

## Question taken on notice: Responses from Dr Henry and Dr Powell

1. *Have you broken it (data from survey on taking, threats and sending onto others of nude/semi-images without permission) down in age demographics within the 18 to 55 range?*

Our research examines the extent, nature and impacts of digital harassment and abuse, as well as what we call *technology-facilitated sexual violence and harassment*, and is funded by the Australian Research Council.

In January 2015, we surveyed 3,000 Australian adults (aged 18 to 54) about their experiences of digital harassment and abuse. The survey asked people about their technology use, their experiences of digital harassment, experiences of sexual harassment, and the impacts of these experiences. We also asked people to describe their most recent experience of digital harassment and abuse, and to tell us about the people who were involved.

Our method controlled for age and gender, using census estimates provided by the Australian Bureau of Statistics (ABS), to ensure that the survey sample was broadly representative of the Australian adult (18 to 54) population. The final results include 1481 women (50.1%), 1451 men (49.1%), and 24 (0.8%) Australian adults who described themselves as having a non-binary gender identity.

We also interviewed 30 experts across law enforcement, legal services, as well as sexual and domestic violence support services, to find out more about adult Australians who were seeking advice and support in relation to digital harassment and abuse. We asked these experts about the kinds of situations Australians were experiencing and how our current laws and services were able to respond.

Please see below a table that provides a breakdown by age of the three key questions concerning image-based abuses.

### 3.3. Lifetime prevalence of TFSV behaviours by age group

#### Australia

Table 13: Percentage of respondents experiencing TFSV behaviours in their lifetime by age group – Australia

Australia		Age group							
		18–19	20–24	25–29	30–34	35–39	40–44	45–49	50–54
Someone has taken a nude or semi-nude image of you without your permission	n	33	55	42	46	29	42	28	35
	%	11.6	14.0	10.2	11.8	8.3	11.5	8.1	10.0
	Total	284	393	410	390	350	365	346	350
Someone has posted online or sent onto others a nude or semi-nude image of you without your permission	n	28	41	37	36	31	40	23	31
	%	9.9	10.5	9.1	9.3	8.8	11.0	6.7	8.8
	Total	283	391	408	387	353	364	344	353
Someone has threatened to post online or send onto others a nude or semi-nude image of you without your permission	n	31	42	38	40	23	43	27	34
	%	10.8	10.7	9.2	10.3	6.5	11.8	7.8	9.5
	Total	288	394	412	387	354	365	347	357

Further key findings from the survey are provided in “Digital Harassment and Abuse of Adult Australians: A Summary Report” (attached), and findings from our interviews with key stakeholders are provided in “Policing technology-facilitated sexual violence against adult victims: police and service sector perspectives” (also attached).

Supplementary questions from the Committee: Responses from Dr Henry and Dr Powell

*1. If the committee were to recommend a statutory cause of action for serious invasions of privacy, one option might be to recommend that a fault element encompassing negligence (as well as intent and recklessness) apply to corporations; while recommending a more limited fault element (intent and recklessness only) that would apply to natural persons.*

*Do you have any concerns or comments in regards to this?*

We support a fault element that is confined to intentional and reckless invasions of privacy for natural persons, and support an extension of the fault element to encompass negligence for corporations (in addition to intent and recklessness).

In so-called “revenge pornography” cases where Person A is negligent with Person’s B’s image, which Person C accesses and distributes without consent, it would be unfair to attribute civil liability to Person A. For instance, Person A leave his or her mobile phone lying around and Person C finds a sexually explicit image of Person B (that has been consensually shared with Person A) and then distributes it to another person or posts it online. Should a statutory cause of action for serious invasions of privacy be introduced, Person C, who has intentionally or recklessly invaded the privacy of Person B, would be liable, provided there was a reasonable expectation of privacy and that such an act constituted a “serious” invasion of privacy.

On the other hand, if a corporation (e.g. law enforcement; news media) negligently releases or distributes a sexually explicit image of Person B, but not intentionally or recklessly, we believe that they should be held accountable should a statutory cause of action for serious invasions of privacy be introduced.

**Policing technology-facilitated sexual violence against adult victims: police and service sector perspectives**

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## **Policing technology-facilitated sexual violence against adult victims: police and service sector perspectives**

### **Abstract**

*To date, the majority of attention to technology-facilitated sexual violence in both policy and practice has been on child sexual exploitation and abuse. Far less attention has been paid to digital sexualised violence against adult members of the population. The aim of this paper is to examine police responses to these serious and emerging harms, which we identify as including the following: (1) online sexual harassment; (2) gender and sexuality-based harassment; (3) cyberstalking; (4) image-based sexual exploitation (including 'revenge pornography'); and (5) the use of communications technologies to coerce a victim into an unwanted sexual act. While these are variously criminal offences, unlawful civil behaviours or not subject to criminal or civil sanctions or remedies, we claim in this paper that they exist on a continuum of violence and yet are frequently minimised as 'real' harms in practice. Drawing on 30 stakeholder interviews with police, legal services and domestic and sexual violence service sector providers, we explore the issues, challenges and promises of law enforcement in this area. We argue that greater attention must be paid to recognising the serious harms of digital abuse and harassment; the role of criminal law in responding to these behaviours; and the importance of investing in police resources to adequately tackle these growing behaviours in a constantly shifting and amorphous digital era.*

**Keywords:** technology; sexual violence; police, adult victims

### **Introduction**

Policing research into internet sexual offences has overwhelmingly focused on harms perpetrated against children and young people. In particular, there is a plethora of research concerning the rapidly expanding role of communications technologies to facilitate the grooming and sexual exploitation of children, including both contact sexual offences as well as the possession and distribution of child exploitation material (see e.g. Bryce 2010; Mitchell *et al.* 2011; Yar 2013). By contrast, there is a significant gap in empirical research that describes both the nature of, and police responses to, adult victimisation associated with what we call 'technology-facilitated sexual violence' (TFSV) (see Henry and Powell 2014, 2015a, 2015b). Here we report on one component of a larger study exploring the nature, extent and

responses (both legal and non-legal) to TFSV. While the larger study comprises a combination of a multi-country survey of TFSV victimisation as well as in-depth and online interviews with victims about their diverse experiences, in this article we present our findings from interviews conducted with key agency stakeholders (police and the wider service sector) regarding their experiences and perceptions of policing TFSV.

Our conceptualisation of TFSV includes six dimensions of harmful, sexually-characterised behaviours where communications technologies are used in some way to facilitate or extend the harm to victims. These behaviours encompass both sexual assault offences and image-based sexual exploitations, and include the following: (1) online sexual harassment; (2) gender and sexuality-based harassment; (3) cyberstalking; (4) image-based sexual exploitation (including ‘revenge pornography’); and (5) the use of communications technologies to enable a sexual assault and/or to coerce a victim into an unwanted sexual act (see Henry and Powell 2014).

