



The role of emerging communication technologies in experiences of sexual violence

A new legal frontier?

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Executive summary

Frontier |,frən'ti(ə)r| a region that forms the margin of settled or developed territory (Merriam-Webster)

The challenge presented by the interface between emerging communication technologies^a and sexual violence^b experienced by young people^c is not primarily a legal one. That is, if there is a new frontier, the edges are not only to be found between the law and its limits, but also between online and offline modes of sociality.

This is the message that came through from in-depth interviews conducted with 46 key informants from criminal justice agencies (including police and prosecutions), judicial offices, education and youth policy organisations, youth advocacy services, and sexual assault services. These interviews asked participants how they saw emerging communication technologies as facilitating sexual violence. Additionally, participants were asked to identify what challenges such interfaces presented to the Victorian criminal justice system's ability to respond.

This report presents the findings of an 18-month project undertaken by the Australian Institute of Family Studies (AIFS), which was funded by the Victorian Legal Services Board Grants Program. It reports on participants' views in relation to:

- the effects of technology on the lives of young people;
- the interface between emerging communication technologies and experiences of sexual violence; and
- what factors enable or hinder appropriate legal responses.

Purpose of the research

Prior to undertaking this project, ACSSA held a stakeholder forum with people in key sectors—including sexual assault services, and the education, criminal justice and youth sectors—to explore the issues and challenges of technology-facilitated sexual violence. One issue that arose was the adequacy and applicability of the law in this environment. The purpose of the research was to explore this in greater depth in order to support legal and other relevant actors to respond to technology-facilitated sexual violence. Specifically, the project aimed to:

- increase knowledge about the use of emerging communication technologies in the facilitation of sexual violence against young people;

a The term “emerging communication technology” is used throughout this report to refer to modes of communication that are ever-evolving in nature. It is a necessarily imprecise term that includes both devices (for instance, computers and mobile telephones) and associated platforms of communication (for instance, social networking sites and text messages).

b “Sexual violence” broadly refers to unwanted sexual interaction, or threats of such interaction (such as sexual intercourse, sexual touching or sexual exposure), in circumstances of non-consent and/or force, threat, incapacitation or blackmail. It is important to state for the purpose of this report that the creation of nude or sexually explicit images of oneself or of another person does not in itself constitute sexual violence.

c For the purposes of this research report, we are defining “young people” as those being between 12 and 25 years of age. Stakeholders and reference group members felt that the issues were particularly salient for the younger bracket of approximately 13–16 years.

- identify the challenges and evidentiary opportunities that the use of technologies present to the legal system's ability to investigate and prosecute sexual violence; and
- identify possible strategies for addressing these challenges.

There is little research that specifically examines the intersection of technology and sexual violence. However, there is an emerging evidence base that documents the risks young people take when using online and other communication technologies such as mobile phones.

Research design

Data sources

The project used an inductive, qualitative research design to explore participants' views about the role of social networking services and mobile phone technology in sexual violence perpetration. The planned data sources included:

- international literature on the use of social networking and mobile phone communication to perpetrate and promote violence;
- legal scholarship on prosecuting these behaviours;
- relevant media case studies;
- stakeholder consultation, in the form of a roundtable discussion;
- interviews with young people about their experiences of sexual violence involving communication technologies; and
- interviews and focus groups with key informants.

Data collection

The research involved a number of distinct qualitative methods to gather the insights of key stakeholders. In the first instance, the research team held a roundtable meeting that brought together practitioners and researchers from the justice, policy, education and academic sectors to discuss current thinking and concerns. The information gathered in this forum assisted researchers in identifying relevant participants for subsequent focus groups and interviews. The recruitment of these participants involved a multi-stage process. Ultimately, researchers were able to recruit 46 professionals from criminal justice agencies (including police and prosecutions), judicial offices, education and youth policy organisations, youth advocacy services, and sexual assault services for participation. The semi-structured interviews involved both broad, context-related questions and more specific questions based on the information that emerged during the interview process (Bryman 2004). The broad themes of the interviews were:

- *Issues*: What sort of issues are you seeing in relation to the use of emerging communication technologies in sexual assault?
- *Action*: How are you responding to this?
- *Challenges*: What are the key gaps or challenges in preventing or responding to the use of emerging communication technologies in sexual assault?
- *Information needs*: What information would assist you in the work that you do?

All interviews and focus groups were audio-recorded by consent. Each interview was between 30 and 60 minutes in duration. The decision to audio-record the interviews related to the semi-structured nature of the interview, in which narratives were allowed to develop, and the participants were active in constructing the content and direction of the interview itself. Each interview and focus group was subsequently transcribed by a transcription service, undergoing a process of de-identification prior to analysis.

It is important to note that the views of young people themselves are absent in this study. Significant challenges arose for researchers in recruiting this key participant group, and we made revisions to the methodology where appropriate. Nonetheless, a variety of challenges to this aspect of recruitment continued to be experienced.

Data analysis

Each transcript was read individually to identify key themes and issues. The transcripts were then cross-referenced for shared insights. In addition to thematic analysis, the transcripts were read for clear and detailed narratives that would provide insight into the experiences of young people and the professionals responding to technology-facilitated sexual violence. This secondary reading was viewed as essential in capturing the diversity of behaviours and experiences occurring in this space.

Findings

Effects of emerging communication technologies on young people's social interactions

Participants in this research identified several key ways that emerging communications technologies are affecting the socialisation of young people. Broadly, participants described young people's engagement with emerging communication technologies as an essential method of socialisation, creating a space for the exploration and construction of the social self. However, participants identified a number of aspects and qualities of emerging communication technologies that also provide increased opportunities for the experience of sexual violence. Broadly, these can be described in terms of accessibility and the online/offline social spheres of young people:

- *Accessibility*: Participants spoke of the ubiquitous nature of emerging communication technologies in terms of:
 - blurred boundaries between social settings, especially between public and private domains (for example, school and home life);
 - the constancy of contact that these technologies afford;
 - the increased accessibility afforded to adults seeking sexual contact with young people; and
 - increased access to pornography by young people.
- *Online/offline social spheres*: Participants felt that the fluidity between online and offline social spheres was a core feature of young people's lives. Specifically, participants identified:
 - the centrality of online sociality to young people's interactions;
 - the blurring between online and offline domains;
 - young people's limited understanding that online communication has offline ("real world") consequences;
 - the anonymous nature of online spaces, which enables different forms of communication, including harmful and abusive behaviour; and
 - the generation gap between adults and young people in relation to these spaces.

These factors were seen to change the consequences of online exploration and the construction of the social self for young people. Further, the elements of accessibility, especially in relation to pornography and the nature of social media were understood to normalise a particular sexualised interaction between young people, including the practice of "sexting". Specifically, this normalised behaviour was seen to create different experiences for young men and young women, reinforcing a dynamic whereby young women experienced increased pressure and expectations in relation to sexual requests from young men.

The role of merging communication technologies in facilitating sexual violence

We asked participants about the ways in which emerging communication technologies were used to facilitate or perpetrate sexual violence. From our analysis, the behaviours and experiences described by participants were categorised with reference to their proximity to acts of sexual violence; that is before, during and after.

The use of technology *prior to* acts of sexual violence was multifaceted. It included:

- increasing access to young people (as noted above);
- hastening the relationship and trust-building process;
- using network linkages to connect with people with whom the perpetrator may not otherwise have a direct relationship; and
- saturating social networking sites with friend requests and utilising multiple profiles to eventually make contact.

During acts of sexual violence, technology was identified as being involved in:

- recording sexual assaults;
- making threats to distribute images or videos; and
- distributing images or videos without the consent of the other person.

In the aftermath of sexual assault, technology was used to:

- make threats to distribute or upload images;
- distribute images, including images depicting victimisation; and
- contact, threaten or abuse victims following the assault.

Responding to technology-facilitated sexual violence

Overall, participants considered the current legal framework to be adequate for addressing most forms of sexual assault in which technology is a factor. However, all participants articulated that the application of legal responses could be enhanced in the future. Specifically, participants identified a range of issues in relation to the capacity to respond. Many of these issues related to the ever-evolving nature of emerging communication technologies, issues of multi-jurisdictional investigations, and resources relating to adequate training and facilities.

Specific inhibitors in current legal practice included:

- keeping up with changes in emerging communication technologies, including the speed with which images are distributed;
- the volume of evidence collected;
- the involvement of global or offshore companies, which makes it difficult to issue warrants and obtain material;
- a lack of expertise and facilities to undertake investigations; and
- the technological limitations of courtrooms when trying to view evidence relating to emerging communication technologies.

The lack of standardisation across state and territory legislation, including admissibility rules, also emerged as an issue.

There was a lack of clarity about the effectiveness of responses to behaviours that have not generally resulted in formal justice intervention. On these matters, some participants spoke of a lack of clarity about whether police responses are based on discretionary decisions or inconsistent decisions. Yet others acknowledged the need for flexibility to ensure that young people are not inappropriately charged.

In relation to current educational practices addressed at young people, participants spoke of inadequate education resources, inconsistent education programs and messages, and the sense that safety messages do not resonate with young people.

Implications of the findings

Participants consistently stated that emerging communication technologies acted as a facilitator of forms of behaviour that predate the existence of the technology itself.

Concomitantly, it is acknowledged that the ubiquitous position of emerging communication technologies in young people's lives potentially increases their exposure to negative behaviour from peers and adults. Additionally, the culture of this technology espouses gendered

expectations and pressures that are concerning. Thus, the interface between emerging communication technologies and sexual violence is a complex and complicated site.

The conceptual conflation

Our research found that a lack of clarity about how the range of behaviours should be conceptualised has hampered the development of appropriate and effective responses. Further, we found that a misunderstanding of the social experiences of young people created the potential for the replication of misconceptions about sexual violence more generally. There were disjunctions and contradictions in terms of how participants understood the relationship between sexual violence and emerging communication technologies. For example, although there was agreement that the criminal law is a limited and blunt instrument for intervention with young people, the issue of sexting created a lot of “noise” in participants’ views of (a) just how emerging communication technologies interfaced with experiences of sexual violence; and (b) what sort of challenges this presented for the criminal justice system. We think that this stems from an absence of, or lack of clarity on, a shared conceptual framework in which to locate the behaviours.

This had flow-on effects in relation to practical avenues of intervention, such as legislation, educational interventions and opportunities for industry involvement. The conceptual conflation outlined above was reflected in what participants told us about the challenges in responding to the full spectrum of sexual violence behaviours involving communication technologies, and in determining when the formal criminal justice system should become involved (as opposed to police involvement, which may result in more diversionary responses).

The importance of a conceptual framework

In order to address this and create a platform for the development of a targeted and meaningful response, we suggest that sexual violence facilitated by emerging communication technologies needs to be understood in terms of a spectrum of behaviour.

Specifically, we suggest that this conceptualisation needs to account for:

- *the context or situation* in which the behaviour occurs, in order to take into account the fact that interactions utilising emerging communication technologies can be consensual, exploitative, coercive or violent;
- *the enablers or facilitators to the behaviour itself*, including that interactions utilising emerging communication technologies occur in a social environment with pre-established gendered expectations and cultural scripts that normalise pressure and coercion;
- *the importance of emerging communication technologies in young people’s socialisation practices*, which ensures an increased accessibility and their vulnerability to motivated offenders; and
- *a response continuum* that includes primary, secondary and tertiary intervention in light of the above. Of prime importance should be a focus on preventative education that addresses the broader social environment in which young people operate, and attends to the gendered nature of their interactions. With reference to tertiary responses, sufficient discretion must be employed to allow for the context of the behaviour to dictate sanctions (particularly with respect to the application of the criminal law).

A number of clear practical implications for those tasked with responding to technology-facilitated sexual violence can be identified within this research in terms of both educative and tertiary responses. While there is legislative capacity to address unwanted and violent sexual behaviour facilitated by emerging communication technologies, the discretionary application of the criminal law requires clarity and consistency. In particular, participants advocated for a more consistent application of police discretion with reference to charge decisions, and suggested that the applicability of child pornography legislation to young people be reviewed.

In addition to the adequate training and resourcing of police for investigative purposes and the facilitation of evidence presentation at trial, noted above, this research identified the need for an extensive approach to education on the issue of technology-facilitated sexual

violence. Adequate resources are required to effect a consistent and ongoing educative strategy. Participants viewed the educative response as needing to be multifaceted—involving young people, parents, schools and relevant industries—and multi-layered—addressing issues of respectful relationships and conduct between young people, and ethical digital citizenship. The effect of such an approach would centralise notions of having strength and confidence in interpersonal relationships and the consideration of others in interactions based on emerging communication technologies. Further, this research suggests that this strategy must be reflexive and incorporate the views of young people.

In sum, participants' views suggest that it is important to clarify the frameworks currently used to describe the interface between communication technologies and sexual violence, as this affects the capacity for professionals and services to respond. Their views also suggest that an educational response is key, particularly in relation to gendered expectations, respectful and ethical relationships, and responsible digital citizenship.

Overview

The prevalence of unwanted sexual interaction, sexual violence and sexual abuse among young people¹ is significant. Young people, particularly young women, comprise an “at-risk” demographic in relation to sexual violence.² The ever-increasing use of communication technologies³ such as the Internet (particularly online social networking sites) and mobile phones in the commission or promotion of sexual assault has emerged as a challenging issue for support services, criminal justice agencies, and—with the ubiquity of technology in young people’s lives—schools, educators and parents.

The Australian Centre for the Study of Sexual Assault (ACSSA) is funded by the Department of Families, Housing, Community Services and Indigenous Affairs and housed within the Australian Institute of Family Studies (AIFS). It aims to improve access to information on sexual assault for the key sectors in the sexual assault field. As part of the work of ACSSA, AIFS hosted a forum titled Young People, Technologies and Promoting Respectful Sexual Citizenship, which brought together diverse stakeholders.⁴ A key discussion point was the role of the legal system in responding to what could be called “technology-facilitated” sexual violence.

