



Eastern Suburbs Domestic Violence Network  
c/- 72 Maloney St Eastlakes 2018  
manager@thedeli.org.au

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Director, Crime Policy  
Justice Strategy & Policy  
Department of Justice

By email: [policy@justice.nsw.gov.au](mailto:policy@justice.nsw.gov.au)

Dear Director

**Response to Discussion Paper on the sharing of intimate images without consent –  
'revenge porn'**

This submission is made on behalf of the Eastern Suburbs Domestic Violence Network. The Eastern Suburbs Domestic Violence Network (ESDVN) is committed to working in a feminist framework to address the issues of social justice, including the elimination of domestic violence, and the empowerment of all women and children in the pursuit of their right to non-abusive relationships.

The network believes that all women have the right to access justice and gain protection under the law. Domestic and family violence is abuse; it is unacceptable in all circumstances. The ESDVN is comprised of workers from the Eastern Suburbs area of Sydney including local councils, Aboriginal services, outreach services, refuges, Family Support Services, Culturally Specific Services, Police, Health Workers, Legal Services, Community Development services, and other relevant services.

In our view existing laws do not adequately protect women and girls from the sharing of intimate images without consent, and we support the introduction of new offences to specifically address this problem. Our members know from the experiences of their clients that there has been an increase in the use of technology to perpetrate domestic violence,

stalking and harassment. Sharing or distributing intimate images, or threatening to do so, causes significant fear and distress and is a form of domestic violence.

### ***Question 1 Definition of intimate image***

We support a broad definition of 'intimate image' that would include images of a sexual nature but would also include images that were not sexual but that would be considered private and intimate in within particular cultural contexts. For example, images of a woman who would always cover her head in public without a head covering.

### ***Question 2 Definition of distribution***

We submit that distribution should be defined very broadly to include sharing, showing displaying or distributing intimate images to any third party in any hard copy or digital form. Distribution should be defined widely, and cover situations where the third party does not retain a copy of the image.

### ***Question 3 Taking and recording of intimate images without consent***

We strongly agree that the taking and recording of intimate images without consent should be included in any new offence. It is now very easy to take or record images surreptitiously. The existence of images, even without distribution, can cause distress to a person who has not consented to the image being taken or recorded, and is a serious breach of privacy. The threat of distribution of intimate images taken without consent, and the fear of what the images may be causes significant harm to victims.

### ***Question 4 Fault***

We support the proposed fault element of 'knowingly or recklessly sharing an intimate image without consent'. Including recklessness is important to reinforce the need for express consent from the person being photographed or videoed.

We agree that there should not have to be an intention to cause harm to the victim. Even in circumstances where the person sharing the intimate image is not motivated by any intention to harm the victim, it is the fact of the intimate image being in the public domain that causes the victim such humiliation and distress.

### ***Question 5 Consent***

Consent to sharing of an intimate image should be express and specific to particular modes and particular recipients of sharing or distribution

The onus should be on the person sharing the image to establish that the person who was the subject of the image had consented to the sharing or distribution.

### ***Question 6 Threats to share intimate images***

A threat to share or record an intimate image without consent should be included in the new offence. We do not support a requirement that the threat be intended to cause fear in the victim. Such a threat could be used to coerce or control a victim in the context of domestic violence, even if the victim does not identify the threat as causing fear.

### ***Question 7 Young people***

In cases where there is sharing of images between minors, we suggest that the consent of the Attorney-General should be required to prosecute, to give consideration to the nature and circumstances of the alleged offending, and to act as a safeguard against the unnecessary prosecution of minors who are still developing.

We strongly support more resourcing for education for young people about the need for consent to take and share intimate images and for respectful relationships generally. For many years ESDVN has been running the "Love Bites" program in local high schools to educate young people about the importance of respectful relationships and how to recognise and respond to abusive relationships.

### ***Question 8 Penalties***

In addition to penalties such as fines and imprisonment, courts should also have the power to order offenders to remove images from websites and social media platforms and destroy hard copy images.

### ***Other issues***

The list of additional orders for Apprehended Domestic Violence Orders should be expanded to include suggested orders to prohibit the distribution of and the threat to distribute intimate images.

Yours sincerely

Melinda Leves and Vicki Johnston  
Co-convenors, Eastern Suburbs Domestic Violence Network