While much research separately considers domestic violence, stalking, sexual violence and sexual harassment, we find it useful to examine these harms as interrelated forms of sexualised violence. Following Liz Kelly’s (1987) concept of a ‘continuum of violence’, we recognise the commonalities between different forms of violence and the threads of power, structural gender hierarchisation and inequality that links them all together. Technology-facilitated sexual violence then, as we understand and discuss it here, is not exclusively violence of a sexual nature, but rather it is much broader, encompassing gendered violence against deliberately constructed ‘sexed’ subjects, including the ‘myriad forms of sexism women encounter everyday through to the all too frequent murder of women and girls by men’ (Kelly 1987, p. 97). This understanding of sexual violence as gendered violence lies at the heart of our conceptualisation of TFSV. Furthermore it enables an acknowledgement that while women and girls may be the predominant victims of sexual violence and men the predominant perpetrators, where men and boys are sexually victimised, their experience may nonetheless be gendered in particular ways (see e.g. Carpenter 2006) because of the socially-constructed power relations between men and women, as well as the normative expectations surrounding the performative aspects of gender (and thus sexuality) (Connell 1987).

The abusive digital behaviours we identify along this continuum include both criminal and non-criminal harms. More conventional ‘offline’ offences such as rape, sexual assault,

stalking and threats to cause serious harm, can be charged and prosecuted under existing criminal legislation, regardless of the role of technology in the perpetration of these crimes (see e.g. Woodlock 2015). Likewise, other harms can be dealt with under civil laws such as copyright, defamation, tort or privacy legislation, or sexual harassment under anti-discrimination legislation in many jurisdictions, although often only in the context of specified areas of public life, such as the workplace or educational settings. Some behaviours, however, fall outside of both criminal and civil laws, such as gender-based harassment and some ‘private’ forms of sexual harassment (see e.g. Weston-Scheuber 2013). Although technology serves as a ‘tool’ to perpetrate more conventional behaviours, and lawmakers rely on existing laws to address these harms, there has been little exploration of the extent to which the harms involving digital technologies merely exacerbate or extend conventional harms, or whether they are themselves ‘new’ harms (Henry and Powell 2015b). Indeed, the law has been slow to keep pace with the changing technological landscape and as such some of the harms we identify have not *specifically* been subject to either criminal sanction or civil remedies. Of interest, then, is the ways in which these various forms of technology-facilitated abuse are coming to the attention of law enforcement, legal services, as well as sexual and/or domestic violence sector responses, and how these agencies are able to respond.

In this article, we explore police and service sector experiences and perceptions of TFSV. This forms one component of a larger, three-year funded study that sought to identify the nature of, extent of, and legal responses to, Australian adult TFSV victimisation. In the following section, we first describe the methodology of the stakeholder interview component reported here. Second, we present our findings according to three overarching themes identified in our analysis: (i) the nature of TFSV; (ii) policing TFSV (including the challenges and some benefits of communications technology); and (iii) stakeholder recommendations for reform. In the final section of the paper we then discuss further the implications of our study and future directions. Ultimately, we support police and service sector stakeholders’ call for clarification in the criminal law as well as greater training and support for police, in order to enable improved responses to adult victims of TFSV.

## **Methodology**

Due to the dearth of existing literature on adult experiences of TFSV and the exploratory nature of the study, a qualitative stakeholder interview research design was employed. The purpose of these interviews was to garner the experiences and perspectives of key

stakeholders responding to adult victims of TFSV in order to identify the nature of the harms experienced as well as some of the challenges in pursuing legal and non-legal responses to them. Key stakeholder agencies were identified as representing: police (in particular sexual offences and computer-based crimes units), women's legal services, domestic violence services, and the sexual assault service sectors. Participants were identified from a combination of the researchers' existing professional contacts, publicly available information, and recommendations from police agencies (following police research approval).

In total, 30 stakeholder interviews were conducted in three Australian state jurisdictions with institutional human ethics and police agency research approvals. These comprised 12 interviews with police members (ranks of detective, detective sergeant and senior sergeant within specialist sexual offences and computer-based crimes units); 8 interviews with legal services stakeholders; and 10 interviews with domestic violence and sexual assault service sector stakeholders. The majority of stakeholder participants were female, although all eight male participants were police members. All interviews, which took place from September 2013 to February 2015, were conducted in-person at the participant's workplace by one or two of the project researchers. Interviews were semi-structured (a summary of the schedule is included in Appendix 1), typically lasting between 40 and 90 minutes and audio-recorded (with permission) and transcribed verbatim for analysis. Transcripts were de-identified and all interviews were assigned a number and agency category (based on the three identified above). Analysis of the interview transcripts initially comprised manual thematic coding by a postdoctoral research assistant, who had not been involved in any of the interviews, and thus was able to generate a list of key themes arising without prior bias. The lead author then reviewed the key themes and a subset of interviews, before subsequent analysis of the complete dataset proceeded. The discussion that follows reports on the key themes arising from the interview transcripts, broadly (i) the nature of TFSV; (ii) policing TFSV (including the challenges and some benefits of communications technology); and (iii) stakeholder recommendations for reform.

## **The nature of TFSV**

### ***Child online 'sexploitation'***

Interviews with stakeholders began with a broad question about their perceptions of the range of behaviours where technology was being used to some way to facilitate the violence or further the harm to victims of sexual violence, intimate partner violence and sexual

harassment. Despite our intended focus on adult victims, police members consistently raised a foremost concern regarding child sexual exploitation material, online grooming, and non-consensual 'sexting' of young people, which they described as assisted by online environments and the ease with which digital imagery can be produced and disseminated. While not the core focus of this paper, we provide a brief summary of these concerns here, as there are some commonalities and differences in the modes of sexual exploitation police described where children and young people are victims with those instances of adult TFSV victimisation (discussed further below). Moreover, there is an overlap in age between young people (under 18 years) who may be considered minors for the purposes of sexual exploitation material, and those who at the age of 16 are of the legal age of sexual consent. This means that often there is a blurred distinction between adult and youth sexual victimisation and offending in some instances, as reported by stakeholders in our interviews.

