

## **12.0 CONCLUSION**

The Committee recommends that offences be created to deal with the non-consensual sharing of intimate images as well as threats to share such images. Importantly, consideration needs to be given to enforceability of such measures and the challenges of evidence gathering. There is a fast growing need for regulation of online behaviour and for the broad, symbolic, communicative and censoring function of the criminal law to be brought to bear. This report affirms the advantage of creating specific criminal offences rather than relying on general criminal offences or the civil law that is seeing offenders convicted according to the perceived wrongfulness of the behaviour, which communicates society's core values and confirms in the public's mind the wrongfulness of the behaviour.

## Senate Legal and Constitutional Affairs References Committee's Recommendations

### **Recommendation 1**

The committee recommends that Australian governments use the phrase 'non-consensual sharing of intimate images' or similar when referring to the phenomenon colloquially known as 'revenge porn' in legislation and formal documentation.

### **Recommendation 2**

Taking into account the definitional issues discussed in this report, the committee recommends that the Commonwealth government legislate, to the extent of its constitutional power and in conjunction with state and territory legislation, offences for:

- knowingly or recklessly recording an intimate image without consent;
- knowingly or recklessly sharing intimate images without consent; and
- threatening to take and/or share intimate images without consent,

irrespective of whether or not those images exist.

### **Recommendation 3**

The committee recommends that the states and territories enact legislation with offences the same or substantially similar to those outlined in Recommendation 2, taking into account relevant offences enacted by the Commonwealth government.

### **Recommendation 4**

The committee recommends that the Commonwealth government consider empowering a Commonwealth agency to issue take down notices for non-consensually shared intimate images.

### **Recommendation 5**

If not already in existence, the committee recommends that the Commonwealth government establish a formal mechanism by which Commonwealth agencies and internet and social media providers regularly engage on issues relating to non-consensual sharing of intimate images.

### **Recommendation 6**

The committee recommends that the Commonwealth government give further consideration to the Australian Law Reform Commission's recommendations regarding a statutory cause of action for serious invasion of privacy.

### **Recommendation 7**

The committee recommends that the Commonwealth government implement a public education and awareness campaign about non-consensual sharing of intimate images for adults by empowering and resourcing the Office of the Children's eSafety Commissioner and the Australian Federal Police to build on their existing work with children in relation to cybersafety.

**Recommendation 8**

The committee recommends that that all Australian police undertake at a minimum basic training in relation to non-consensual sharing of intimate images, in particular any new offences in the relevant jurisdiction.