To explore this issue, we applied for and received a research grant through the Legal Services Board of Victoria Grants Program. Two key questions guided the research:

- How do emerging communication technologies facilitate sexual violence against young Australians?
- What challenges does this present for the Victorian criminal justice system?

Using qualitative research methods, we sought to speak with representatives from relevant sectors, such as Victoria Police, sexual assault services, the Office of Public Prosecutions, the judiciary, and the research and policy sectors.⁵ The research presented here is based on in-depth interviews with 46 key representatives who spoke about the kind of behaviours they were seeing in the interface between technology and young people’s experience of sexual

1 For the purposes of this research report, we are defining “young people” as those being between 12 and 25 years of age. Stakeholders and reference group members felt that the issues were particularly salient for the younger bracket of approximately 13–16 years.

2 “Sexual violence” broadly refers to unwanted sexual interaction, or threats of such interaction (such as sexual intercourse, sexual touching or sexual exposure), in circumstances of non-consent and/or force, threat, incapacitation or blackmail. Conversely, “sexual abuse” refers to any sexual activity between a child and an adult or older person (five or more years older). Additionally, research with young people often uses “sexual coercion” to describe unwanted sexual behaviour in dating relationships.

3 Generally, the term “communication technologies” refers to any technological device, service or program that facilitates communication. For a glossary of the technologies referred to throughout this report, see Appendix H.

4 Stakeholders included police, prosecutors, prevention educators, sexual assault workers, teachers, youth workers and advocates, and those working in policy development.

5 In addition, we sought to speak with young people about their experiences of sexual assault involving online or mobile phone technologies. For reasons that we explain in Chapter 8, we were unable to undertake interviews with young people, despite extending the recruitment period. We acknowledge this represents a significant gap for the project, particularly in light of the first research question.

violence. In addition, participants were asked about the barriers they faced when responding to such experiences, and potential improvements to the current response.

Scope of the project

While there is a growing body of literature examining the extent to which the Internet and social media is used by young people (Australian Communications and Media Authority [ACMA], 2009), the prevalence of unwanted online interaction (Finkelhor, Mitchell & Wolak, 2000; Ybarra, Mitchell, Wolak & Finklehor, 2006), and the privacy risks of social networking (Taraszow, Aristodemou, Shitta, Laouris, & Arsoy, 2010), there is little that specifically explores the interface between emerging communication technologies and sexual violence experienced by young people. This is due partly to the emergent nature of communication technologies, meaning that the evidence base tends to be retrospective and not representative of current trends. Additionally, such research often finds difficulty in determining the parameters and focus of inquiry. Below, we briefly set out how the boundaries of this project were determined.

Defining the parameters of inquiry

The focus on sexual violence

From a public policy and public debate perspective, it is “sexting” that has gained considerable traction in the latter part of this decade following a national survey commissioned by *CosmoGirl* magazine in the US (National Campaign to Prevent Teen and Unplanned Pregnancy, 2008). That survey found that one in five teens had sent or posted nude or semi-nude pictures of themselves via mobile telephones and/or social networking services. Researchers have noted flaws in this study; the most recent iteration of the Youth Internet Safety Survey found that just under 10% of young people had appeared in, created or received a nude or nearly nude image in the last year (Mitchell, Finkelhor, Jones, & Wolak, 2012). In the Australian context, key sectors agree that there are no reliable data on the incidence or prevalence of sexting among young people (National Children’s and Youth Law Centre, 2012; South Eastern Centre Against Sexual Assault, 2012; Victoria Police, 2012; Women’s Health Grampians, 2012; Women’s Health West, 2012).

The broad focus of current efforts has been to educate young people about the potential risks—legal, emotional and “reputational”—of producing and distributing sexually explicit images. However, as a research centre that focuses on sexual assault, it was not clear to us that sexting of itself comprised sexual violence, as it remains poorly defined.⁶ In this report, our use of the word “sexting” refers to:

the consensual taking and consensual sharing of semi-nude/nude/explicit images with the intended recipients.

Anything beyond this constitutes a form of sexual violence. For our purposes, “sexual violence” includes:

- interaction of a sexual nature (such as sexual intercourse, attempted intercourse, sexual touching or groping, or sexual exposure) in circumstances of non-consent and/or force, threat, incapacitation or blackmail;⁷
- the threat of such interactions occurring;⁸ and
- sexualised bullying, harassment or abuse.

⁶ The Inquiry Into Sexting by the Victorian Parliament Law Reform Committee (2011) defined “sexting” as “the creating, sharing or posting of sexually explicit messages or images via the internet, mobile phones, or other electronic devices by people, especially young people”. YouthLaw (2010) defined it as “sending photos by phone or over the internet of young people who are naked or posing in a sexual manner”, and ACMA (2012) defined it as “the sending of provocative or sexual photos, messages, or videos, generally using a mobile phone [or] posting this type of material online”.

⁷ Throughout this report, the term “sexual assault” is used specifically to refer to the act of penetration in circumstances of non-consent.

⁸ These two definitions reflect behaviours defined as “sexual violence” in the Australian Bureau of Statistics (ABS) Personal Safety Survey (ABS, 2006).

Early consultation with sexual assault services, police and legal actors suggested that communication technologies are used in a variety of ways to facilitate sexual assault, such as:

- the use of social networking sites to invite women to meet in the physical domain—police have described how sites may be flooded with invitations from an individual, increasing their chances of a meeting, then the woman is sexually assaulted, and multiple perpetrators may be involved;
- situations where adults cultivate an Internet relationship with a young person and arrange to meet them for sex;⁹
- using social networking sites to promote sexual violence or vilify victims of sexual assault who have reported the assault to police;
- giving unwanted exposure to sexually violent images by saturating unrelated sites with pornographic images; and
- circulating sexually explicit or suggestive images taken on mobile phones, using multimedia messaging service (MMS) between phones or uploading the image on social networking sites. They may be images taken consensually or non-consensually, or document non-consensual sexual activity.

Our primary focus is on sexual violence and how emerging communication technologies facilitate and interface with it.

The focus on technology

As indicated above, we were interested both in how emerging communication technologies facilitated sexual violence and the implications of this for criminal justice responses. There are two conceptual difficulties with this. The first is that beneath the question of the challenges such technologies present for the law is another, more difficult one: Is the use of technologies such as social networking services and data-enabled, multimedia mobile phones a new phenomenon altogether or simply new vehicles for old behaviours? Although this question was not the focus of our project, it is important to note that the answer to it conditions how the role of the law is viewed.

A second difficulty related to the technology is defining the object of inquiry. As Urbas and Choo (2008) noted, there is no consistent terminology to describe “technology-enabled” crime.¹⁰ Initially, we focused on “social networking services and mobile phone technology”. However, this excludes chat rooms (e.g., Chatroulette, Omegle), which emphasise meeting random individuals; Internet relay chat (IRC) channels, which provide forums dedicated to the posting of images such as non-nude teens or “jailbait”; discussion boards; newsrooms; and social media sites such as YouTube. Focusing on the online component though would ignore the role of mobile phones. Then there are information and communication technologies (ICTs), which refer to a whole range of devices and applications that facilitate communication (such as the radio).

For this project, we elected to use “emerging communication technologies” to capture both the dynamic nature of this space and the fluidity that exists between mobile phone devices, laptops, tablets, social networking services and other social media sites. The point, it seemed to us, was partly about how the Internet enables communication across distance and physical relationships, but also how it enables diffuse, viral communication from one platform to another, and from one individual to another.

⁹ For example, men in their early 20s pursue (and are pursued by) girls of 13 to 15 years of age (Lordan, Finklhor, Ybarra, Lenhart, & Boyd, 2007)

¹⁰ Urbas and Choo (2008) provide an excellent glossary of key terms (see pp. 79–88). A glossary of terminology and explanation of the technologies, services and sites identified throughout this report can be found in Appendix H.

Structure of the report

This report comprises eight chapters. The next chapter reviews the relevant literature across research and policy as well as the current legislative provisions. Chapter 3 describes the research design and methodology used for this project. Chapters 4, 5 and 6 reflect on the key themes and issues raised by participants. Specifically:

- Chapter 4 focuses on how informants in law enforcement, prosecutions, education and youth policy, and services saw the general effects of emerging communication technologies;
- Chapter 5 describes the trends and behaviours they were responding to in relation to emerging communication technologies and sexual violence; and
- Chapter 6 explores how sectors were responding to the behaviours outlined in Chapter 5, and what factors they thought helped or hindered them from doing so.

In Chapter 7 we bring together the key themes and issues discussed and consider their implications for the original research questions. Finally, in Chapter 8 we share some of the lessons learned in undertaking the research project.

2

Research design and methodology

This chapter describes the research approach we adopted for this project. Specifically, it addresses the:

- purpose of the research;
- research design;
- data collection (including ethical considerations);
- analytic approach; and
- evaluation design.

Purpose of the research

As previously stated, the two key questions of this research relate to how emerging communication technologies facilitate sexual violence against young people and what challenges this presents for the Victorian criminal justice system. The lens through which we asked these questions was a sexual violence one. In other words, the object under investigation was sexual violence and how it interfaced with emerging communication technologies among a particular cohort (young people). Therefore, the evidence base needed to focus on the nature and extent of sexual violence, its key determinants, and what we know about perpetrator tactics. This is quite different from considering the questions through a technology lens, in which technology is the object to be understood.

In order to inform relevant industry groups on current and prospective responses within often intersecting fields, this project brought together a diverse range of legal and non-legal actors practising within and across the policing, judicial, educational, service provision and academic sectors.

The overall purpose of this research was to support legal and other relevant actors in responding to, and ultimately preventing, technology-facilitated sexual violence. Specifically, the project aimed to:

- increase knowledge about the use of technologies in the facilitation of sexual violence against young people;
- identify the challenges that the use of technologies present to the legal system's ability to investigate and prosecute sexual violence; and
- identify possible strategies for addressing these challenges.

This an emerging and constantly changing area of research (Loader & Dutton, 2012; Lordan et al., 2007). Due to the shifting nature of communication through the Internet and various devices, there remains a lack of empirical research describing the various ways in which sexual violence interfaces with, and is facilitated by, such technology.

Research design

For this project, we used an inductive, qualitative research design to enrich current understandings about the role that social networking services and mobile phone technology

play in sexual violence perpetration. The planned sources for collecting data on this issue included:

- international literature on the use of social networking and mobile phone communication to perpetrate and promote violence, including legal scholarship on prosecuting these behaviours;
- case studies;
- stakeholder consultation, in the form of a roundtable discussion;
- interviews with young people about their experiences of sexual violence involving communication technologies; and
- interviews and focus groups with key informants.

Literature review

The areas of focus reflected the knowledge gaps within the research and policy literature concerning the use of technology in the facilitation of sexual violence. An initial literature review demonstrated that research relating to the use and experience of technology by young people is typically quantitative in nature, providing statistical descriptions of the frequency, location and narrowly defined experiences of young people.¹¹ Absent from these large-scale studies are detailed discussions of the meanings that technology-based practices hold for young people, or any specific focus on the nature of the harm caused by the sexual violence facilitated by emerging technologies. Many larger scale studies concern only specific behaviours, defined by legal or social classification, and omit a number of other developing practices and experiences.¹² In addition, little previous research has explicitly explored appropriate forms of redress in relation to technology-facilitated sexual violence.

Case studies

Thus, there exists a significant gap in the evidence base about how emerging communication technologies facilitate sexual violence. By the time research has been conducted and published, the dynamics of the technology has changed, meaning that what is documented is only ever partial and in retrospect (Finkelhor et al., 2000). To fill this knowledge gap in the national and international literature, a case study approach was used in this project to examine data on emerging technologies within the context of their use (Yin, 1984). The detailed qualitative accounts often produced in case studies not only help to explore or describe the data in real-life environments, but also help to explain the complexities of real-life situations that may not be captured through experimental or survey research (Zaidah, 2007). The collection of media case studies in this research was utilised to identify the myriad of behaviours and practices involving technology in the perpetration of sexual violence. Typically, these cases concerned reportable offences that were before the courts. Media reportage, opinion pieces and other available analyses were collected in relation to each case. In one case, researchers attended the sentencing of the offender.

Stakeholder consultations

Our research strategy involved establishing a reference group specifically for this project,¹³ comprising individuals from the research, youth, policy, criminal justice, and sexual assault service sectors.

11 For sound examples in the Australian context, see ACMA (2007, 2009). Internationally, see European Network and Information Security Agency (2011), Lenhart, Purcell, Smith, and Zickuhr (2010), and Crimes Against Children Research Centre (2007).

12 For instance, Zwart, Lindsay, Henderson, and Phillips (2011) provided a comprehensive analysis of the use of technology by young people in relation to legal risks; analysing resulting harms with reference to victimisation, as defined by law. Wyn, Cuervo, Woodman, and Stokes (2005) examined harm caused by use of technology in relation to social constructions, including disengagement, isolation and lack of access.

13 ACSSA already has a reference group comprising representatives from the sexual assault service sector, mental health, public policy, public health, Indigenous wellbeing, research and criminal justice.

In addition, a roundtable meeting of 23 stakeholders was held in the early stages of the project to assist us in identifying their information and research needs (see Appendix E). The participants in the roundtable were selected from a range of fields, including law enforcement, prosecutions, counsellor/advocates, academia, research and treatment. Roundtable participants were selected to provide a diverse and balanced range of experiences, professional roles and opinions. The purpose of the roundtable was to assist us in identifying the relevant information and research needs of stakeholder communities. We asked participants to consider the following:

- *Issues*: What sort of issues are you seeing in relation to the use of emerging communication technologies in sexual assault?
- *Action*: How are you responding to this?
- *Challenges*: What are the key gaps or challenges in preventing or responding to the use of emerging communication technologies in sexual assault?
- *Information needs*: What information would assist you in the work that you do?