With regards to sexual exploitation of young people, a commonly described strategy is the creation of a false online identity in order to solicit sexual imagery from a young person, the content of which is then used as a threat in order to secure further images. According to one of our participants:

There's a classic situation - where you've got a young boy who, let's say he's 14, 15, 16, and he thinks he's talking to another young girl online. Throughout that conversation... it very quickly turns to sexual topics. And he [the perpetrator] then sends some images to [them] of purportedly himself. So they're female images that he would have just grabbed off the internet from somewhere and [he then] says, 'Your turn. Send something back'. So they [the victim] start sending images back.... He then makes a demand... for a daily supply of that kind of material with the threat that, if they don't comply with that, that he'll then send it to everyone they know. (Interview 24, Police)

Sexual assault services also described this form of online sexual exploitation as increasingly common, and that young people accessing their service are often too scared to report to police (Interview 10, Sexual/Domestic Violence Service). Police members went further to identify what they described as 'sexploitation' or 'sextortion' of young people, often by adult perpetrators, where sexual imagery was used to coerce youth into contact sexual abuse (Interviews 25 and 26, Police). As this senior investigator describes:

The [perpetrators], they create false profiles because they can be anyone on the internet. They target people and they can be posing as a teenager...and then they get them involved in conversation and try to find out a secret about them, [and engage them in] more sexualised conversation and then into

[exchanging] images. Sometimes they use images that they've got from other children or they just get them off the internet from freely available other sites, 'Here's my picture. Show me yours'. Once they've got the picture then they start to try to get more [images] or meet them for sex or we've had instances where they involve siblings with sex. We've had jobs in there that involve children over an extended period, up to two years... it's like blackmail and the kids are trapped... (Interview 12, Police)

Our interviews with police members in particular also identified concerns regarding what might be described as malicious and/or abusive 'sexting' behaviours among youth.<sup>1</sup> The international research literature has been replete with studies examining sexting behaviours in which high school age young people (ages 12 to 17) in particular have engaged in either consensual sexual image sharing (see e.g. Crofts *et al.* 2015), coercive sexting (see e.g. Drouin, Ross and Tobin 2015; Walker, Sancu and Temple-Smith 2013) or have experienced victimisation where their images have been circulated without consent by their peers (see e.g. Ringrose *et al.* 2012). The harms of these practices, and the legal implications for young people who could be charged with child exploitation material offences, have been discussed at length elsewhere (see e.g. Salter, Crofts and Lee 2013). Both the harms and legal challenges presented by youth sexting behaviours, particularly where images were distributed without consent, were raised consistently by Australian police members in our interviews, such as in the following excerpt:

The problem you have is the girl takes the photo.... She then forwards it onto the boyfriend. She commits an offence under another act with classification of films, publications and computer games act for transmitting over the internet. When he gets the image, he's allowed to have the image because it's given to him by the minor, and if he's not more than two years older. But then if he distributes it on then he commits an offence himself. They're all serious indictable offences but at the end of the day they're just kids... (Interview 12, Police)

As suggested in these excerpts, it was common for police to describe these sexting-related examples as highly gendered; namely that it was sexual imagery of girls and young women that was commonly reported to them. This is quite unlike the range of grooming, 'sexploitation' or 'sextortion' described above, in which police members indicated that cases they were investigating involved both young men and young women as victims. This suggests different patterns in the *gendered nature* of sexual victimisation and exploitation for different age groups and different offending contexts (such as adult versus peer offenders).

### ***Adult sexual assault and exploitation***

Given the vulnerability of children and young people, it is perhaps unsurprising that online child sexual exploitation was the issue foremost of concern in our interviews with police members. However, as our core research questions revolved around the nature and impacts of *adult victimisation*, we included in specific interview questions related to examples of victimisation experienced by adults. What emerged from these questions was that adults were indeed experiencing technology-facilitated sexual violence and harassment, and this victimisation was taking the form of somewhat familiar patterns of gender-based violence, despite our questions not prompting to discuss female or male victims specifically. In some cases police described online dating sites and mobile applications being implicated in facilitating a sexual assault. For example:

I've been involved in one case where she met and had conversations with a male through a web-based [dating] site. And then they started texting each other, you know, they swapped mobile phone numbers. And they went and had a few drinks... [it's the] first time she's met him and... they had a few drinks in the bar, she was quite drunk.... when she arrived at the bar, she was under the opinion it was just for drinks and to meet him for the first time. She had no idea he had booked a hotel room so obviously his intentions were different.... they ended up in the hotel room where he sexually assaulted her. And then it was reported to us.... (Interview 18, Police)

Police also recounted sexual assault cases they had investigated, where the perpetrator had used the threat of distribution of a sexual image to discourage a victim from reporting. As this investigator describes:

There was one where someone made a videotape. They had made a videotape of themselves in their relationship, and then the relationship goes sour. They separated and they got back together. And then she reported that he had raped her. They had a physical domestic...And he packed some stuff and left and he took the video with him and was threatening to post that to people if she reported the rape. (Interview 24, Police)

Police further spoke of cases they had investigated where a perpetrator had taken and/or distributed images of a sexual assault as part of the offence itself:

There was a case just the other day where it was a sexual assault that happened, two perpetrators, an intellectually disabled victim and one's doing the act and one's on the phone... I'd have to say that it must make it nastier... So you've got on one level that the offence has occurred. And, as well as that, it's been videoed or photographed... (Interview 24, Police)

I was involved in a particular case where an adult male worked as a nurse. And he actually stole some drugs and was drugging his wife while she was awake so that when she went to bed and went to sleep she [was] comatose. And he was sexually offending against her, and taking videos, and photos, and uploading them and sharing them with like-minded individuals. It was kind of like an online trading area. (Interview 26, Police)

Media reports and an emerging scholarly literature have highlighted what appears to be a growing trend in perpetrators taking and distributing sexual assault images (Armstrong *et al* 2015; Franklin 2013; Powell 2015). In her study of multiple perpetrator rapes, Karen Franklin (2013, p. 53) identifies photos and videos or ‘electronic memorializations’ as an ‘increasingly prominent feature of group rape scenarios’. This trend, she suggests, sheds light on the social feature of multiple perpetrator rape in particular, as a ritualistic performance of hypermasculinity which insults and denigrates the (usually female) victim who stands for the denigration of women as a social group. Franklin’s analysis is especially poignant in light of several high-profile cases internationally whereby perpetrators distributed images of sexual assault and subsequently engaged in commentary online via email and social media further denigrating the victim (see Powell 2015).

