
 - b. Engaging with families of those killed to offer support or referral where possible.
 - c. Engaging with and informing the media about domestic violence related deaths.
 - d. Ensuring survivors and families have a voice within Red Rose Foundation including speaking with media
3. Establishing partnerships with government and community agencies to advocate, inform and enhance understanding of the reasons, nature and pattern of lethal domestic violence.
4. Developing research partnerships for the purpose of participating in research opportunities that build knowledge of and develop strategies to reduce domestic violence homicide.
5. Undertaking public education, community activities and events to provide awareness and training on the factors surrounding lethal domestic violence.
6. Undertaking fundraising activities to support the work of the Foundation.

The board of the Red Rose Foundation comprises professionals drawn from senior policing, sector management, violence prevention consultancy and research all who have vast experience and expertise across both domestic violence and sexual assault. Board members are drawn from Queensland, New South Wales, ACT and Victoria.

Submission

While the Red Rose Foundation is concerned with the broad scope of technologically facilitated violence including what is commonly known as 'Revenge Porn' (Non Consensual Sharing of Intimate Images) and with 'Cyber Bullying' (repeated technologically facilitated abuse by someone who has power and control over another) the foundation's submission here will be mostly focussed on the impact this method of abuse has on victims of Domestic Violence. Non Consensual Sharing of Intimate Images by its name clearly implies a relationship or at least an intimate encounter. For this relationship to then lead to the deliberate distribution of intimate images clearly shows not only an absence of all respect but a desire to harm and a need to control.

The Red Rose Foundation commends the State Government on the timely creation of this 'Non Consensual Sharing of Intimate Images' Bill in response to the growing community concern for how people; especially women and girls, can be protected from the harmful and lingering effects of this technologically facilitated act of violence.

The foundation sees the Non Consensual Sharing of Intimate Images as just another strategy now in use by some perpetrators to further coerce, intimate and humiliate their partner/ex-partner with distressingly maximum effect. A person who threatens or actually publishes this material of his partner has already demonstrated his perpetrator character and that without some form of intervention has the potential to end very badly for the victim including her death. The focus of the Red Rose Foundation is to work towards elimination or at least reduction of deaths related to domestic and family violence and that is not just limited to overt acts of violence leading to death but psychological cruelty that could lead to suicide.

This method of abuse takes the impact of Domestic Violence to another and frightening new level of fear because an image that they may or may not have 'consented' to being taken or not even aware has been taken could, at the press of a button, reach an untold number of internet sites and unknown viewers. Apart from the obvious distress and humiliation the victim would experience they may also find themselves being the targets of unwanted attention or even stalking by viewers who have been misled as to the origin and purpose of the publishing of such images. Many of these images are published on particular sites along with identifying information of the victim.

The Red Rose Foundation along with the rest of the Queensland Domestic and Sexual Violence sector regard the non-consensual Sharing of Intimate Images as an extremely effective form of Domestic Violence that is not only out of control but with no recourse allowing the perpetrator free sway to maintain coercive control over his partner especially by threatening to publish this material if she plans to leave his violence. Material, we hasten to add, that is often gained without the victim's consent, making this form of control more problematic to prevent. For this

reason the Red Rose Foundation believes that the consequences of this form of abusive requires a strong message of accountability from the community not only in legislation but also in actual sentencing. As well powerless victims need to see that this easily facilitated form of control and humiliation will finally have severe consequences for the perpetrator as it does in some other states around the country. In 2016 in Victoria, there were 255 offences of threatening to or intentionally distributing intimate image reported.

The Red Rose Foundation is very concerned with the common usage of the terminology 'Revenge Porn' and refers to arguments made against this description in the Australian Senate Inquiry of 2016. 'Revenge' may not be the only motivator for the non-consensual Sharing of Intimate Images, some may be seeking notoriety or financial gain but for many domestic violence victims it is one in a number of controlling and abusive tactics adopted posted separation where abuse in the physical realm becomes adapted and more prominent in the digital realm. Also 'revenge' denotes a 'pay back' of sorts whereas it is often acted in the absence of any wrong doing on behalf of the victim. As well, the use of the word 'Porn' is more problematic in that it does imply a form of 'indecent collusion' on the part of the victim to a production of material that will only serve to humiliate her and potentially threaten her safety from an unknown viewer. To state that a person (usually a woman or girl) is the victim of 'Revenge Porn' can lead to a less sympathetic view that could result in victim blaming making it difficult for her to come forward for fear of being unfairly judged. For these reasons the Red Rose Foundation submits that reference to this terminology be removed from the Bill.

The Red Rose Foundation also wishes to comment on two particular issues with regard to 'consent'.

- a) The giving of informed 'Consent' to someone, other than themselves, to record intimate images.
- b) The giving of informed 'Consent' to the sharing of intimate images whether those images were recorded by themselves or another person.

The foundation submits that as the Non-Consensual (illegal) Sharing of Intimate Images is just the latest form of coercive control within a domestic violence relationship whereby the victim could not be expected to freely give consent to the taking of an intimate image. Women living with domestic violence constantly live in fear of their partner making any independent decision making on her part anything but consensual. Secondly, the image that the perpetrator plans to publish or threatens to publish will, in almost every case, be without the victims 'consent'. Men and women but especially women are almost never likely to want their intimacy displayed in any arena outside of the privacy of the relationship if at all. The Red Rose Foundation believes that the Bill should be called "Illegal Sharing of Intimate Images" taking the complication of what is and isn't 'consent' out of the equation.

Submission Authors

Diane Mangan: Chairperson Red Rose Foundation

Diane has worked in the area of domestic violence since the formation of the first women's refuge in Brisbane in the 1970's. She has also on the frontline of child protection with the Department of Child Safety for 18 years before returning to the domestic violence sector in 2003 as the Head of Counselling then later the CEO of DVConnect, the Queensland statewide 24/7 Domestic and Family Violence Crisis Line. Diane has been instrumental in the development of many programs and initiatives during her last decade in the sector including the founding of a national network of all telephone crisis services across Australia (SafeNet Australia 2008) and the only peak in Australia that includes sexual violence, women's health and domestic and family violence (Ending Violence Against Women Queensland 2013)

Betty Taylor: CEO Red Rose Foundation

Betty has worked across the domestic violence sector for the past 28 years. She was the founding Director of the Gold Coast Domestic Violence Prevention Centre and oversaw the development of the Gold Coast Domestic Violence Integrated Response. Betty chaired the Queensland Domestic

Violence Advisory Council for 2 terms and is a current member of the Domestic Violence Death Review Board and the Child Death Review Panel. Betty provides specialist training across various sectors and is regularly invited to speak on the issues surrounding domestic violence.

Further information on the Red Rose Foundation and its board members can be found at www.redrosefoundation.com.au

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