This informed the development of an interview and focus group methodology aimed at garnering the insight of key informants working in the relevant sectors. Chapter 4 describes the substance of these discussions in detail.

Interviews with young people

Significant challenges arose for us in recruiting a key group—young people—and we made revisions to the methodology where appropriate. Asking younger people to speak directly about their experiences of sexual violence can be difficult.

In relation to interviews with young people about their experiences, recruitment started in May 2011—once we had received approval from the AIFS Human Research Ethics Committee—with an initial recruitment period of 6 months. This was extended until February 2012. Recruitment information was distributed through youth-oriented networks such as Youth Affairs Council, Victoria, the Inspire Foundation, Reach Out, YouthLaw, and Melbourne Sexual Health Clinic, in addition to the CASA networks.

This strategy received little response, and at the advice of the Reference Group, researchers established a roundtable for young people. The language used in the roundtable recruitment flyer was adapted to reflect this change in approach.¹⁴ This flyer was also distributed through all available networks. The response received was again minimal and it was decided that the small number of participants seeking to participate in the roundtable could not achieve the aim of providing insights into the experiences of young people with reference to technology-facilitated sexual violence. For this reason, and in light of the approaching conclusion to the project, the researchers decided not to proceed with this methodology.¹⁵

We subsequently looked to the transcripts of key informants for specific instances of where technology interfaced with sexual violence.

Focus groups

In relation to the data from key informants, we undertook qualitative analysis of the interview focus group transcripts as they became available. This enabled the researchers to refine the areas of inquiry as iterative and recurring themes emerged. These themes are described in Chapters 5, 6 and 7.

¹⁴ Specifically, the nature of the roundtable was considered to be different to that of the interviews, which sought to understand specific experiences of technology-facilitated sexual violence. The roundtable was conceived of as a space for young people to speak about any experience (negative or positive) with technology. The language in the roundtable recruitment flyer reflected this shift, removing references to victimisation or harm.

¹⁵ The difficulties encountered with this stage of recruitment are expanded upon in the final chapter of this report.

Data collection

Recruitment and sampling

The selection and recruitment of interview participants proceeded in a number of stages. Initially, a flyer seeking key informant participants was distributed through the networks of reference group members and ACSSA stakeholders (using mailing lists and ACSSA email alerts) (see Appendix C). A project-specific Facebook page¹⁶ and website¹⁷ were developed, which provided information about recruitment. Preliminary analysis of information garnered at the roundtable informed both the selection of relevant key informant interview participants and the development of the content of the interviews and focus groups. A purposive sampling strategy was employed to ensure that these participants reflected the range of experiences of and approaches to technology-facilitated sexual violence.¹⁸ The selection of specific focus group and interview participants also reflects an evolving method of data collection, whereby reference group members, roundtable participants and fellow interviewees recommended participants for the duration of the data collection phase of the project.¹⁹

Ethical considerations

This project was subject to two distinct ethics approval processes. In the first instance, the Australian Institute of Family Studies (AIFS) Human Research Ethics Committee considered the overall project methodology, including participant recruitment and participant materials, in accordance with the requirements of the National Health and Medical Research Council's (NHMRC; 2007) *National Statement on Ethical Conduct in Research Involving Humans*. Once the AIFS Human Research Ethics Committee granted approval for the project to proceed, we sought approval through the Victorian Department of Justice Human Ethics Research Committee, which covers all justice personnel (such as sworn Victoria Police officers and staff from the Office of Public Prosecutions). The external ethics approval was obtained in March 2012.

As part of the ethics approval process, and in accordance with the principle of promoting a safe and supportive environment for focus group and interview participants, the following steps were taken:

- *Participants' free and informed consent*: A plain language statement was made available to all potential participants and key informants. The statement explained the precise nature of the research, its purpose and what the research would be used for. The contact details of the project manager were included should anyone have had questions or concerns about the research. Participants and key informants were told that they could withdraw from the project at any time (up until the transcript de-identification and analysis process), stop the interview as needed, and refuse to answer any question. All participants and key informants signed a consent form, which repeated these points. The project was required to use an alternate consent form and plain language statement for key informants from Victoria Police, which contained some additional information as required by the Victoria Police Research Coordinating Committee (see Appendices A and B).
- *Participants' anonymity*: All participants' details were de-identified in the transcription, analysis, and writing up and dissemination of research results. As is standard practice, where extracts are quoted, a pseudonym has been assigned. De-identification involved the removal of information that could identify the individual participant, the specific unit or organisation in which they worked,²⁰ or third parties referenced in the course of the

16 See the project's Facebook page at <[tinyurl.com/ck5pzyc](https://www.facebook.com/ck5pzyc)>.

17 See the project's website at <www.aifs.gov.au/acssa/projects/current/legalfrontier>.

18 Berg (1995) stated that purposive sampling involves the use of specialised knowledge or expertise about a group or subject area to select participants reflective of the target population.

19 An evolving method of data collection is one in which a series of "phases" of data collection is performed, with each stage informing the one that follows.

20 As an additional measure prior to the commencement of the interview, participants were asked not to identify themselves or the area in which they worked, instead stating "this area" or "this institution" when discussing issues relating to their professional role.

interview or focus group. Any other personal information that could potentially identify the individuals involved (the participants and/or the offender, or any other person involved), such as locations, were removed or altered.

Scope and structure of interviews

At the conclusion of the recruitment period, in-depth, semi-structured interviews were conducted with key informants from the law enforcement, judicial, educational, service provision and policy sectors ($n = 17$). In addition, five focus groups with counsellor/advocates, prosecutors and educators were conducted, involving a total of 29 participants (ranging from four to nine participants in each focus group). The decision to conduct focus groups in some instances related to both the paucity of available time of a number of professionals and the revelatory nature of this particular method. Liamputtong and Ezzy (2005) stated that “the most visible strength of focus groups is their emphasis on interaction in the group to produce information. Participants compare and contrast experience and views” (p. 96). Given the nature of the work being discussed, the focus groups conducted in this research facilitated a sharing of insights among professionals working in the same field. A representation of the sectors in which each participant was employed is found in Table 1.

	Police	Judicial ^a	Counsellor/ advocate	Policy	Education	Academic	Total
Interview participants ^b	6	4	0	4	1	2	17
Focus group participants ^c	0	12	12	0	5	0	29
Totals	6	16	12	4	6	2	46

Notes: ^a The term “judicial” incorporates members of the Bench, the Office of Public Prosecutions and employees of Police Prosecution Units. ^b Seventeen individual interviews were conducted. ^c Five focus groups were conducted.

The interview discussions comprised both broad, context-related questions and more specific questions based on the information that emerged during the individual interview process (Bryman, 2004) (see Appendix D). All interviews and focus groups were audio-recorded by consent, and each interview was approximately one hour in duration. The decision to audio-record the interviews related to the semi-structured nature of the interview, in which narratives were allowed to develop and the participant was active in constructing the content and direction of the interview itself.²¹ Each interview and focus group was subsequently transcribed by a transcription service, undergoing a process of de-identification prior to analysis.

Analytic approach

The initial method of analysis involved coding qualitative data in terms of emergent categories and collating important and recurring themes within the most widely applicable categories (see Presser, 2005). Prior to the commencement of analysis, the researchers discussed a broad thematic framework, based on experiences during the conduct of the interviews and focus groups. The subsequent thematic analysis was conducted by two researchers and involved reading the transcripts and producing a map of emergent themes in spreadsheets. This approach effectively brought themes from across the transcripts together in a systematic and replicable way. Importantly, the determination of thematic categories remained reflexive throughout this process, adapting to emergent connections and sub-themes within the transcripts. In addition to the thematic analysis, the transcripts were read for clear and detailed narratives that would provide descriptions of experiences of young people and professional insights into responding

²¹ Semi-structured interviews create a narrative within a guided structure, whereby the researcher, as instigator and director of the interview (with any subjects), sets the agenda, even if it is one of apparently unstructured talk (Presser, 2005).

to technology-facilitated sexual violence. This secondary reading was viewed as essential in capturing the diversity of behaviours and experiences occurring in this space.

A note on reading the data

In the analysis that follows, all datasets described above are incorporated. While thematic data garnered from the interview and focus group participants form the structural basis of the analysis, case studies (both from the media and those that emerged in the interviews) are utilised to highlight specific experiences, behaviours and forms of legal redress.

In addition, information arising from the roundtables is summarised throughout to provide a broader context to many of the themes explored. Where these views are described, participants are described as “roundtable participants” in order to distinguish between the views expressed at the roundtable and those articulated by individual interview participants.

Evaluation design

Evaluation is an essential activity for all Legal Services Board grantees. Evaluating the effectiveness of research is difficult, particularly in the context of primary research that is geared towards discovery (“basic research”; see Creswell, 1994). Research uptake and changes to practice is a slow process affected by organisational, material and systemic barriers that are beyond the control of researchers or their research objectives (Nutley, Walter, & Davies, 2003). However, it is possible to assess the relevance and usability of the research. To this end, a further roundtable will be held subsequent to the release of this report. The purpose of this roundtable will be to gauge the accuracy and utility of this report for a range of professionals.

3

Literature review

This chapter provides a summary of the relevant evidence in relation to four key areas:

- the current legal context;
- young people's experiences of sexual violence;
- the nature of emerging communication technologies; and
- risks and victimisation experienced by young people through online and mobile phone technologies.

The current legal context

In Victoria, as in other Australian jurisdictions, there are a variety of legislative provisions that capture sexual offences in which emerging communication technologies or mobile phones are a feature. Responsibility for combating offences of this nature is shared between the Commonwealth, and the state and territory governments: the Commonwealth has responsibility for matters that cross state or national borders, and the states and territories usually have responsibility for domestic criminal matters that occur within the relevant state or territory borders. Appendix G provides a summary of the range of Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria.

Apart from the criminal law, there is also a regulatory framework governing Internet content. The Australian Communications and Media Authority has responsibility for regulating content on the Internet, and has in place mechanisms and schemes for dealing with unsuitable content. The primary regulatory mechanism is a co-regulatory scheme for online content,²² which provides for the development of codes of practice for Internet service providers and other providers of online and mobile content. ACMA is responsible for monitoring compliance with these codes, and a failure to adhere may amount to an offence under the *Broadcasting Services Act 1992*. Where ACMA considers content to be of a sufficiently serious nature, it may also refer that case to the relevant law enforcement agency.²³

The purpose of this chapter is to provide a summary of the legal contexts in which technology-facilitated sexual assault is currently being addressed. Like other Australian states and territories, Victoria does not explicitly regulate social networking usage per se.²⁴ However, the *Crimes Act 1958* (Vic.) equips authorities with the power to prosecute criminal activity in which social networking sites or mobile phones are the medium through which the crime is perpetrated, or where these technologies are otherwise a feature of the crime. The *Crimes Act* effectively sets out three categories of offence that can be used to prosecute criminal actions where the use of

²² Established under Schedule 5 and Schedule 7 to the *Broadcasting Services Act 1992*.

²³ Division 4, *Broadcasting Services Act 1992*.

²⁴ Except where a person is a registered sex offender, in which case they are required under s. 14 of the *Sex Offenders Registration Act 2004* to provide the details of their Internet service provider and any personal details or user names used for the purpose of instant messaging, chat rooms, or communicating via any other electronic communication service.

social networking services or mobile phones is a characteristic of some form of sexual violence against a young person:

- stalking offences;
- sexual offences (such as rape and indecent assault); and
- child pornography offences.

Stalking

With specific reference to emerging technologies, stalking legislation captures conduct ranging from contacting a person in any way, to publishing materials online or in any other form, to making threats or abusive statements. In effect, a “course of conduct”²⁵ can constitute stalking—in an online environment or otherwise—if it causes physical or mental harm to another person or causes a person to feel apprehensive or fearful about their personal safety, or the personal safety of another person.²⁶

For a young person, repetition of activities such as posting offensive or explicit comments on a social networking site, or sending threatening text messages or emails to another person could all constitute stalking. Examples of stalking behaviour could also include continuing to threaten or harass a person in an online environment after the commission of a crime or some other altercation or interaction that occurred in the offline environment.

Stalking offences attract a range of criminal penalties, ranging from incarceration to non-custodial sentences and monitoring bonds.

Sexual offences

Broadly encapsulated under the umbrella of sexual offences is any sexual activity to which a person has not consented or any sexual behaviour that makes a person feel uncomfortable, fearful or threatened. Sexual offences can include rape, incest, indecent assault, child sexual assault and sexual molestation.²⁷ The offence of sexual assault can also include conduct that compels another person to take part in sexual penetration.²⁸

While the physical elements of the range of sexual offences would occur in an offline environment, for young people, emerging communication technologies may be a element of a sexual offence in a number of ways. For example, an assault, or even a consensual sex act, may be filmed or photographed using a mobile phone and posted online or shared in another way. Offenders have also recorded themselves committing sexual assaults, and other sexual offences, in a number of recent cases.

Alternatively, social networking sites may be used in planning a premeditated assault or to threaten or groom a person before or after a rape has occurred. The law does not provide for different or increased penalties for sexual assault where emerging communication technologies are a feature of the crime; usually a period of incarceration, accompanied by mandatory registration as a sex offender, would apply.

Child pornography

Child pornography is any film, image, game or publication that depicts a person under the age of 18, or who appears to be under the age of 18, in any indecent or sexual activity or context. It is an offence for a person of any age to produce, print, reproduce, possess or procure child pornography, irrespective of whether the person in the film or image consented.²⁹ Indeed, a young person who engages in sexting can be charged with child pornography offences if the subject of the sexting is under 18 years.

²⁵ In order to establish a “course of conduct”, multiple distinct events over a period of time must be discernable.