It is not unexpected that police stakeholders describing accounts of sexual image-based harms identified instances of images being used to further harm, harass or exploit adult victims of a contact sexual offence. This is foremost because while sexual assault is a crime and thus victims can report it to police, other forms of sexual exploitation or harassment via the distribution of a sexual or ‘intimate’ image itself is not clearly legislated (nor arguably it is broadly understood) as a criminal offence in most Australian states and territories, unless the material depicts a minor (under 18 years). As such, it is less likely that police would receive and thus investigate reports of the image-based sexual exploitation of adult victims, unless a contact sexual offence had also occurred. This does not mean, however, that our police participants were not aware of circumstances that might be more commonly understood as ‘revenge pornography’.<sup>2</sup> As this sex crimes investigator describes:

In terms of the adult material that you get... a lot of that stuff’s taken without the knowledge of the person in the image and they just trade it all of the time. And a lot of times where the images are consensual images, the consent is there for the person to *take* the image, it’s never there for the person to then stick it on the internet... There are loads of those ‘My ex-girlfriend’ sites..., whether they are an ex-girlfriend or not I don’t know... it’s just ‘here’s some pictures’ and nobody cares [whether there was consent to distribute]... (Interview 28, Police)

The harms of the non-consensual distribution of sexual images was of particular concern among our non-police stakeholders. While, as acknowledged above, the non-consensual distribution of sexual images may be motivated by ‘revenge’, what our interviews revealed were disturbing accounts of image-based *sexual exploitation* of adult women. As these sexual assault and domestic violence service stakeholders describe:

[They’re] ringing up and saying ‘this guy’s put sexual images of me all over Facebook without my permission’... There was one woman whose ex had put up photos on Facebook of her in the shower... (Interview 10, Sexual/Domestic Violence Service)

Videos or pictures are being used, so for example: uploaded to some of those amateur porn sites; photos that might’ve been taken have been threatened to be sent, or actually sent; stuff is posted on Facebook so that her son and his friends can see [it]; and threats, so women weren’t exactly sure if it had been done, but threats that he had taken pictures, or he had video footage, and that was being used to scare her. (Interview 8, Sexual/Domestic Violence Service)

Sexual images were not only being distributed online in an effort to embarrass or harass, but rather were also being actively deployed as a means of threatening, coercing or controlling women in the context of either prior or continuing domestic and sexual violence. For example, as these legal and domestic violence service stakeholders describe:

A lot of what we see is clients saying that they have consensually made a video of them being sexually intimate with their partner at the time. And then the women want to end the relationship and generally they’ve said to me they’ve wanted to end the relationship because it’s become a violent one - either emotionally violent, psychologically violent or physically violent - and so when they want to try and end that, then this spectre of the video that might have been made quite some time ago comes up as a threat in terms of, ‘If you leave me I’m going to send this to your family. I will let them know you’ve made it. I will show our children that you have made this video’. (Interview 5, Legal Service)

What sticks with me is one woman who... was telling me how absolutely devastated she was [(and I don’t know how much consent there was in the video creation, and I think that consent is probably quite debatable within a situation of domestic violence)] - but that it is up on one of those YouPorn or RedTube or one of those sites. And she was crushed. Just the humiliation she had [experienced], that people were seeing that; that so many people were seeing what, for her, was a moment of shame and humiliation in a relationship with a man that was violent. And it’s the sort of thing that when people do start to talk to me about amateur porn being different, I think: ‘we don’t know. We just don’t know if they’re consenting freely’. (Interview 8, Sexual/Domestic Violence Service)

In addition, legal services as well as domestic and sexual violence services described image-based sexual exploitation, where photographs or videos were used as a way to threaten or coerce women into unwanted sexual contact:

He advertised on Gumtree for English exchange or English friendship and conversation and our client took him up on that offer and started a sexual relationship... he took photos of her naked then blackmailed her that he would then send it to her family... and he did, he sent it to everyone in her [email] inbox. (Interview 2, Legal Service)

In addition to a variety of ways technology was being used to facilitate adult sexual assault and sexual exploitation, our stakeholders also described cases involving other forms of gender-based violence. Most notably, technology was described as a tool for perpetrators of domestic violence and intimate partner cyberstalking, to which we now turn.

### ***Intimate partner cyberstalking***

Cyberstalking is commonly defined as an extension of offline forms of stalking using electronic means. Cyberstalking involves behaviours that are unwanted, repetitive, intrusive and/or threatening, and that cause the victim to feel fear for their safety (see Reynolds *et al.* 2012; Tokunaga and Aune 2015). Internationally, the scholarly literature has identified the ways in which advances in communications technology presents new opportunities for domestic violence and intimate partner stalking (see e.g. Finn and Atkinson 2009; Spitzberg and Hoobler 2002; Southworth *et al.* 2007; Tokunaga and Aune 2015; Woodlock 2013, 2015). Keeping track on a partner or ex-partner's daily movements and communications as a means of exercising control, for example, is made easier with a combination of GPS-enabled smartphones and specialist software applications for monitoring emails and messages (Southworth *et al.* 2007). Domestic violence and legal services stakeholders described what they perceived as an increasing trend in partners or ex-partners making the most of these technological opportunities:

I did a client intake with a woman yesterday and her partner was using an application on a mobile phone to GPS track her - and she wasn't the first woman I've seen where this has happened. It seems to be becoming a common thing that partners are tracking their partner through these applications. (Interview 1, Sexual/Domestic Violence Service)

While phone calls, letters, emails and text-messaging may be used to engage in harassment or written and verbal abuse in a domestic violence context, the advent of social media and online communications have presented new methods of abusive communications. In some cases, the networked communications of social media provide a forum for what might be described as ‘diffused harassment’, whereby perpetrators need not contact victims directly, but can engage in aggressive or violent communications that victims experience as threatening or harassing:

I had someone come in and [she’d taken] screen shots of her ex husband’s Facebook account who was posting all these things about women...they were cartoons of husbands kicking women’s heads off and blood splattering everywhere....all those sorts of things: ‘This is what you’re supposed to say to a woman, this is how you treat a woman’ and just using it on his Facebook...and she feels like it’s a direct message to her - which it may well be because if he knows that she’s going to see [those images] he knows what she’s going to think - but she’s terrified of what could happen. (Interview 2, Legal Service)

In other examples, perpetrators hack into their victim’s social media account and pretend to be them in order to cause shame, humiliation and embarrassment:

What’s happening now is... this person [ex-partner] is ... pretending to be her on the internet and using her, let’s say her persona, to get on [the] internet and try and talk to people in a sexual way. (Interview 30, Police)

Intimate partner stalking also poses particular challenges for law enforcement personnel. Such behaviours may not meet requirements for civil protection orders (which may preclude direct threats or targeted communications), or conventional stalking offences where a ‘course of conduct’ is required, or where the behaviour must cause apprehension or fear in the victim. Moreover, victims, service sector workers and law enforcement personnel may not interpret the behaviour as ‘stalking’, even though these acts may induce feelings of fear, isolation and humiliation – and a sense that the victim ‘cannot escape the perpetrator’ (Woodlock 2015, p. 16). Furthermore, many victims may not report to police due to embarrassment or fear that their experiences will be minimised.

