



GOLD COAST CENTRE
against sexual violence inc.

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

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

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1 Introduction

Gold Coast Centre Against Sexual Violence Inc. (GCCASV) welcomes the opportunity to make a submission to the Legal Affairs and Community Safety Committee in relation to the *Criminal Code (Non-consensual Sharing of Intimate Images) Amendment Bill 2018*. GCCASV commends the government on the development of this legislation its efforts to address violence against women by increasing victim safety and holding perpetrators accountable for their behaviour.

2 Gold Coast Centre Against Sexual Violence Inc.

GCCASV (formerly Gold Coast Sexual Assault Support Service) was founded in 1990 to deliver specialist sexual violence intervention and prevention programs to the Gold Coast community. It is a feminist, community based, community controlled charitable organisation funded by Department of Communities, Disability and Child Safety. Run by women for women, the agency services the geographic area from Coolangatta to Upper Coomera. The organisation provides a safe, supportive, woman-centred environment in which victim/survivors can become aware of their own strengths and gain confidence and control of their lives.

Mission Statement

The Gold Coast Centre Against Sexual Violence Inc. will provide all women and young women in the Gold Coast Community access to a comprehensive array of services and programs designed to prevent victimisation, offer crisis intervention, provide ongoing counselling and support services that will assist women to recover from the impact of sexual violence.

Services provided

To survivors of immediate and/or past sexual and intimate partner sexual violence

- Crisis support
- Ongoing professional counselling
- Support through the criminal justice system
- Support through related legal and medical processes
- Therapeutic and educational groups

To Friends and Family

- Information/support for partners, friends and relatives of victim/survivors

To General Community

- Resource information developed and disseminated
- Information on legal and medical issues in relation to sexual violence
- Public education campaigns
- Anti-violence presentations to students and the community
- Training to other professionals

3 Director

Di Macleod is currently the Director of the *Gold Coast Centre Against Sexual Violence Inc.* which she founded in 1990. She was also instrumental in the development of both the Gold Coast Domestic Violence Service and Macleod Accommodation Support Service, which is named after her. Di has over 30 years of experience in the area of domestic and sexual violence including working as a care provider, counsellor, refuge worker, court support worker, educator, trainer, service manager and consultant.

Di was an inaugural board member of the *Australian National Association of Services Against Sexual Violence* and a member of the *Queensland Attorney General's Taskforce on Women and the Criminal Code*, inaugural board member of *Ending Violence Against Women Queensland* and is currently the Secretary of the *Red Rose Foundation*.

4 Submission

4.1 Background

It only takes a few seconds to upload a photo and share an explicit image of a person without their consent, robbing them of their privacy and exposing them to potentially millions of viewers. This behavior has a traumatic impact on the victim and exacts high levels of emotional and psychological distress.

In 2019, the consensual sharing of intimate images is being criminalized across the world and within other jurisdictions in Australia as the behavior is increasingly recognized as a something more than unethical.

Image based abuse is largely a gendered harm, perpetrators of image based abuse are most likely to be male and known to the victim and women are more likely than men to fear for their safety due to image-based abuse.

Image based abuse is more common amongst marginalized and vulnerable groups with research showing that:

- 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 (Henry, Powell & Flynn, 2017)

Despite the frequently used terminology “revenge pornography” image based abuse is not always about revenge. Images can be used to coerce, threaten, harass, objectify and abuse by a range of persons known and unknown to the victim for a variety of reasons including control, intimidation, sexual gratification, monetary gain and social status building. (Powell and Henry, 2017)

However, non consensual sharing or threat of sharing intimate images is becoming one of the most common ways to try and control, have power over and intimidate a partner (Franks in Goldberg, 2017)

Gaining and/or maintaining power over someone is often a tactic within domestic violence. Sending explicit photos to a partner is common in today’s relationships the act of sharing these photos is based on trust. However, in a domestic violence situation these photos may have been taken under duress. (Dodge in Goldberg, 2017)

GCCASV has had many vulnerable clients seeking support in the aftermath of having intimate images shared without consent, the harms resulting from this include their privacy destroyed forever, their safety, physical and mental health impacted. As the images may remain on line or reappear over time on other sites this continues to trigger the victim prolonging the abuse and its impact.

Based on these experiences, I would like to make brief comment as follows:

4.2 Consent

This proposed legislation uses the definition from s348 of the *Queensland Criminal Code, 1899*. Concerns have already been raised in Queensland and NSW about mistaken belief as a legal defence in rape and other sex crimes. Within an abusive relationship, where power and control are the cornerstones, the victim will never have the power to freely and willingly give consent to any activity sexual or otherwise. The issue of consent must be further explored before this legislation progresses.

4.3 Training and Specialization

Training must be developed and delivered all to police in relation to their understanding of, response to and investigation of this offence and the interplay between state, interstate, federal and trans national legislation. However, this is an area where some police specialization must be considered as new technology emerges rapidly, we must keep pace with understanding perpetrator tactics to ensure victims have access to justice.

4.4 Multi-Faceted Strategy Required

The introduction of new legislation is only one part of what must be a multi-faceted response to this issue. Essential to the success of this legislation must be consultation regarding a state wide implementation strategy that includes:

Primary prevention

- To include this topic in healthy relationship education
- To focus on respect and consent as a seamless issue on line and off line
- To address community attitudes and values

Community education

- To provide information and create general public awareness so that this behavior is identified as a crime
- To encourage community members to support the victim and challenge the perpetrator
- To create a separate strategy to engage young people as they are at higher risk of image based abuse
- To engage vulnerable groups who are disproportionately affected by image based abuse
- To encourage reporting to the police
- To create awareness of support options for victims

Training

- To develop and implement training for police and court workers to enhance understanding and responses

Monitoring and evaluation

- To monitor the number of charges laid, outcomes and sentencing
- To evaluate the legislation and its impact within a defined period of time

References

Goldberg, Haley (2017) *Revenge Porn: When Domestic Violence Goes Viral; the agony of having your private photos made public* <https://www.self.com/story/revenge-porn-domestic-violence>

Henry, N, Powell, A and Flynn, A (2017) *Not Just "Revenge Pornography" Australians' Experiences of Image-based Abuse; a summary report*, Melbourne, GeVARA RMIT.

Powell, A and Henry, N (2017) *Sexual Violence in the Digital Age*, Basingstoke, UK, Palgrave Macmillan.

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