²⁶ *Crimes Act 1958* (Vic.) s 21A.

²⁷ *Crimes Act 1958* (Vic.) ss 38–50 and ss 55–58.

²⁸ *Crimes Act 1958* (Vic.) s 38A.

²⁹ *Crimes Act 1958* (Vic.) ss 67A–70.

The consequences for a person who is convicted of a child pornography offence can be significant: most notably, they may be subject to mandatory registration as a sex offender.³⁰ Likewise, any individual who receives or possesses such an image, even if it was taken and sent consensually, may be charged with child pornography offences.

At a Commonwealth level, the *Criminal Code Act 1995* (Cth) also sets out offences in relation to child pornography and sexual violence. For the purpose of the *Criminal Code Act*, child pornography is defined in much the same way as the *Crimes Act*, albeit a little more explicitly.³¹ As with the Victorian legislation, any person who produces, possesses, procures or distributes child pornography material is guilty of an offence.

The distinction between these two pieces of legislation is that, for a number of offences relating to child pornography and child sex offences, the *Criminal Code Act* provides coverage if a part of the conduct of that offence involves an overseas jurisdiction.³² The *Criminal Code Act* also provides additional coverage in relation to criminal acts involving a carriage service by specifically setting out a range of offences dealing with procurement and distribution via a postal or communication service, electronic or otherwise. These offences range from general prohibitions on using a carriage service to commit, or attempt to commit, an offence against a law of the Commonwealth or a state or territory³³ to more specific offences relating to the use of a carriage service to access, possess, produce, distribute, supply, control or otherwise deal with child pornography material.³⁴ This legislation has been utilised in addressing the non-consensual filming of otherwise consensual sexual acts.

The proliferation of mobile phone and computer technologies and the significant growth in access to high-speed Internet services have also given rise to questions of corporate responsibility and user privacy, particularly in relation to social networking services. Social networking services have a number of common characteristics, which could be problematic from a privacy perspective: users upload personal information to a site to create a “profile” of themselves; the profile can be populated with photo or video content, which on some sites can be live-streamed; and the site has tools available to users to enable them to interact via chat, blog, diary or messaging functions (Connolly, 2009). The service provider of each social networking site determines the default privacy settings, and it is the responsibility of the individual user to adjust these within the available site parameters. In practice, it appears a significant minority of young people do not set their privacy settings to the highest level (Joint Select Committee on Cyber Safety, 2011, ss 5.21–5.22).

In Australia, the law has no coverage of many issues concerning privacy and social networking sites (Office of the Australian Information Commissioner, 2012). More generally, there is also no agreed position on whether a civil cause of action for breach of privacy exists at law (Sharpley, 2009). For a young person, this leaves limited legal remedies in the event their privacy is compromised online, except where an action also breaches the criminal law in one of the ways described above.

Emerging communication technologies are not only tools in the perpetration of sexual violence, but also have an evidentiary role in the prosecution or defence of a criminal case. In Victoria, the *Evidence Act 2008* (Vic.) facilitates the introduction of computer-based evidence.³⁵ Mobile phone and text message records are also increasingly tendered in evidence (Couts & Shelby, 2009). As noted previously, there are several instances where various forms of social networking communication and the capacity of devices to record footage have been used as evidence.

30 *Sex Offenders Registration Act 2004* (Vic.) s 6.

31 *Criminal Code Act 1995* (Cth) s 473.1.

32 *Criminal Code Act 1995* (Cth) ss 273.1–273.4.

33 *Criminal Code Act 1995* (Cth) ss 474.5, 474.14–474.15, 474.17.

34 *Criminal Code Act 1995* (Cth) ss 474.19–474.21.

35 *Evidence Act 2008* (Vic.) s 161.

Young people's experiences of sexual violence

Young people's experiences of sexual violence and unwanted sexual behaviours include:

- sexual harassment;
- sexualised bullying;
- unwanted kissing and sexual touching;
- sexual pressure and coercion; and
- sexual assault, including rape.

In the literature on young people and sexual assault, a range of terms are used, including sexual assault, sexual abuse and sexual coercion. "Sexual assault" encompasses a broad range of behaviours, including rape, indecent assault and forced sexual activity that does not involve sexual penetration. The ABS (2004) defines "sexual assault" as:

unwanted behaviour of a sexual nature directed towards a person which makes that person feel uncomfortable, distressed, frightened, threatened or harmed in circumstances where that person has not freely agreed, consented or is incapable of consenting to that behaviour. (p. 8)

Conversely, "sexual abuse" refers to any sexual activity between a child and an adult or older person (five or more years older) (Holzer & Bromfield, 2007). It conveys unequal power relationships between the victim and perpetrator because the perpetrator is older, in a position of power, trust or authority. Research with young people often uses "sexual coercion" to describe unwanted sexual behaviour in dating relationships (for example, Hird, 2000; Hird & Jackson, 2001; Jackson, Cram, & Seymour, 2000). "Sexual violence" or "sexual victimisation" may also be used to refer to a broad spectrum of behaviours from threats and unwanted sexual touching through to rape.

Young people experience high rates of child sexual abuse and sexual assault. The most findings from recent literature are summarised in Table 2.

Study	Defined behaviour	Age of respondents	Female	Male
Young People and Domestic Violence (National Crime Prevention, 2001)	Rape/sexual assault	12–20 years	14%	3%
Personal Safety Survey (ABS, 2006)	Sexual abuse before 15 years	18+ years	956,000	337,400
International Violence Against Women Survey 2002 (Mouzos & Makkai)	Sexual abuse before 16 years	18+ years	18%	N/A
National Survey of Adolescents (Hanson et al., 2003) (<i>n</i> = 4,023)	Child sexual assault	12–17 years	254	71
Prevalence Matters (Price-Robertson, Broomfield, & Vassallo, 2010)	Child sexual assault	18+ years	7–12%	4–8%

The sexual abuse of young people can be perpetrated by those in positions of authority, guardianship and care, and has been a central focus for many of those concerned about young people's safety. However, sexual assault also occurs between young people; for example, in dating contexts or peer-to-peer social contexts. Table 3 describes the relationships between perpetrators and victims.

Young people themselves rarely use the terms "sexual assault", "rape" or "sexual abuse" to describe unwanted sexual experiences and they can have difficulty naming an incident as sexual assault (Hird, 2000; Powell, 2007). This is for two reasons. Firstly, a relationship that is presumed to be based on trust and care can leave victim/survivors and those around them unable to recognise sexual assault by those within the relationship. Secondly, commonly held myths about sexual assault can mean that even where an incident would legally classify as sexual assault, it is not seen as such by victim/survivors. These myths include the beliefs that:

perpetrators of sexual assault are always strangers; sexual assault always involves the use of physical force or physical violence; a weapon would be involved; it occurs in dark, dangerous public places; or additional physical injuries are sustained.

Table 3: Relationship of the perpetrator to the young person						
	Parent	Other relative	Family friend	Acquaintance/ neighbour	Other known person	Stranger
Young People and Domestic Violence (National Crime Prevention, 2001)						
Perpetrator					(Boyfriend)	
Victim (female)					14%	
Personal Safety Survey (ABS, 2006)						
Perpetrator	(Father/step-father)	(Male)				
Victim (female)	16.5 %	35.1%	16.5%	15.4%	11.0%	8.6%
Victim (male)	5.0% ^a	16.4%	15.6%	16.2%	27.3%	18.3%
International Violence Against Women Survey 2004 (Mouzos & Makkai)						
Perpetrator		(Male)	(Friend/family friend)			
Victim (female)	2%	33% ^b	20% ^b	17% ^b	14% ^b	13% ^b
National Survey of Adolescents (Hanson et al., 2003)						
Perpetrator	(Father/step-father)			(Unrelated acquaintance)		
Victim (female and male)	4.3%	17.5%		52.8%		23.6%

Notes: ^a Statistic to be used with caution. Estimate has a relative standard error of 25% to 50%. ^b Percentages based on the 16% of respondents who said they had been sexually abused by a non-parent.

In adolescent dating relationships, ideals and stereotypes about romance, love and sex, and “traditional” gender-role expectations influence the occurrence of pressured or coerced sex. Expectations that young men will initiate sex and “prove” their sexual prowess, while young women are required to protect their sexual reputations, create a no-win situation—young women cannot positively communicate their sexual desires (according to the stereotype, this would make them “sluts”), and yet their refusal to engage in sexual interaction may be interpreted by young men as merely a hurdle to get over. This may take the form of thinking, “if I just try a little bit more, maybe I’ll get her into it” (Hird, 2000, p. 74). Such a double standard “primes adolescent dating relationships for coercion” (Hird & Jackson, 2001, p. 35).

Emerging communication technologies

Following the demise of the “dotcom” economy early in 2000–01, a new iteration of online communication emerged. Commonly referred to as Web 2.0, this was an Internet platform based on relationships, participation and connectivity, and is shaped as much by our offline selves as our online ones. In other words, the Web is fundamentally social in nature. O’Reilly and Battelle (2009), who had made the initial observation of the changed nature of the Web in 2005, reflected five years later that:

The Web is no longer a collection of static pages of HTML that describe something in the world. Increasingly, the Web is the world—everything and everyone in the world casts an “information shadow,” an aura of data which, when captured and processed intelligently, offers extraordinary opportunity and mind bending implications. (p. 2)

This is the contemporary landscape into which young people have been born. It is a landscape that, as many commentators have noted, affords both opportunity and risk (Livingstone & Brake, 2010). Indeed, the connection between the Internet and the facilitation of sexual victimisation of children and young people has been established for some time, with chat rooms, Web pages, email, and file transfer capability being used to send unwanted explicit material; make

contact with and groom children and young people; share images of child pornography; or share grooming and solicitation advice (Finkelhor et al., 2000; Forde & Patterson, 1998). The risks of being online for young people in the earlier years of the 2000s may have come from older, often unknown, users they may have met in chat rooms. The latter part of the decade, however, has seen a proliferation both in the ways in which Internet technology interfaces with such victimisation, and relatedly, the types of relationships that develop between victims and perpetrators. Contemporary cyberspace blurs the distinctions between online and offline sociality, particularly for the current generation of children and young people. Risk of sexual victimisation can come from friends, peers and classmates, friends of friends, “randoms”, and loose or latent social connections. Further, what was initially consensual sexual interaction can quickly become non-consensual by virtue of the technology itself, and can be the cause of significant harm.

Arguably the rise of social media, and particularly social networking sites, has brought a new dimension to the issue of how the Internet facilitates sexual victimisation. Social media encompass sites that emphasise user-generated content, are user-driven, and enable individuals to share and communicate information in interactive ways. Social media include virtual games (e.g., World of Warcraft) and worlds (e.g., Second Life), blogs and microblogs (e.g., Twitter), content sharing (e.g., YouTube), and social networking services (e.g., Facebook). Kietzmann, Hermkens, McCarthy, and Silvestre (2011) suggested that social media are characterised by the following key “building blocks”:

- identity;
- conversations;
- sharing;
- presence;
- relationships
- reputation; and
- groups.

As a whole or in combination, these elements shape who uses what kind of social media and for what purpose, with social networking services like Facebook, Bebo, Friendster and MySpace focusing on people’s existing social connections and connectedness, rather than facilitating meeting new people (as with chat rooms, for example). In addition to the increased interactivity of online communication is the range of devices that offer continuous and mobile connection to the Internet (e.g., smartphones and tablets).

Online risks experienced by young people

Unwanted sexual interactions

There is currently only limited empirical research documenting the prevalence of sexual assaults that involve the use of mobile phone or communication technologies. This section draws together the available international literature to provide an overview of the use of technology in sexual offending. However, some of these studies examine behaviour that is not necessarily criminal in nature, such as unwanted sexual solicitation or sexual comments. Further, it is not clear whether the rates of these experiences documented in the international literature are generalisable to an Australia setting. Choo (2009) noted that “it is difficult to determine with accuracy the actual extent to which children are targeted online for sexual purposes” (p. 20), and with this in mind the following statistics should be treated with caution.

Of the research that has examined young people’s use of online communication technologies and their experiences of sexual victimisation, the following findings are notable. The US Growing Up With Media Survey of 10–15 year olds ($n = 1,588$) (Ybarra & Mitchell, 2008) found that almost 15% of the sample reported being the target of unwanted sexual solicitation. Although Internet chat rooms were not frequently used by these participants, chat rooms were one of the most commonly cited areas where interpersonal victimisation occurred. A smaller number (4%) of participants experienced unwanted sexual solicitation on a social networking site. These participants were more likely to be female than those solicited in other ways.

The third iteration of the US Youth Internet Safety Survey (YISS), conducted in 2010, found that unwanted sexual solicitation had declined to 9%, compared to 19% in 2000 and 13% in 2005 (Jones, Mitchell, & Fiinkelhor, 2012). However, aggressive solicitation—which refers to instances where “offline contact was attempted or made” (Jones et al., 2012, p. 182)—remained stable across the three surveys, with 3% of participants experiencing aggressive solicitation in the 2010 survey. The UK Children Go Online Survey of 9–19 year olds found that 31% had received sexual comments online and 28% had received unsolicited sexual material. Eight per cent had gone to a meeting with someone first met online (Livingstone & Bober, 2005, cited in Livingstone & Brake, 2010). However, it is not clear whether these meetings were problematic or resulted in any form of sexual offending occurring.

In a European survey on the perspectives of 11–16 year olds ($n = 25,142$) about risks and safety on the Internet, 15% of respondents said that they had seen or received sexual messages on the Internet in the 12 months prior to the survey (Livingstone, Haddon, Görzig, & Ólafsson, 2011). However, the authors of that report noted that “most sexual messaging is relatively mild, with few occurrences involving ... incitement to sexual activity” (Livingstone et al., 2011, p. 76), and that only 25% of the respondents who received sexual messages reported being “bothered” by it (Livingstone et al., 2011, p. 79).