### ***Online sexual harassment***

While stalking is a criminal offence requiring a repeated course of conduct causing fear, sexual harassment occurs when a person makes unwelcome sexual advances, or where a person engages in unwelcome conduct of a sexual nature (see e.g. the Australian *Sex Discrimination Act 1984* (Cth)). Although legislation varies widely between different

jurisdictions in Australia and internationally, anti-discrimination legislation generally requires that a reasonable person would have anticipated that the harassment would have been offensive, humiliating or intimidating. In one 2012 Australian study, just over one in five respondents (21%) said they had been sexually harassed since the age of 15 based on the legal definition of sexual harassment (Australian Human Rights Commission 2012). This study identified the targets of sexual harassment as predominantly (although not exclusively) women with 33% female respondents having experienced sexual harassment since the age of 15 compared to 9% men. The study found (among other things) that most female respondents said that their harasser was male (90%). Furthermore, it found that most victims (80%) do not report sexual harassment or seek support or advice (Australian Human Rights Commission 2012).

While displaying screensavers of a sexual nature, sending sexually explicit emails or text messages, or inappropriate advances of social networking sites, might be covered in various anti-discrimination statutes if the harassment occurred a specified area of public life, such as the workplace, much sexual harassment online is not either illegal or unlawful under existing laws. This may be the case where online sexual harassment takes place in so-called 'private contexts' or in other areas of public life not covered by legislation. However, scholars have identified different forms of online sexual harassment that have significant impacts on victims. Such behaviours include repeated requests for dates or sex via mobile phones, email or internet sites; offensive sexual remarks and humiliating comments in chat rooms, forums and social media sites; the sending or posting of erotic, pornographic or sexually violent images; and sexually characterised 'flaming' (posting provocative messages), 'outing' (revealing a person's sexual orientation or gender identity) and 'doxing' (publishing personal details of the victim) in relation to rape threats and sexually violent content (see Barak 2005; Finn and Banach 2000).

In relation to the workplace, our interviews revealed that online sexual harassment posed particular challenges, especially in relation to the murky divide between public and private domains. What is 'the workplace' and what is 'the home' or indeed social life, is increasingly blurred, particularly in relation to social media communications:

The category that we had noticed a huge increase in since about 2010 is social media...use of social media on work equipment, and it might be even work-related social media...so that's the work tools. And people looking at Facebook and posting a lot of inappropriate sexual material... So there's the

increased use of social media that has really exploded... [and] there's a lot of confusion about what's work and what's personal now.... I think that when employers are discovering what is being written [and] it's just so inappropriate that [it] would meet the definition of sexual harassment. (Interview 11, Legal Service)

Our police interviews also described victims who had sought advice in relation to persistent sexual requests and unwanted comments of a sexual nature – in some cases, ongoing online sexual harassment that becomes clearly identifiable as cyberstalking from a law enforcement perspective. For example:

We find that the victims are harassed on social media. I've had one where it was sexually motivated stalking. She's met a male out of a club and she's given him her phone number, they've started communicating and she said she's not interested. [But] he kept stalking her via the mobile phone and sending her pictures of himself naked and then quite rude pornographic text messages to her and... he wouldn't take no for an answer. (Interview 18, Police)

This example in particular highlights the difficulties associated with identifying behaviours which at one level may be understood as online sexual harassment, and yet may quickly escalate into cyberstalking behaviours. A further example of this is evident on online message boards and discussion forums, which appear to enable perpetrators of sexually-based violence and harassment to connect, organise and support each other's abusive, harassing and cyberstalking behaviours. Several police participants in our study described disturbing accounts of online harassment and stalking behaviours facilitated by such community spaces. In one instance, described below, perpetrators were using social media to identify, target and harass the adult victims of non-recent child sexual abuse:

In another [online] forum that we previously investigated there was one [discussion thread] there about 'where are they now?'. So they would take child victims of sexual assault and try and find their [adult] Facebook pages. And emailing them [the victims] almost like a fan, 'oh I love this sort of stuff and I love watching you when this happened to you, when your dad this to you and that to you' and whatever, you know, just to torment them. And ... in particular I remember that they'd identified the Facebook page of a person who'd been raped as a child and they identified that she was now married with a child of her own and they started sending her messages about whether she was going to offend against her child and has her husband seen images of her getting sodomised as a child and ... just sort of tormenting her, revisiting all that abuse on her. There's quite a lot of that sort of stuff that goes on... (Interview 25, Police)

Arguably, research has yet to catch up with the various ways in which online message boards and discussion forums are being used by perpetrators to engage in a range of harassing and stalking abuses (see Ramirez 2012). Some high-profile cases reported in the media, however, describe instances where online classifieds or trading site advertisements have been used to request sexual harassment and victimisation directed against an ex-partner. Since at least 2009, for example, numerous instances of sexual assault in the US have reportedly arisen from advertisements placed on controversial site Craigslist (Fraser *et al.* 2010; Lipton 2011). In one of our interviews with a sexual assault counsellor-advocate, she described responding to a related incident:

One woman had her personal details put on Craigslist ‘for a good time now ring this phone number’ and all her personal details. So she’s had to change her phone number and so on. But she rang here [sexual assault service] to ask about what can be done about Craigslist. (Interview 10, Domestic/Sexual Violence Service)

In another interview, a police sexual offences investigator described a similar use of online forums:

...there is a lot of requests for blackmail stuff on one of the [online forum] boards that we frequent... You know we’ve seen topics in forum threads where they talk about listing out the names and addresses of people that they want raped, saying ‘I want this person raped and this person lives here, who can help me, who can have this done for me?’ (Interview 12, Police)

Such examples represent particular challenges legally as the original online post may be thought of as a single act, which invites others to participate in either the online sexual harassment or (in some cases) terrestrial sexual assault of a victim. These kinds of harassing tactics though, fall short of much stalking criminal legislation, which requires a repeated course of conduct by one individual.

### ***Impacts of TFSV victimisation on adult victims***

In our interviews we asked stakeholders about their perceptions of how technology-facilitated sexual violence and harassment impacted on victims. Several police described in particular the harms to victims where a sexual image or sexual assault image is taken and distributed to others:

The harm is substantial and severe... It's ongoing forever because if that's on the internet then it will just pop up all the time. You can't erase it. Once it's on the internet it's there forever. There's no way you can track down a sex tape on the internet and erase every copy. (Interview 12, Police)

You imagine if one person sends an image to another and that person shares it with 10 people and each of those 10 people share it with 10 people, by the end of the day, within eight hours, the amount of people that have got this image is massive. So distributing images is very, very serious and they can just never be retrieved. So how that plays on a victim's mind must be massive. (Interview 24, Police)

What these police members describe is the psychological harm experienced by victims and the ways in which that harm is either repeated or extended due to the fact that images cannot ever be completely deleted once online. In one interview, a sexual offences investigator likened the harm of such image-based sexual exploitation to the harm of a sexual assault itself, to the extent that both represented an invasive, sexually-based violation and a loss of control:

They feel that they've got no control then of when is it going to be posted next or who has seen it and that embarrassment too. A lot of them worry about when they go for jobs, is it going to be seen? It's posted on Facebook and ends up on the internet...It's quite debilitating for a victim to be honest. The range of feelings ... is not that different from a victim of a contact sexual assault. They both have that feeling of being violated. (Interview 18, Police)

Domestic, sexual and legal services providers likewise expressed the view that image-based sexual exploitation, as well as online forms of harassment or text-based abuse, were particularly invasive and constituted ongoing harms for victims. For example:

It just makes it worse because it never goes away does it?... It's there and you know even if you're not watching it, somebody can be watching it, it's just floating around all the time. I don't know how you rearrange your mind to cope with that. I know how to help someone cope with a one-off assault or even several childhood assaults because you've almost got an end date in the past... You can't say that to anyone involved with stuff that's out there...there is no end date, it's infinity... I think you're retriggered, that's how you get post-traumatic stress isn't it? I'm not sure we have really good techniques yet for dealing with that, 'cause what we're really telling someone is 'you're just going to have to learn to block it out'... (Interview 9, Domestic/Sexual Violence Service)

Moreover, some stakeholders described the humiliation, shame and reputational damage that can be caused when harassment and abuse were perpetrated in public forums such as via social media.

Because social media is so public, it can cause much more damage than if it was just privately between two people and all that is just from one tiny little thing that somebody's posted up on their wall or sent via SMS or something. It's horrible and remarkably powerful. (Interview 5, Legal Service)

Before men could threaten, but it would be a lot more work to do, to let everyone know something. Now it's instantaneous, it's easy, and it's public. So he can humiliate her in front of family, friends, community, a lot of women are ganged up on through Facebook. So you've got a whole lot, his family, his friends, all writing comments, writing back to things and stuff that she feels incredibly intimidated by. (Interview 8, Domestic/Sexual Violence Service)

In domestic violence contexts in particular, the power and control that perpetrators were able to exercise through the 24/7 nature of connectivity via mobile and online forms of communication, was identified as particularly harmful for victims. As a domestic violence service stakeholder described, 'the technology is exploited by perpetrators, because they know she has it with her 24 hours a day' (Interview 8, Sexual/Domestic Violence Service). Yet, domestic violence services were also consistent in relating to us that for women leaving a violent relationship, maintaining their social contacts and supports often through their mobile phone and social media, was extremely important to preventing their isolation. Indeed, stalking and abusive behaviours by former partners are often directed at victims to further isolate them in order to facilitate continued contact and abuse (Spitzberg and Hoobler 2002). As such, these services were particularly concerned about ill-formed advice to women to simply turn off their devices, or shut down their accounts, to avoid contact from an abusive former partner:

They [the police] would say to her look, 'Just delete him. Just block him. Just, you know deactivate your Facebook'. But that wasn't something she was willing to do. She said, '...why should I have to miss out on the positive things?' (Interview 1, Domestic/Sexual Violence Service)

Much more attention in responding to TFSV needs to be given to the inherent, continuous link between interaction and communication in both offline and online worlds and the ways in which an individual's social world is very much lived in both spheres. As such, there may be

adverse impacts associated with advice that victims should disconnect. Ultimately such advice results in extending the social abuse and control of the perpetrator over the woman's life, and the denial of digital citizenship (see Henry and Powell 2014).

### **Policing TFSV**

Given the range of emerging behaviours where a perpetrator can enact significant harm onto one or many victims with the use of digital technologies and the imperative of legal and non-legal responses to keep pace with this ever changing landscape, how have police responded to reports of digital abuse? In the discussion below, we explore some of the issues, challenges and promises relating to law enforcement responses to TFSV.

### ***Minimising 'virtual' harms***

One issue that was identified by police and other stakeholders alike was the potential for law enforcement responses to minimise the harms of partner violence, stalking and harassment where it takes places online or via email and text-based communications. For example:

It's almost as if this attitude that's what happening in the internet world is so different to what is happening in real life. And it's like a parallel universe that they see is untouchable. And it's really frustrating for our clients, particularly ones who are told 'just don't look at Facebook', or 'just don't go on there'. (Interview 17, Legal Service)

If it's [harassment by an ex-partner] reported to uniform [local police] - some of them aren't aware - a lot of them are new... a lot of them would say it's 'technical' ... I suppose having the experience behind me here, there's no such thing as 'technical'. Whereas a lot of them, they're under the pump and if it's not threatening and you're not scared, then 'don't worry about it'. (Interview 18, Police)

A number of legal services expressed frustration that online forms of contact and harassment in violation of a domestic violence intervention order were being minimised by police and magistrates as 'technical breaches'. Our interviews with police also revealed a shared concern that court processes in particular were not adequately addressing the seriousness of online forms of harassment:

I had one case where we took out the intervention order and obviously it was the full order which included the emails and publishing clause, and he started posting [about her] on Facebook. The thing with this one is that the victim was ringing us and saying he's posting stuff on Facebook but he wasn't posting it on her page, he was posting it on his own page but about her which is still a breach....He

ended up pleading guilty for that [to] 17 charges, one for every post. The thing that got me in the end was the magistrate said ‘well they’re only technical breaches’. There is no such thing as a technical breach, you either breach an intervention order or you don’t. But they found that minor....I was furious to be honest...here we are with a ‘technical’ breach because it’s on Facebook. (Interview 18, Police)

The minimisation of digital forms of abuse, violence and harassment perhaps stems from a fixation on corporeal or bodily forms of harm, as opposed to harms that are structural, social, emotional or psychological. Conventional conceptualisations of criminality require an overhaul in both theory and practice in order to address relations of power and exploitation that are reproduced in digital contexts, and which can potentially serve to destroy another person’s life. As we have argued elsewhere, digital violence needs to be taken seriously, starting with law enforcement measures (Henry and Powell 2015).