Young people, pornography and the sexualisation of culture

When this project was conceived we had not considered pornography³⁶ as a significant factor in understanding how young people navigate the world of social networking and mobile phone technologies as it relates to sexual violence. Yet as we began to talk to practitioners, educators, advocates and counsellors, it became clear that they almost all see pornography as an important factor in how many young people engage with their early sexuality and that it can be an influential lens through which young people develop their understanding of the sexual landscape and their own expectations within that space. Our purpose in this section is to broadly consider how young people might be engaging with pornography and how this intersects with young people’s experiences of technology and sexual violence.

Given the proliferation of technology and the ease of access, we can assume that by adulthood most people have been exposed—deliberately or not—to some type of pornographic imagery.³⁷ The first exposure to pornography often occurs before adulthood, but it is difficult to ascertain from current research how much exposure occurs before the teenage years. According to Flood (2007), research conducted in Australia and overseas suggests that by the time young people reach their mid- to late teenage years, a significant majority have been accidentally exposed to pornography, and between a fifth and a third of young people (mostly boys) deliberately access pornography at least occasionally.³⁸

Flood (2007) has also suggested that young people’s pornography use follows a gendered pattern: young men and boys are much more likely than young women and girls to be *perceived* to be using pornography, as well as being much more likely to *actually* use pornography.³⁹ Young women do deliberately access pornography; however, they typically report doing so only once—either because they were curious or because a boyfriend wanted them to watch

36 For the purpose of this research we have defined “pornography” in accordance with the common use of the word; that is, explicit representations of the human body or sexual activity in photography, video or other imagery, which is intended to excite sexual arousal.

37 In Australia, it is estimated that 80% of 15–17 year olds have had multiple exposure to hard core pornography (Choo, 2009). In the US, the 2010 YISS found that 34% of participants experienced unwanted exposure to pornography, and this had increased from 25% in the 2005 survey.

38 Refer to Flood (2007, pp. 50–55) for a detailed overview of the research on young people’s exposure to pornography.

39 Around 85% of both young men and women perceived that use of sexually explicit materials (videos and Internet pornography) was common among young men, but when asked to estimate young women’s use of pornography, only around 15% of young men and 4% of young women believed usage to be widespread. This pattern is mirrored when young people are asked about actual use of pornography—around a third of young men, but no young women, reported regularly watching X-rated videos, and around a fifth of young men, and again no young women, reported regularly accessing other Internet pornography.

it—and then usually do not access it again.⁴⁰ According to Flood and Hamilton (2003), young men follow a different pattern of introduction and usage and are typically encouraged to view pornography by their male friends, and are likely to view more types of images and on repeated occasions.

It is easy to simply draw a self-evident conclusion that learning about sex through this prism is harmful, but the picture may be a more complex one. We know from a wealth of research that adolescence is a time of sexual development and sexual exploration, and that many young people are keen to learn about, and experience, sex. Yet research suggests that many young people find the usual sexual education offerings insufficient and are not well equipped to navigate this stage of their development themselves (Carmody, 2009).

During adolescence, young people are also vulnerable to a range of pressures, and the importance of being accepted by their peers and of constructing the “appropriate” identity cannot be understated. In the context of the complex picture seen above, this is particularly relevant when it comes to sexual identity. Carmody (2009) found that young men conform to the accepted heterosexual identity by establishing and advertising their sexual prowess, which is typically measured by how often, what, and with whom they “score”. Young women’s narratives are a little more conflicted in that they experience a pressure to “please the boys”, but are simultaneously condemned as “sluts” if and when they do conform.

It is from this complex social script that young people’s second type of interaction with pornography arises. We have seen above that young people are often both passive and active consumers of pornographic imagery and identity. But technology has given them the tools to also become producers of pornography by enabling them to easily take, store and share still or video images of their own, or their peers’, naked bodies or sexual acts.

It is beyond the scope of this research to consider and recommend strategies for addressing issues that may arise from young people’s access to pornography. However, it does appear that technology has changed the traditional model of understanding pornography. It seems that some young people are active consumers of pornography and this has some influence on the way in which they navigate their sexual development and interpersonal relationships. It also seems that for some young people, engaging in sexting is the mechanism through which the “pornified” culture is most evident. However, there is not a sufficient body of research to enable us to draw any comprehensive conclusions.

⁴⁰ Around 11% of young women reported watching an X-rated video, but none did so more often than every few months, and only 2% of young women said they deliberately accessed Internet pornography. Again, all of these young women only did so very occasionally.

4

The social context of emerging communication technologies

This research project sought to investigate the use of social networking sites and mobile phone technologies in facilitating sexual assault. Before discussing the ways in which this may occur, it is useful to consider the broader changes in technology, and social and cultural norms⁴¹ (particularly those relating to sexual interaction) that set the broader social backdrop and context within which this behaviour takes place. Indeed, our participants saw these broader technological and social changes as a key factor driving the use of technology to facilitate unwanted sexual experiences. For some, the situation is akin to a “Lord of the Flies”⁴² scenario in which the shifting boundaries between online and offline, and public and private, together with the sheer accessibility of sexualised content, are rewriting the rules of interaction, sexual exploration and adolescent development.

This chapter outlines the changing nature and use of technology and online spaces. In particular, it describes how both interview and roundtable participants saw this as affecting social and cultural norms. It should be noted here that a range of other broader social and cultural factors were seen to be influencing the use of technologies in sexual assault, including broader norms around gender roles and sexuality, the influence of popular culture and media, and the role of family relations. However, this report will only consider the key issues of technology and sexual interaction. From our analysis, these key issues include accessibility, online/offline social spheres, the permanence of material, and the role of pornography in the sexual(ised) culture of young people.

Accessibility of technology

As noted in earlier sections, the past few decades have witnessed rapid changes in the availability and use of technological devices. This technological advancement has fundamentally shifted both the capacity of these devices and our ways of connecting with one another. The capacity of devices such as mobile phones allows us to contact each other at almost any time or place, shifting and blurring the distinctions between work/school and home, with many people now easily contacted outside of the traditional working hours of “9 to 5”. Interview participants highlighted how this change in accessibility has altered how and when we communicate with each other. This was also seen to have dramatically shifted from one generation to the next:

It’s a continuation, so it will be either school continuation of bullying, continuation of sending pics of yourself. It’s this constant 24-hour on. You know, whether you go out and something’s said, you come home, you’re on Facebook and you’re talking further about it. You know it’s just constantly on. Whereas in my time, you came home and you switched off. (Legal Group 5)⁴³

41 Social norms “are the general, often implicit, social rules that guide how we behave in any given social situation” (Clark & Quadara, 2010, p. 30)

42 This literary reference is utilised to characterise cyberspace as a “normless” space in which young people are creating their own order and social rules.

43 The pseudonyms utilised throughout this paper reference the area of work of the individual. Where “group” is denoted, this refers to a focus group.

So the difference between the world, even for my 25-year old and my 16-year old, is it's quite different to how things were. We didn't have the access to massive capacity on the Internet when the 25-year old was 16. Now, for virtually nothing, you can watch anything on YouTube any time you like. (Legal 2)

Mobile devices and other information and communication technologies now have the capacity to record photographic and video images, to record sound, to send text and picture messages, and to connect to the Internet and access social networking sites, chat rooms, instant messaging and web cam chats, and so forth. Such devices are relatively cheap and easily accessible, making us constantly accessible on numerous devices.

Access to pornography

It was apparent in interview participants' narratives that technological advancements and the development of online spaces have facilitated gaining access to a broad range of materials, with young people (particularly young men) now having almost unfettered access to pornography. Participants discussed changes in the way that pornography can be accessed, who it can be accessed by, the types of pornography that can be accessed, and the amount of pornography that can be accessed. This was seen as having a direct effect on young men's attitudes towards women and towards sex, particularly in terms of what constitutes "normal" sexual activity:

That a 15-year-old boy is sitting in his bedroom perusing a full range ... I would have thought it has some impact on that young person's attitude to women and to what is expected and what is appropriate and what is normal. (Academic 1)

I think it's coming down to the access to pornography, personally. Again it's a personal opinion. I think all you've got to do is go online and type in "porn", and you've got access to millions of images. It's so easy to get. Child pornography is easy to get; adult pornography is easy to get. (Law Enforcement 3)

Several interview participants reflected on how access to, and usage of, pornography had shifted significantly within their lifetime:

As I half-joked, when I was young, you had to go and really hunt for it. It was hard work. You couldn't get access to it. More to the point, you knew it was "adult", you knew it was a thing for adults. (Academic 1)

Roundtable participants wanted to acknowledge that technology and social media could have a positive role for young people in relation to both their sexual development and also in dealing with offending behaviour. In respect of the former, access to online spaces and pornographic imagery may offer young people an anonymous or less intimidating means of exploring their own sexuality, particularly young people with non-normative sexual identities.

Online/offline social spheres

Increased access to pornography is, in part, indicative of broader cultural shifts reflecting ever-involving technology. Accessibility of information of any kind in the digital age has shaped the way in which both young people and adults learn and communicate. In this section we explore how technology has affected, and continues to affect, the *social* aspects of young people's lives.

Roundtable participants identified a number of important issues for understanding the role of technology in sexual violence. First, the group felt it was important to acknowledge the environment in which young people operate; that is, the proliferation of technology, and focus on connectivity and sharing, and the importance of this in young people's day-to-day lives. Roundtable participants were also mindful of the technology knowledge gap between many parents and young people, and the expanding nature of this gap; there is a risk that parents who are uncomfortable engaging with young people about their online behaviours miss an important opportunity to offer a countering ethical voice. There is also a risk that violence with a technology element—for example, violent incidents that occur online rather than offline—will not be considered to be as problematic or harmful as "real", offline violence.

According to interview participants, this technological revolution has had significant effects on how we interact with each other, and our rules of social interaction. It has created new ways to interact and communicate, and it has created a new type of virtual (online) space with its own social norms and rules.

Here, we wish to highlight the ways in which the norms of online space overlap and interact with and influence the social norms and rules of social interaction of “real”/traditional social spaces. That is, these spaces do not operate in complete isolation from one another:

People have likened youth culture on the Internet as like *Lord of the Flies* ... which is an interesting way of looking at it. (Academic 2)

But with kids it makes it a lot more difficult because they don't understand that there is a, there is no difference from online/offline world. It's all, it is one world. It's all combined. No matter what you do there is some form of consequence. (Law Enforcement 2)

In particular, online spaces have come to play a particularly significant role in the lives of young adults. They are a fundamental part of their social lives and social self, and an important tool and space for the formation of an adult identity. The following quotes highlight the centrality of technology in young people's social interactions:

I think the, I don't know, maybe young people, particularly because they live and breathe technology and they live through technology, that it's so hard to escape technology. The idea of leaving your mobile phone at home let alone having somebody take it off you or the Internet being down so you can't actually get on MSN and chat or you can't get on Facebook let alone actually personally making active decisions about who I will and won't block on Facebook or who I may or may not want to interact with. My experience is that they tend to have all of that open all the time and it's open for open slather. (Counsellor/Advocate Group 2)

The thing about Facebook is you cannot afford to be out of the loop for one night. You need to be in there. You need to know what's being said, what people are doing. Because when you come to school the next morning, you could be out of the loop ... No-one's prepared to risk that. So the whole being in Facebook is a social currency. (Academic 2)

Thus, not only are technology and social networking sites a vital part of young people's social lives, those without access to these resources may find themselves excluded or socially shunned. Engagement with technology in this respect becomes an imperative rather than a choice.

Participants also suggested that the relative anonymity provided by the Internet produces a space where young people can play with their desired identity. This was seen as being particularly beneficial for young people with “non-traditional” identities, such as gender- or sexuality-questioning youth:

I think it's actually an opportunity to try out different things, especially as an adolescent. That one day I can be a 50-year-old queen from New York, and the next day I can be the 13-year-old girl that I am. That I can try out different personalities and think, what would it be like to be like ...? What would it be like to be a black person? To get inside somebody's skin. (Policy 1)

So the online space is one space where they can actually perhaps go and explore and feel comfortable to explore their sexuality or explore the feelings that they're having that they can't talk about with potentially their friends, family, or anyone at their school. (Educator Group 2)

However, the relative anonymity of the Internet was also seen as facilitating harmful and abusive behaviour in which the perpetrators would perhaps not otherwise engage in “real life”:

People behave quite differently, but the whole tone seems to be snide and critical in a way that I don't think they do face-to-face. (Academic 1)

The instantaneous nature of this form of communication, coupled with its physical distance, was seen by respondents as facilitating bullying and abusive behaviour, as there was less time

to reflect on the consequences of one's behaviour compared to more traditional forms of communication:

As somebody once said, if it's important, sleep on it. If it's really important, sleep on it twice. I think it goes even onto the third time. I think this technology is taking away the opportunity for kids to think about what they're saying. (Legal 2)

I think the technology helps in that there's that distance between yourself and the person that you're talking to, so you feel more ... confident, provocative. Whereas if it was: I'm meeting this person and I have to do these sorts of things in front of them, there may be some more hesitation (Legal Group 5)

While these descriptors represent the understanding of a number of professionals working in the area, it is unclear from our research whether or not young people would articulate the same understanding or reflection.