### ***Challenges faced by police***

Police stakeholders described facing a number of challenges in investigating and responding to technology-facilitated sexual violence, exploitation, stalking and harassment, including cases involving both child and adult victims. Foremost among these were cross-jurisdictional barriers that occurred when either a suspected victim or the perpetrator were located overseas, or the evidence was held by an international service provider (such as social media and/or smartphone social applications). According to our police respondents:

[International law enforcement are] not the most generous people in providing data for us... we have to rely on mutual assistance requests, we’ll go through the AFP [Australian Federal Police], we have to go through liaison officers at the FBI, same with Interpol and the like. It is a real problem. (Interview 14, Police)

There was a girl on [a smartphone chat application], she was about 15, and I remember reading this [online forum] chain and he [the perpetrator] had detailed how he does this on [smartphone chat application]... and then he produced some stuff that he’d had this girl do and then another said ‘oh that’s really great - can you get some more?’, and he said ‘oh no, I’ve already moved onto someone else but here’s her details, just use that stuff and you can blackmail her to get some more’. And the companies involved don’t care.... I contacted [the smartphone chat application] and said, ‘we need to know where she is, I’m not asking for the offender’s details, I’m not asking for any information about him, I’m just asking for [her]IP address so we can say “well she’s in America or she’s in Australia or wherever”...so that somebody can go and find this person and take her out of that situation’... and their response was: ‘No, we’re in Canada, until you get an MLAT [Mutual Legal Assistance Treaty] I’m not going to help you’. And that MLAT’s about a two year process. (Interview 25, Police)

A common theme in many of our interviews, with both police and other stakeholders, was the lack of cooperation from internet and telecommunications service providers. This represented not only serious barriers to obtaining evidence to support legal action, but also represented cost and time barriers to achieving justice for victims:

I think the biggest hurdle to legislation is the access to information from telcos. I.S.P. data retention, and information access. In Canada, they can access information within two hours. We've got to wait four to six weeks sometimes, from the bigger telcos in Australia. (Interview 29, Police)

It's going to be costly for us too, getting information out of some of those internet service providers. The volume of stuff that we might need to get over time, we have to pay for that. You would think they should contribute to a database and certain legislative restrictions that you could access that. (Interview 12, Police)

It's really hard to get history from social media companies so usually [we] try and print out what it was and print screen it, get the victim to sign and date that's what has been said as well. Because it's all about getting that evidence because if it was deleted we suffer in court unfortunately.... sometimes you'll see us photographing mobile phones because it's the only way we can – even when you download someone's mobile phone sometimes, you can't get everything off it. Especially smartphones, they're a computer. So sometimes we get the good fashioned camera and we 'cha ching, cha ching', because it's the only way to do it. (Interview 18, Police)

Police in particular also noted the increasing demand for forensic services for analysis of electronic evidence and hardware. Several police interviewees commented that their own computer and internet access presented a barrier to documenting evidence (such as difficulty accessing Facebook to screenshot abuse directed at a victim, due to internal access restrictions or slow internet connections), as well as more specifically the need for additional resources for forensic analysis:

As soon as there's any talk of computers or using a computer in relation to the offending or to assist with his offending, we have to do warrants straight away. Go out and grab them all [the devices] and then... we have to log it on through E-crime; book it into the IT specialists at E-crime, and you might not get that [device] analysed for eight months. (Interview 16, Police)

...the lawmakers don't fully understand the extent and types of cybercrime... [There are] not many police officers who actually focus on cybercrime. It's us four cybers, and a couple of guys in fraud.

They don't realise that maybe in 5 to 10 years you will have to have 50/50, that there will have to be way more resourcing of law enforcement in these online networks. (Interview 25, Police).

An additional challenge in responding to TFSV which was noted by both police and our other stakeholders alike, was an acknowledgement that it is difficult for professionals to keep up with developments in technology. As new services, software applications and websites become available, perpetrators will adapt and use those tools to facilitate their offending and abuse whether against children or adults. Ensuring that police, legal as well as domestic and sexual violence services are aware of the emerging ways in which technology is being used to abuse, and what advice to provide to victims who come forward, was identified as a persistent challenge.

### ***Benefits of technology for policing TFSV***

At the same time as expressing frustration at particular challenges, police and other stakeholders also observed the dual-nature of communications technologies such that there were advantages to perpetrators effectively documenting their behaviours, in turn enabling a legal response. As these police describe:

In those scenarios it's brilliant, absolutely brilliant. It's there, it's tangible, there you go. It's not one word against the other and 'who do you believe more? Who's more credible?'. It's 'did he possess child porn?'. Or 'did he make a threat to kill? There you go. There's the text message'. And as a police officer I print-screened that, the victim says that's what was said. It's damning evidence with technology when we can get access to it. (Interview 18, Police)

But the beauty of it [video recording of a sexual assault] is it's great evidence. It's fantastic evidence. And that case I was telling you about, those [perpetrators] both denied that the offence occurred. It's an intellectually disabled complainant so there's some issues in proving it [beyond reasonable doubt]. But not anymore there's not, because [the investigators] found the footage. As horrific as it is, it does bring some value to proving what's happened. (Interview 24, Police)

Moreover, legal services stakeholders recognised that electronic forms of intimate partner abuse and stalking represented a catch-22 in some respects: as they were sometimes not acknowledged as serious harms (or dismissed as technical breaches of intervention orders), at the same time they provided tangible evidence of the victims' experience:

Often the problem with intervention orders is actually getting the action on it but the text message breach which happens after is one that the police will act on because of very easy evidence for it on the iPhone now. (Interview 2, Legal Service)

It was helpful that we had the email communications that could be used. It's interesting, things on Facebook can't be used so much [in court]. But email communication sometimes is easier to admit into evidence. (Interview 17, Legal Service)

Nonetheless, as alluded to in the proceeding sections and in the quotes above, police were cognisant of the fact that images or recordings of sexual offences in particular could be very damaging for victims. Thus it is important that law enforcement personnel recognise the continuation of harm to victims when such images are endlessly circulated, both online and within legal proceedings. The starting place is to recognise that real effects and impacts of digital violence on people's lives.

### **Stakeholder recommendations for reform**

A core aim of our interviews with stakeholders was to elicit their perceptions and recommendations for reform in order to improve either the legal responses and protections for victims of TFSV, or to enhance non-legal and alternative mechanisms for reducing or preventing these harms. Foremost among the areas identified for urgent reform, was image-based sexual exploitation. As these police stakeholders describe:

...let's say for the sake of this argument a man and a woman engaged in a sex act, [and] both parties know it's being recorded [and] the man then later on uploads that recording somewhere else without telling her, there's no real offence for that. I mean she was aware it was being recorded, the privacy legislation talks about a recording and breach of privacy where she's not aware of it... but there's no real offence for taking a recording and then later on changing your mind about whether or not you want to share that... (Interview 25, Police).

...they've broken up and [he's] got an image on his phone and ... he then sends that on, he's not committing any offence because they're both over 18 and he hasn't got that image illegally, she's consented to that image. And then he just sends it then to his friends.... [But] I couldn't think what we would charge him with in that scenario...I think we'd start looking into Commonwealth offences - using a carriage service to menace or harass. [The] State legislation doesn't cover it... and the Commonwealth legislation can be a bit limiting... How is it going to be played out in court? What's the definition of harass and menace? Well he's not harassing her - but is it menacing? It's not at her directly, but it is indirect... (Interview 18, Police)

Our stakeholder interviews identified a clear preference for clarity in Australian state criminal legislation for responding to exploitative use of adult sexual images provided by the creation of a specific offence. In our other work, we have identified a need for establishing clear community standards in relation to the misuse of sexual images, whether taken under non-consensual and consensual circumstances initially (see Henry and Powell 2014). In particular we have suggested that specific criminal legislation for the creation and/or distribution of sexual exploitation or abuse material that recognises the additional harm to victims of sexual assault where images of the offence are taken and/or distributed is plays an important role (see Henry and Powell 2015a; Powell 2010). Building on the views of our stakeholders reported here, we also support their recommendation for consistent and specific criminal offences recognising the harm of image-based sexual exploitation of adults, where an individual creates, distributes and/or hosts a website containing sexual images without the expressed consent of the person depicted.