Generational gap

Indeed, participants noted a disjuncture between young people's use and understanding of technology and online space, and that of their parents and older generations. There appears to be a significant generational gap, and this is problematic in terms of being able to relate to and understand younger people's experience of emerging communication technologies. It also means that the discussion of our (adult) interview participants around the significance of technology for young people should be treated with caution; by their own admission they do not share the same understandings of these technologies and spaces as many young people. The fast-paced evolution of technological devices means that, particularly for older generations, it is incredibly difficult to "keep up" with technology, especially in comparison to their younger "digital native" counterparts. As the following participant observed:

The fact that kids are so far ahead in being able to use it, and sort of parents and adults tend to find them sort of being left behind and not being able to sort of follow or understand, I think that can make it difficult. (Legal 1)

One participant suggested that this gap meant that young people were left to their own devices:

There's another factor, I think, in that the technology is outpacing the parents' ability to understand it ... and it requires time and practice that they don't have available. So they're basically leaving kids to do their own thing. They're not really interested, and I think there's a certain element of: "I don't want to let my child know that I don't really know what they're doing about that". (Policy 3)

Online spaces are rapidly evolving, and it was seen as difficult to keep up with what young people were currently using, or to remain technologically relevant:

I suppose probably MySpace was before that, and that was a fair while ago now. It still held on for a little while until Facebook took over. Now you're seeing Twitter and Bebo, some of these other sites. You go and do talks to school kids. They always put up their hands and throw out new websites and you've never even heard of them. But it's just constant evolution. I'm amazed Facebook's stayed where it is for so long. (Law Enforcement 3)

Permanence of material

Interview participants observed that our online interactions are often permanently recorded, and it is often suggested in research and commentary that once something is "out there" on the web it is very difficult to remove. Consequently, changes in technology have altered our concepts of time, not only in terms of when we are available, but also in terms of creating ongoing ramifications for our behaviour in a way that would not have previously been possible:

Trouble is, once that stuff's out there, it's very hard to get it back; particularly if you've put it on Facebook and things like that. The trouble is people don't realise that one of the conditions of going onto Facebook is that everything that does get lodged on

Facebook belongs to Facebook and it doesn't stop other people downloading images and then storing them. So they're out there forever. (Law Enforcement 6)

The mistaken acts of our youth at the moment may well place their future employment at risk, because ... part of your recruit process in the future will probably be the provision of an image that would then be searched by a recruiting company, being paid for by your potential employer. Then that would come down to issues in the future and probably of things like relationships, where we're going to see relationships endangered by past Internet footprint. You'll have a boy or a girl doing a search on their partner and finding out information or things that they hadn't been aware of and the potential there. (Law Enforcement 1)

This suggests that the exploratory behaviour of young people may have long-term implications for them in ways that were previously not possible, by virtue of these technological advances allowing us to easily record and share these behaviours. While some participants argued that this would have a negative effect on young people's future employment, educational and relationship opportunities, others contested this, suggesting that our norms of acceptable behaviour would shift to accommodate the widespread recording of young people's misdeeds:

But I actually think, with the information age, our standards of what's acceptable are going to have to change, whether we like it or not. (Policy 1)

Pornography and the sexual(ised) culture of young people

Roundtable participants were conscious of the influence of pornography on how young people behave and engage with mobile phone and social networking technologies. The group had two perspectives on this: first, the do-it-yourself (DIY) nature of producing and distributing pornographic images and, second, the influence pornography has on young people's sexual development and their expectations of their own sexual experiences or performance. The DIY capacities afforded by the technology also manifest in relation to offending behaviour more generally. For example, many young people have smartphones, and filming sexual incidents, criminal or not, is common.

This complexity was echoed by interview participants, who discussed sexting as a multi-faceted issue. Firstly, these participants suggested that sexting is a relatively normalised and strongly gendered practice. This normalisation could, in part, be attributed to an increased exposure to pornography. Specifically, changes in pornography consumption and the intersections between pornography consumption and the nature of online space, were seen by the people we spoke with as altering the sexual culture and activity of young people:

Then I think it goes to lots of lots of flattery, and it moves extremely quickly. And I don't want to get into any of the grooming things, but what I'm noticing is that it just happens so quickly; the conversation from becoming someone's friend on Facebook. You could be having quite an intimate sexual discussion on MSN [Microsoft Network] within the space of half an hour. (Legal Group 5)

In particular, the practice of sexting and sharing nude images was seen as becoming normalised and expected because of pornography:

I mean, only to the extent, I guess, that the abundance of Internet pornography legitimises the sexting practice. Because it's like, well, it's okay to have a pair of breasts in your pocket kind of thing. Whereas, I guess, when maybe I was growing up, a boy might have a couple of magazines under his bed, and that was hidden and that was not really shown to anyone. (Policy 2)

Importantly, many participants identified that this normalisation occurs in a clearly gendered way. Many participants identified the highly gendered and unequal nature of these pictorial interactions. For instance, one participant described the practice as a way for young women to manage the sexual expectations of young men:

It's kind of like that—sending a text and sending a sext is actually a way of doing that. In my day, it might have been, I suppose just a kiss or something, or a bit of groping. But these days it's like if you send a guy a shot of your breasts, that actually will keep him happy for a few months so he won't be pushing you for sex. (Policy 1)

Young women in particular were seen as facing significant pressure to engage in sexualised activity online or via mobile phone technology, and potentially faced negative consequences for both refusing to take part or taking part in such behaviour:

The sexting issue is what I'm getting at—not getting at, we should be talking about, is the use of social networking, mobile phone technology to send sexual images of boys and girls. But I think generally girls get persuaded to do this a bit more commonly. (Academic 1)

People are actually giving young women the advice of saying, if your boyfriend asks for a picture of your breasts, that's fine, just make sure you get a copy of his willy as well so that you can use it for blackmail ... If a guy gets his penis forwarded over the Internet, he's just going to go, "Yeah, isn't it huge", you know, in a lot of cases. But a woman is going to be humiliated. (Policy 1)

Secondly, some participants saw sexting as being a "safe" way to sexually interact, and as a part of normal teenage sexual exploration that has just adopted to a new medium:

I think it's just, to a certain extent, they are using the medium of technology to explore their sexuality in an environment that they see as potentially safer and more private. I'm not saying it is, but their belief that it would be more private, that they won't have to—kids at their school won't find out that they're doing this, because they don't have to tell them or their parents. (Law Enforcement 1)

I think that young adults—young females in particular—have the sense of empowerment. I'm holding the balance of power now because I'm the one who can produce images and decide who I give them to. (Educator 1)

Finally, the medium of sexting itself was seen by participants to encourage behaviour that would otherwise not occur. Specifically, while sexting and sexual online exchanges were seen by participants as relatively normal sexual interactions, the online space was also seen as inviting novel sexual behaviour. The intersection of access to pornography and the nature of the online environment were discussed by participants as altering sexual practices in a number of ways. For example, sexual negotiation was seen to be increasingly taking place online:

But we've seen too that people are telling us that they're seeing people are chatting: "No, I won't have intercourse with you, but I'd be prepared to have oral sex". Kind of confirming, negotiating the value from what that engagement would be. (Counsellor/Advocate Group 1)

Additionally, certain sexual acts were becoming normalised:

Acts such as oral sex is becoming normalised and it's not a big issue any more. It's just, as one young adult explained to me, it's just like kissing someone. So it's been normalised to that level where it's not a sexual act any more. (Educator 1)

This normalisation created expectations that were seen by participants to place pressure on young women in particular:

Those that don't do it are sort of stigmatised. If you don't flash your tits out for your boyfriend on the mobile phone and send him a photo of it, you're going to get dumped. (Law Enforcement 4)

These comments suggest that young women may face something of a double-edged sword in choosing to engage or not engage in sexting. That is, they appeared to (potentially) face negative consequences for sending sexts (being humiliated), but may also face negative consequences for refusing to send naked images (getting "dumped").

A number of participants also commented that the type of sexual behaviour that young people engage in may change across different age brackets:

So people that work with the kids themselves, that it was getting quite young and by the time they were 14, it was old hat. Move on to something else. But that's probably also because of the precursor thing. That by the time they're 16, they're doing it in real life, so they're less fussed about having pictures. (Policy 1)

[This] seems to evolve around a tendency of young people to take—particular age group seems to be about 12 to 15 at the outside, but it's mostly the 13-, 14-year-old age group—where there's a tendency to take intimate photographs of themselves and share them with people that very quickly don't become people you'd want to share it with. (Policy 3)

This section has outlined the ways in which both interview and roundtable participants saw changes in technology as influencing broader cultural changes and changes in the sexual culture of young people. In particular, there were seen to be rapid changes in the capacity, use and access of technological devices. These technological developments have enabled changes in the nature and extent of our interpersonal communication, and have been readily adopted by young people. Specifically, the nature of online interaction and emerging technologies was seen to create a sense of anonymity and distance, coupled with constant accessibility.

Further, ready access to pornography was seen to be influencing shifts in the way young people interact sexually, particularly in relation to activities such as sexting. The effect of technology in shaping sexual norms of young people was clear to participants. Importantly, these norms were understood as being highly gendered, creating different expectations and responsibilities for young men and young women. In the following chapter we explore further the behaviours afforded by emerging communication technologies in relation to sexual violence.

5

The interface between emerging communication technologies and sexual violence

This section identifies the behaviours of perpetrators and experiences of victim/survivors, in circumstances where technology has been used to facilitate, perpetrate and continue sexual violence, as articulated by our participants. We map these experiences and behaviours on a temporal continuum, identifying how technologies are used before, during and after acts of sexual violence. To this end, we utilise a number of case studies to illustrate the unique role technology plays in these offences, and discuss the myriad of ways in which the concept of “harm” is redefined by the use of technology.

This section begins with a brief discussion of a key debate surrounding the use of technology in the perpetration of sexual violence, namely, “Does the emergence of new technologies merely facilitate traditional perpetration behaviour and experiences of victimisation, or does it provide space for the creation of new types of offences?” This discussion provides structure to the subsequent thematic description of three categories of behaviour, distinguished by their occurrence in relation to acts of sexual violence:

- the exploitation of features of emerging technology (including increased speed, higher levels of access and the inherently social nature of technology) to locate, contact and “groom” young people for sexual violence victimisation;
- the use of technology to record and disseminate acts of consensual and non-consensual sexual activity as a specific form of harm; and
- the unique role of emerging technologies in enhancing post-assault harassment, intimidation and control, and the compounding nature of harm in light of the continued threat of dissemination.

The analysis offered here provides a description of the varied experiences of young people from the perspective of those working in the field of technology-facilitated sexual violence. The aim is to highlight the complex nature of perpetration using emerging technologies and the specific effects of victimisation related to this use.

Perpetration and emerging technologies: Old wine in new bottles?

A key concern for researchers at the outset of this study was whether current legislative responses to technology-facilitated sexual violence are adequate. This question requires both an understanding of the methods and forms of perpetration facilitated by emerging technologies, and an assessment of whether these methods are covered by existing legislation. At a conceptual level, the question put to participants in this study was whether technology had altered the behaviour of perpetrators and/or the experiences of victims. The general consensus of participants was that the use of technology enhances certain aspects of perpetration. This enhancement was described as an act of “facilitation”:

Behaviour has not changed with children, it’s just it’s facilitated by online technology.
(Educator 1)

As the above statement indicates, particularly in the area of adult-to-child perpetration, emerging technologies provide a modern vehicle for traditional victimisation (i.e., perpetrators establishing

relationships with their victim). Additionally, in the context of peer-to-peer perpetration, acts of coercion and harassment were viewed as being enhanced through the use of technology.

With reference to identifiable differences in perpetration, many interview participants characterised emerging technologies as representing a clear change in the context or “environment” of perpetration:

When you’re looking at online predators, we’re not looking at people potentially hanging around primary schools and preschools now. We’re looking at people hanging around Internet forums and chat lines and communicating names and email addresses of young people between each other as collateral. (Law Enforcement 1)

The alteration in the context of perpetration was viewed by participants as presenting problems in relation to the regulation of space by parents; the ability to supervise young people; and young people’s understandings of offending behaviour. From the perspective of victimisation, the use of technology was seen to complicate the nature of sexual violence. The concern articulated by one participant was echoed throughout this research:

I think a lot of young people as well don’t really understand what sex offending is. Like they probably think of rape—they’ve seen rape on TV as being really brutal; you’re kidnapped off the street. They probably don’t understand that there are lots of different forms of sexual offending. (Legal Group 5)

This statement gestures to a wider concern that the harm experienced through technology-facilitated sexual violence is under-recognised, either by the victim or at a broader social level. In light of both of these findings, this section provides an analysis of a myriad of behaviours to consider (a) whether the use of technology in the facilitation of sexual violence has created “new” offences; and (b) the nature of the harm experienced by victims of these behaviours.

Before: Facilitating sexual violence

In the online sense ... any communication may be used to prepare the way for all of those things that lead to a rape, or other forms of sexual violence. (Academic 1)

The use of technology in the facilitation of sexual violence was a re-occurring theme throughout the interviews and focus groups. “Facilitation”, in this sense, was variously characterised by participants as the provision of increased access to potential victims, hastening the relationship-building phase prior to perpetration, and affording opportunities to coerce and threaten victims. Thus, “facilitation” was understood by participants as referring to the expansion of opportunities to perpetrate sexual violence.

Participants in this study identified a multitude of behaviours that could be categorised as facilitating sexual violence. In the section that follows we outline key aspects of perpetration specifically afforded by the use of technology. With reference to the current legislative framework, we outline aspects of adult-to-child “grooming” behaviours enhanced by the use of technology, followed by contributory factors in instances of peer-to-peer grooming behaviours. Finally, we discuss one particular form of behaviour that appears to cut across both age and context, namely the use of technology to coerce, threaten and blackmail victims.

Facilitating perpetration: Adult-to-child grooming

Much previous research has been dedicated to the increasing use of technology to initiate and continue the grooming of young people (Wolak, Finkelhor, Mitchell, & Ybarra, 2008, McGrath & Casey, 2002). Indeed, the initiation of contact by adults is perhaps the most researched and easily identifiable category of technology-facilitated sexual offending against young people.⁴⁴

⁴⁴ As Bradford (2006) stated, “the internet has become the recent focus of deviant sexual behaviour with the increase in the number of individuals charged with the possession of child pornography, as well as the Internet being used by paedophiles to ‘lure’ child victims” (p. 258). For an overview of contemporary research on the (mis)use of technology by adults to sexually offend against young people, see Choo (2009) and Gillespe (2008).

Participants in this research identified many aspects of grooming that were enhanced or created through the use of new technology. Key aspects include:

- the increased speed and progression of the offender's grooming process, facilitated in particular by the Internet as an "unpoliced" space and the (often false) sense of anonymity and detachment of victims created by the use of technology;
- an increase in access available to offenders through the exploitation of friendship networks, in addition to the ability to target particular cohorts of potential victims;
- the ability for offenders to manipulate the intangible nature of cyberspace by creating fraudulent profiles and websites to provide a false sense of security or connection among victims; and
- the ability for offenders to easily locate specific victims using both information freely posted or functions such as geo-tagging in uploaded photographs.

The increased speed of interaction forms an aspect of both establishing contact with victims and facilitating fast communication in real-time conversations. As articulated by the participant below, establishing relationships with potential victims is often facilitated through a combination of speed of communication and a two-way sense of anonymity that serves to inhibit traditional social barriers present in physical interaction:

Older ways of grooming of kids, you had to actually meet them and buy them ice-cream and do whatever—take them down the shops and buy them things. But this method is not like that. It's a lot quicker for them to groom the children up to a level, and you probably don't need to spend a lot of time making a relationship, and so on. I think they feel that they're anonymous and he feels that he's anonymous, obviously, because we're not actually communicating. So there's none of that social shyness and barrier to jump over at the start. I suppose that's my concern about it—is that for sexual grooming purposes, it's just gold. (Law Enforcement 4)

Further, the processes of grooming, including engaging in sexual conversations, are facilitated by technology. Many participants of this research noted the speed at which exchanges absent of sexual content quickly developed into sexual discussion, sometimes within minutes of initial contact. While traditional methods of grooming are still utilised,⁴⁵ technology is seen to "fast-track" this process. Again, interview participants cited the sense of detachment and anonymity facilitated by the use of technology as being a contributory factor in these grooming interactions. It is also noted that this behaviour can circumvent many entrenched teachings concerning "stranger danger". Perpetrators were understood to exploit the lack of physical presence and an assumed sense of detachment to coerce and manipulate victims. Additionally, the speed of these interactions expands opportunity to coerce and pressure. As mentioned above, quite often multiple methods of contact quickly become available to perpetrators (for instance, "friending" on Facebook will often lead to access to Microsoft Network (MSN) "handles",⁴⁶ email addresses and additional social networking site accounts), allowing them to bombard the victim with messages.

Many participants observed that technology increased access to both specific victims and potential victims. In particular, key aspects of emerging technologies, including the networked structure of social networking sites, the friending function available on those sites, and the abundance of information available from publically displayed profiles (Mallan, 2009), facilitate both online and offline contact with victims. Participants highlighted the heightened sense of "social trust"⁴⁷

45 Smallbone and Wortley (2001) stated that typical methods of grooming young people include engaging in one-on-one contact, providing a lot of attention, and progressively introducing sexualised behaviour into their interactions through a process of boundary-testing.

46 "Handles" are user names or aliases used by individuals on social networking sites. Knowledge of an individual handle allows searching for further information about that individual and facilitates establishing contact.

47 As highlighted by Clark and Quadara (2010), the concept of "social trust" is important to an analysis of sexual offending, as it provides an understanding of interactions (and experiences of harm) that are shaped, not on a personal or interpersonal level, but rather on a social one. In this view, the concept of "trust" moves beyond individual/psychological assessments of honesty and sincerity or institutionally based trust (such as the inherent trust of authority figures) to be a form of social capital that is reflective of the foundations for social cohesion.

exploited by perpetrators through the networking aspect of online communication. In particular, participants noted the false sense of “knowing” people through online communication:

Therefore [perpetrator and victim have] made the arrangement on Facebook rather than having made the arrangement on the phone. However, would you have contacted this person on the phone if you hadn't sort of, somehow, like, remotely befriended them on Facebook? Well, maybe not. So maybe you're exposed to a broader variety of people who you don't have such a trusting relationship with, and that can eventuate into situations, which are more likely to lead to assaults and situations that get out of your control than it would have in the past. (Legal 1)

As the above excerpt indicates, the sense of “relationship” afforded by the friending features of many social networking sites can be utilised in the perpetration of sexual violence. As indicated in the Introduction to this report, for many young people social networking predominantly involves pre-established networks, where there exists a presumed level of knowledge and trust of members. This sense of trust can often be expanded to those connected to, or friended by, those in a young person's established network. This aspect of social networking practice provides an avenue of contact for the perpetrator that can entail an instant level trust or knowledge by the victim:

If the offender can't contact the complainant directly, then he or she befriends their friends, and then they've got a better chance of befriending the complainant on Facebook because you're able to say you've got a mutual friend. I've found with young people it's all about racking up numbers—how many friends you've got on Facebook. (Legal Group 5)

In addition to the increased potential for contact with perpetrators and the presumed level of trust afforded to those with mutual friends, the above excerpt articulates a concern with the practice of acquiring friends as a form of social currency.⁴⁸ Additionally, participants noted that the information publically available to perpetrators allowed for a targeting of their approach. This was identified as occurring through pre-existing networks. For example:

I think offenders have become so comfortable with social networking, it's just so easy for them that they've become even bolder and they're actually targeting young people to say, “Well, I'm interested in a girl from this age to that age, can you hook me up?” (Legal Group 5)

In Case Study 1, a perpetrator utilises both his knowledge of a particular cohort and the friending function of social networking sites to instil trust in a specifically targeted group of young people.

Case study 1: A targeted approach

[The perpetrator] started off with an assault of ... He worked at a school in a maintenance sort of area, and he physically offended against someone, and then it came out that she had met him on Facebook. He'd posed himself as a 14-year-old boy, and had a lovely photo of him up there, saying he loved playing soccer. He had targeted nearly everyone at that school, so he really was just open slather. Like, all her friends started to become his friends, then it went on and on and on. That's how we rounded everyone up. After we'd got to—and quite a few of them had sent topless photos to him, and so on—really, after we got to seven or eight people that he'd contacted, we really had to say, no, that's enough. We could have probably got to a hundred if we'd wanted to. But those were the ones that we could absolutely positively identify, and there was a lot of e-crime analysis [and that takes a long time]. So I think we got a good flavour of what he was doing, and certainly sufficient for sentencing purposes ... That's certainly how I see Facebook being used.

Source: Law Enforcement 4

⁴⁸ While this practice has been described in much previous literature as problematic, and is indeed a feature of many current educational cyber-safety campaigns, most participants of this research proposed that a minority of young people accept friend requests indiscriminately.

This case identifies an additional method of facilitation afforded by new technologies, namely the ability of the perpetrator to create a false representation of themselves to deceive potential victims. The advantage for offenders of this behaviour is that initial and continued engagement is more likely in circumstances where the perpetrator is able to misrepresent themselves as a desirable entity. In addition to the creation of false profiles, as identified above, participants noted an increase in the use of false websites to access young people:

We're getting a lot of modelling websites that are problems for us, in terms of people setting up ... fake modelling sites, to groom children and adults. Aimed at the female victims, but obviously ... it's a dream of a lot of children, female children, is to be a model, and that's just an easy way that they can get access to the kids. As I said, it's happening to adults as well. (Law Enforcement 3)

In addition to utilising online spaces to overtly approach and access young people, participants also identified covert methods of identifying, locating and accessing potential victims. For this reason, being selective when publishing personal information has long been a tenet of cyber-safety campaigns. However, participants noted that many young people were not aware of the types of information that are typically available when through posted communications, including photographs, stating current locations and discussing upcoming events. Many participants highlighted the use of global positioning systems (GPS) information by offenders. Although the following comments were made in the context of sexting, they are still relevant in relation to this issue:

Also with that sexting, many of their phones and cameras these days have got GPS equipment in them, such as your iPhone. Now when you take a photograph, it embeds a GPS [latitude/longitude] into the image. So what you can have is a young boy or girl taking a photograph of themselves, sending it to their then partner or person they want to foster a relationship with. But the further dissemination of that image will provide the sexualised image of a young person with an address, potentially their home address on it as well, in the form of a [latitude]/longitude. (Law Enforcement 1)

The above analysis confirms previous research indicating that the use of technology by adults to access young victims online can involve a complex range of behaviours (Choo, 2009). Importantly for our research, the behaviours described above by participants suggest that the stereotype of adult offenders utilising trickery and violence to assault young people is largely inaccurate (Wolak et al., 2008). Technology is seen to enhance opportunities for perpetration through an increase in access, the speed of communication and the exploitation of information made available online.

Facilitating sexual violence: Peer-to-peer perpetration

In contrast to adult-to-child grooming practices, the practice of peer-to-peer technology-facilitated sexual violence is decidedly under-researched. As discussed in the literature review, the focus of media and social commentary problematises (often) consensual activities such as sexting. However, in relation to the use of technology by peers to perpetrate sexual violence, participants in this study consistently identified the role of technology in the creation of hostile and harmful social environments. Specifically, participants identified the creation of a distinctly gendered sexual discourse that facilitates later perpetration. This includes the disproportionate level of gender-based insults directed at young women:

There's a lot of calling [young women] "sluts" and saying, "She slept with this person and that person"... The way to denigrate someone is in a sexual way, and so the girls do that as much as the guys do. I haven't seen an increase in girls sending sexualised photos. In fact, I think ... 99 per cent of them have been boys posting them. (Legal 3)

In addition, the increased use of gender-based insults to harass peers was seen as a distinct feature of emerging technologies:

Facebook and use of email and text messaging are the most significant forms of abuse, apart from physical violence and face-to-face violence. So it's not even the drive-bys. It's not sending the boys around. It's not sending things in the mail, leaving packages, like in movies. The text message technology is stunning what people will say on there

to each other—the threats, the abuse, the vile language, the horrible names, the use of gender-based insults in any language. (Legal 2)

Young women in particular were seen as being affected by this social environment. Specifically, participants suggested that young women were exposed to a consistent form of sexually based pressure not experienced by young men. An increase in this form of coercion was attributed directly to the use of emerging technologies:

You sit there and think it's intrinsic. You think the ways that these offences develop is because one person is trying to convince, cajole, pressure someone else into behaviour that previously they probably never would have. (Legal Group 5)

Concomitantly, the consequences of this coercion were identified as being gender-based, with young women being subject to an increasing graduation of demands by members of their peer group. Included in these demands are inherent expectations and assumed understandings in technologically mediated social spaces, such as the expectation to physically enact any behaviour described using emerging communication technologies:

In the virtual world, there are ... consequences which are used as part of the grooming. So I've noticed a lot of girls sort of say, "Oh I'm so sorry, now that I've teased you by sending you that photo, I want to meet up with you now and do all that stuff I said I was going to say the other day". (Legal Group 5)

Participants viewed the creation of this social environment as facilitating sexual violence by normalising coercive behaviour. Case Study 2 describes an instance in which sexual text messages were used to establish a relationship prior to the perpetration of a sexual assault. In this sense, peer-to-peer perpetration can be facilitated by technology in many of the same ways as adult-to-child perpetration, including the use of technology to establish a relationship, initiate sexually based interaction and arrange physical meetings.

Case study 2: Peer-to-peer facilitation

There was also ... [another] situation ... where a Year 11 boy and a Year 11 girl, actually as well who had learning difficulties—the girl had learning difficulties. He got her mobile phone number and started texting her, and I suppose the word for it would be "grooming" her, I guess. So sending quite, what she felt were quite sexy-type messages. And ... it turned out that that had been going on for some time. Eventually she ended up at some party that he was also at and he got her very drunk. And all of this came out of these text messages, and she thought that it was something that was quite serious, that he was genuinely into her, that she really for the first time in her life felt liked by a boy. And he was just stringing her along and talking about her to his friends and all those sorts of things. He ended up sexually assaulting her at the party, and then it all came out at school over the next two or three weeks.

Source: Counsellor/Advocate Group 2

Blackmail grooming

Participants identified "blackmail grooming" as a course of behaviour that is undertaken in both peer-to-peer and adult-to-child perpetration. As stated by one participant, the crux of this conduct is the threat of distributing imagery and information provided by the victim to coerce non-consensual sexual activity:

What happens is that ... he [will] say, "Well now I've got your picture, have sex with me or else I'll upload it". (Policy 1)

This form of conduct is reliant upon the use of technology and is facilitated by the increased access, speed of communication and information collection techniques described earlier:

We're seeing a lot of blackmail-type investigations, where people are online. It's part of their grooming process. They'll engage the child, and they'll talk to them about their backgrounds, their lifestyle, where they go to school, the teachers' names. Just being friendly, all that sort of stuff. But they're creating these dossiers about these kids ... But real kids are being blackmailed; they're giving out this information. They get to the point

where they may get on a webcam and flash their breasts or show their genitals, or that sort of thing. The minute that happens, then bang, it's game on. These guys have got a picture of you. (Law Enforcement 3)

Given the relative ease with which information and imagery can be disseminated through the use of technology, this form of threat is taken very seriously by victims.

The use of a number of the aspects of technology (discussed above as aspects of facilitation) are evident in the case of *R v Zimmerman*, in Media Case Study 1.

Media case study 1: Zimmerman

John Zimmerman offended against 55 known victims, most of whom were aged 12 to 15 years old at the time, across a period of three and a half years. The use of social networking sites and mobile phone technology formed a significant part of Zimmerman's offending, with these sites being used to meet and groom potential victims, and in some cases formed the basis of actual offences; for instance, the production of child pornography, from having young women send him sexually explicit pictures or engage in sexual activity via webcam. He would often use these explicit images to blackmail the young women into meeting with him in real life and engaging in sexual activity with him.