What the interview excerpts provided throughout this article demonstrate is that communications technologies are being used in a variety of ways to enable and extend the harm of intimate partner cyberstalking, as well as engage in new methods and the blurring of the lines between cyberstalking and *invasive* or *malicious* online sexual harassment. While not every unwanted comment of a sexual nature online ought necessarily be subject to a criminal response (in part, it would be highly impractical to do so), our police stakeholders did describe the need to update cyberstalking and federal ‘menace, threaten or harass’ legislation to keep up with changes in technology-facilitated crime. For example, as this sex crimes investigator describes:

They [law-makers] are too slow to react and set up new laws. The legislation about harassment - that is just so outdated, it’s still mainly about making phone calls. (Interview 25, Police)

A further key need identified by both police and our other stakeholders was a need to extend the training and resources for police to respond more effectively to victims of TFSV. In particular, some police stakeholders expressed the desirability of resourcing for intelligence practitioners, trained to conduct online research identifying and documenting malicious online behaviours that are domestic violence or stalking related. Our stakeholders also commonly

identified a need for training local police to respond less dismissively when victims present with a report of technology-facilitated abuse, stalking or harassment:

...we've had instances certainly where that hasn't been dealt with appropriately...and unfortunately that does happen. It's about educating our people as well so they're aware of what offences occur, how they should be responding. (Interview 14, Police)

There was also strong recognition among our stakeholders, however, that the criminal law was not always the first or best way to respond to the range of technology-facilitated harms that victims experience. As such there is a need to consider responses beyond the criminal law, and in particular the role of internet and social media service providers.

In response to the various challenges posed by new technologies, we advocate a number of measures to tackle and address TFSV. The first concerns recognition within the community of the serious and real impacts of digital violence, regardless of the context. Such impacts might include fears for physical safety, social and public humiliation and embarrassment, prolonged and/or protracted post-traumatic stress disorder, loss of earnings, employment termination, suicide, the breakdown of relationships with others, among a whole range of other equally damaging impacts. While many of these impacts are of course evident in more conventional forms of sexual violence and domestic violence, it is important to recognise the unique harms when technologies are used as a tool (see Henry and Powell 2015b). Second, it is important to introduce clarity and consistency in law reform efforts to address these emerging digital behaviours. Although such laws should not be rushed into, lawmakers can learn from examples emerging cross-nationally to see how to best respond. Third, police training and resources are vital to not only charge and prosecute perpetrators for these varied offences (including preserving vital evidence through the use of screen shots, mobile phones and computer forensics), but also to recognise the serious impacts of TFSV as well as provide information and referral support to victims who come forward. Fourth, consideration of whether a national hotline or advisory telephone support line would be beneficial for victims is timely, for instance, similar to the revenge porn hotline that has been established in the UK since 2015. Finally, above all, there is urgent need for prevention measures beyond the law that includes internet and social media service providers as prosocial bystanders, and education and information to promote ethical digital citizenship (see Henry and Powell 2014).

## **Conclusion**

Technology-facilitated sexual violence is a serious and emerging issue. This article has shed light on the various ways in which adult victims are being sexually harassed, stalked, abused, and exploited with the aid of communications technologies. Here, we have also explored police responses to the harms of such digital violence. It is perhaps not unsurprising that laws, and law enforcement responses more broadly, have been slow to address the harms resulting from the proliferation of social media and the development of technologies that can give perpetrators greater access to and control of victims. Indeed, as many (if not most) of our participants noted, one of the greatest challenges for policing these harms concerns keeping pace with the ever-changing landscape of the internet. Greater attention must be paid to recognising the serious harms of digital abuse and harassment; the role of criminal law in responding to these behaviours; and the importance of investing in police resources to adequately tackle these growing behaviours in a constantly shifting and amorphous digital era. Ultimately however, it will take multi-level responses beyond law alone and encompassing internet and social media providers, as well as education and prevention efforts, if we are truly to address the increasing harms of technology-facilitated sexual violence and harassment.

## **Appendix 1: Summary of Interview Schedule**

1. To start with, can you tell us a bit about your current role? Including your professional experience dealing with sex-based crimes?
2. Can you describe some types of situations or scenarios of sexual offences and related criminal behaviours against adults that you're aware of, where mobile phone and/or online/internet technologies have been involved in some way?
3. For instance, how are these technologies being used in Rape and/or indecent assault incidents? Can you give us some broad examples of the types of incidents or situations you've become aware of?
4. How are these technologies being used in family violence incidents? Can you give us some examples?
5. What about sexually threatening, violent language and written abuse, or imagery directed at adults online? For instance, on social networking sites like Facebook or Twitter, or dating applications?
6. And what about both the non-consensual creation of sexual images, and the non-consensual distribution of sexually explicit images (such as 'when sexting goes

wrong' or co-called 'revenge porn' incidents where a partner or ex-partner distributes sexual images without consent)?

7. Do you think current legislation addressing harmful adult behaviours involving ICTs and sexual violence is adequate? Why/Why not? Are there particular legislative provisions you see as being more (or less) appropriate for these types of incidents?
8. In your view, what is the impact of these various behaviours on victims? Are there particular ways in which online and other technology-based harms are different to contact-based offences?
9. We'd now like to discuss your organisation's responses to the range of behaviours we have already mentioned. Can you tell us a bit about the challenges or difficulties your organisation faces in responding to these kinds of incidents?
10. In an ideal world, what do you think would be the best approach to responding to some of these incidents? How might this vary depending on the type of incident?
11. Based on your knowledge of the reality of these incidents, what would be your number one priority for improving responses?
12. Is there anything else you would like to say about technology-facilitated sexual violence and harassment and how, in your view, we should be responding to these incidents/behaviours?

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## Endnotes

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<sup>1</sup> Sexting is defined as the exchange of intimate or sexual photos via mobile phone and internet technologies (see Henry and Powell 2015a).

<sup>2</sup> Revenge pornography may involve images obtained from the use of hidden devices to record another person; stolen images from a person's computer or other device; photoshopping a victim's face onto a pornographic image; and images obtained (consensually or otherwise) in an intimate relationship. The term itself is highly problematic as not all perpetrators are motivated by revenge and not all content constitutes or serves the purpose of 'pornography'.