As the manager of a local band, Zimmerman had access to the band's MySpace page and used this to identify and contact potential victims, often using the promise of free concert tickets or band merchandise as an excuse to meet the women in real life, and as a means of subsequently blackmailing them into engaging in sexual activity with him.

Zimmerman also used multiple Facebook and MSN accounts in setting up his offences. These accounts often misrepresented his true identity. For instance, in one he posed as a young bisexual woman. He was able to use these multiple accounts to further manipulate his victims. For example, using one account he told a victim that he had forwarded a naked photo of her on to other people, and then contacted her from another account, using another identity, claiming to have received naked photos of the victim.

Zimmerman pleaded guilty in 2011 to 87 charges that were covered under both Victorian state laws and Commonwealth laws. The offences he was charged with included sex and child pornography crimes, rape, sexual penetration of a child, possessing and making child pornography, and using a carriage service to harass, procure or groom a child for sexual acts.

Mr Zimmerman was sentenced to a term of 16 years of imprisonment, with a 12-year non-parole period, for these offences [personal observation].

During: Use of technology in acts of sexual violence

The use of emerging technologies in the act of sexual violence is a complex and sometimes misunderstood practice. The misunderstanding occurs in part, due to the current collapsing of consensual and non-consensual experiences of young people in much current social discourse. As discussed in Chapter 4, consensual capturing of images (whether by the practice of sexting or through the recording of sexual activity) can be a desired and enjoyable practice for young people. It is important, at least conceptually, to distinguish between instances of consensual sexual activity and recording, and instances of non-consensual sexual activity, recording and distribution of images. Additionally, it is important to understand the unique and individual experiences of "harm" that these activities cause to young people. To this end, this section discusses a variety of behaviours and experiences involving the use of emerging technologies in consensual and non-consensual activities, while highlighting the necessary distinction between these two forms of activity. Specifically, this section explores:

- consensual sexting and the recording of sexual activity;
- the non-consensual recording and distribution of images of consensual or non-consensual sexual activity, and subsequent distribution; and
- harm caused by non-consensual recording and distribution of images of consensual sexual activity.

Throughout this section the notion of “harm” is discussed in order to articulate the varying approaches to, and understandings of, sexual violence by perpetrated against young people and highlight the individual nature of young people’s experiences.

Sexting as a consensual activity

There is an important distinction to be made between consensual and coerced activity, which is central to the following analysis. For instance, although currently subject to legislative sanction, many participants of this research identified the act of sexting as a consensual activity. While much social and media debate focuses on the illegality of this activity, participants in this research noted that this widespread practice forms a common part of contemporary interactions between young people:

This is one of the problems as well with the whole sexual violence and the Internet—that we are telling young girls to be careful of stuff that they actually want to do. The older boyfriend has always been a status symbol. The exchange of naked pictures has replaced other courtship processes and so it’s, I mean, I hesitate to use the word “legitimate”, but it’s kind of what you do now. (Policy 1)

Additionally, while sexting is perceived to carry an assumed harm to the sender of self-generated explicit imagery, our study found that the perception of that harm by young people themselves does not necessarily conform to this understanding:

It has a lot of impact on many different people, whether it be the relationships with friends and the family, within the school as well.—so kids getting kicked out of school or kids being picked on at school as well as potential legal issues as well. Then they just sit there and laugh and make a mockery of it, because “This is funny because I sent a photo of my body yesterday. Look, I’ve not got in trouble and everyone loved it”. (Educator 1)

While the experience of harm is no doubt an individual one, this section focuses on practices consistently identified as problematic and harmful by participants. The act of consensual self-generated images is therefore necessarily excluded from this analysis.

One of the difficulties in delineating consensual and non-consensual activities with regard to technology-facilitated sexual violence is the conceptual continuum of the actions involved. For example, that consensual sexual imagery can be either self-produced or produced by consent and distributed by the victim (albeit typically to one other person) can obfuscate the sense of victimisation in subsequent further distribution. As one participant stated:

I have been known to say to people, “What made you think it was a good idea to have these taken in the first place?” But that’s just being moralistic. So it’s really not my place. But occasionally, when somebody’s hysterical about it ... you need to remind them that they were a consenting party at some stage. That’s where it starts, with our personal responsibility of allowing the photographs to be taken. (Legal 2)

The notion that victims can be consenting parties “at some stage”, however, does not suggest that subsequent actions by the perpetrator should be sanctioned. This is an issue of personal control, complicated by the nature of emerging technologies:

They haven’t got the control of what’s out there about them either. They can have control over what *they* post and put out there. But they don’t have control over what other people can do. (Academic 2)

This has posed a problem in public media and social discourse concerning the relative “blameworthiness” of many victims and a sense of predictability with regard to non-consensual distribution. A key concern with this approach is the positioning of the victim as being responsible for the subsequent actions of the perpetrator.⁴⁹ Participants of this research highlighted the

⁴⁹ This approach is reflected in many early and current educational campaigns concerning the activity of sexting, which aim to teach young women not to engage in this practice (as opposed to focusing on the distribution activities of young men), and are often couched within the social and legal consequences for young women should an image be distributed. As Powell (2010) highlighted, public debates and discussions concerning these activities focus upon the “risks” and “dangers” of engaging in this behaviour.

damaging effects of this inability to delineate between consensual and non-consensual activity, including the negative effect on young women's self-esteem, the fact that this form of victim-centred focus discourages reporting of these incidents to an authority figure, and the lack of focus on perpetrators (including by educational campaigns).

Non-consensual image capture and distribution

A further behaviour of concern for participants in this research was the non-consensual capturing of images of consensual sexual activity:

What I don't think people necessarily appreciate, and I think this is a form of potentially sexual violence in the broader sense, is people being filmed without their consent. We forget that our phones are portable surveillance devices and that sexual activity may easily be captured on video, uploaded, those sorts of things, which to me is a very chilling scenario ... So you've got those cases which turn a consensual sexual act into what I would call a form of sexual violence—I mean, as people have termed it, "unwitting pornography". (Academic 1)

So it's those really obvious examples of ... where photographs may have been taken during sexual acts or photographs may have been taken—personal photographs just of the victim survivor and the perpetrator when they were engaging in consensual things. I had a victim survivor who, the perpetrator just took a picture of her with his mobile phone. They just had sex and she knew that it was consensual sex, and that the picture [was possibly taken]. She didn't consent to the picture being taken ... and he did have a history of posting things everywhere on Facebook and online and everywhere. (Counsellor/Advocate Group 2)

As articulated by Academic 1 above, the act of image capturing has the potential to change a consensual sexual act into an act of sexual violence. In addition to being conceptually problematic in terms of a common understanding about the point and nature of victimisation, this shift can be problematic with reference to legal redress.

While recent legislative changes have served to criminalise the capturing of imagery for sexual purposes without consent, the use of technology to film or photograph consensual sexual activity without the knowledge of the victim remains a grey area. This is evident in the investigative response detailed in the Media Case Study 2 (on page 36). This case involved both the non-consensual recording and non-consensual distribution of recordings of consensual sexual activity. From a criminal justice perspective, the appropriate response (charge) was initially difficult to determine. Eventually, the perpetrator responsible for the live broadcasting of the sexual activity and one of the witnesses of this broadcast were charged.

Harm associated with non-consensual recording of sexual images and their distribution

Many participants suggested that victimisation should be determined by the sense of harm involved in the capturing and distribution of consensual sexual imagery. However, before engaging with the specific harm created by the non-consensual experiences described above, it is important to note that young people's experiences of harm vary widely.⁵⁰ As one participant stated:

The truth for some young people is that a raunchy photo of them going online will humiliate them and cause some great emotional distress. Someone else celebrates it and goes, yes. So how you get a policy position that's going to account for all of that variation is tricky. (Educator Group 2)

With reference to an understanding of the role of technology in young people's experiences of harm, participants recognised that the use of emerging technology allows the perpetration of harm to go beyond that possible in previous decades:

⁵⁰ This difference is noted with reference to cyber-victimisation generally. For an analysis, see Roberts (2008).

Media case study 2: Australian Defence Force Skype case

An 18-year-old female Australian Defence Force (ADF) cadet engaged in what was, at the time, mutually consensual sexual intercourse with another cadet. However, their sexual encounter was broadcast live to six other cadets in another room, using Skype, without her knowledge. Photos of the pair having sex were also distributed via mobile phone. According to media reports, the victim reported the incident to navy officer Commodore Bruce Kafer, but then contacted the media as she was concerned the incident would be covered up. Bringing the matter to the attention of the media was in breach of written navy codes, and the victim was allegedly asked to apologise to other cadets for doing so. This decision was later overturned (and was denied by Defence Minister Stephen Smith).

The victim was initially told that there was no criminal legal action that could be taken, and that the perpetrators would be dealt with at misdemeanour level under the charge of "prejudicial conduct". Police subsequently charged two of the cadets on 29 April 2011. One was charged with using a carriage service to cause offence and an act of indecency, the other with using a carriage service to cause offence.

A number of other women in the ADF subsequently came forward to say that they had also been sexually abused/assaulted, with some of these incidents filmed or involving other cadets watching, and that these incidents were covered up by the ADF. Another victim, interviewed in *Perth Now* (8 April 2011), said, "These incidents are not isolated. These officers have a god-like complex over you and it creates a power dynamic that leaves people vulnerable".

But the thing is, you can do it. As I said, you can target. In my day, what would you have even had? A VHS cassette that you're going to hand around? People are going to lose interest fairly quickly. (Academic 1)

Indeed, participants identified the increasingly common occurrence of these types of offences:

Very, very common are the threats to post something online, incredibly common. Every night on the law list there'll be something posted online, usually photographs, sex photographs. (Legal 2)

The potentially public nature of consensual sexual activity was viewed as increasing the victim's experiences of shame, and therefore the impact that offence has on the victim. As articulated below, social networking sites in particular exponentially increase the exposure of sexual imagery:

That's exactly it, it's just easier for things to get out of hand and public, and I guess also just that sort of, that shaming that happens. It's one thing if everyone in your school knows about something, but if everyone on Facebook or if everyone on the web knows about something, that's such a ... like increasing in that sort of shame that happens to the person who's a subject of those, like, assaults, essentially. So I think it can increase the impact that it has on the victim. (Legal 1)

In this sense, the capturing and/or distribution of sexual imagery without consent compounds the sense of violation and humiliation felt by the victim:

I imagine that is quite violating for people to be used, because it's not just the humiliation, it's for some people—depending on them—it is becoming that form of pornography, against your will. There are some people who will be of interest to others. That thought must be quite horrible. (Academic 1)

An additional aspect of harm caused through the distribution of sexual imagery is its seemingly permanent ubiquity. Many participants noted the impossibility of fully removing an image uploaded onto the Internet.⁵¹ Indeed, while orders can be made for individuals to remove

⁵¹ Cyberspace is largely considered to be public domain, though removal orders can be made on particular sites in some circumstances. The inability to fully remove images is due in part to the practice of many search engines of producing a cache of site images and text and the ability for individuals to immediately download posted images to their own personal devices.

images, the extent of this removal is limited to their personal pages and those of people to whom the image was directly distributed. For many victims, this extends the harm caused by the initial distribution of images. As stated by the following participant, the consequences of this ubiquity are still relatively unknown, given the novelty of emerging technologies:

I think in some ways, with some of them, once they actually realise, they get to that age where they realise the long-term consequences of their pictures and whatever being out in the World Wide Web. I actually think that possibly the psychological consequences, which we will probably never find out about, could be a lot worse. (Legal Group 5)

One of the perceived ongoing consequences of this form of perpetration involves the future educational and employment prospects of victims:

There could be hundreds or thousands ... of people around the world that have this situation going on. If they go apply for jobs or whatever, [employers] do Google searches, recruitment-type things. You're sitting there in a job interview and they pull out this picture and say, "Can you please explain that?" You've never even known about it. (Law Enforcement 3)

It is clear from this analysis that technology plays a unique role in increasing the experience of harm by the victim. The threat of or actual exposure and distribution of sexual imagery are a form of sexual violence. Further research is required to investigate the complexities of this form of harm and identify the potential of ongoing victimisation.

After: Post-assault uses of technology

Of significant concern to this research is the utilisation of emerging technologies to harass, intimidate, control and threaten victims after an act of sexual violence. While post-assault behaviours of this nature are not new to experiences of sexual assault,⁵² participants in this research identified clear and specific ways in which technology can facilitate further and ongoing victimisation. Participants highlighted that the ever-present and social nature of many emerging technologies enabled both continued access to victims post-assault and the opportunity to disseminate information and/or imagery related to the assault. In this way, the identification of such methods of post-assault abuse further highlights the issues of increased speed of communication, access to victims and the compound nature of harm experienced by victims as facilitated by emerging technologies. This section discusses a number of distinct behaviours enacted by perpetrators post-assault, including:

- the use of technology to abuse the victim using intimidation, threats and continued monitoring;
- the use of technology to discredit the victim; and
- the distribution of recorded imagery of non-consensual activity.

We discuss the impact(s) of these behaviours on victims, highlighting the complex and extended nature of victimisation afforded by emerging technologies.

Technology used to abuse and intimidate victims post-assault

Compared to the extensive literature on the use of emerging technologies to facilitate sexual violence, there is a paucity of research on the extent and nature of the use of technology to continue to abuse and intimidate victims after a sexual assault has occurred. We found technology was frequently used to abuse and intimidate victims of sexual violence generally, and, more specifically, to discourage reporting. Participants identified that this behaviour can range in severity from overtly monitoring the victims' use of communication technologies to bombarding the victim with threats and abuse. Threats and abuse using communication technologies can be public (for instance, posts on a Facebook wall) or essentially private (for

⁵² See, for instance, Clark and Quadara (2010) on perpetrator strategies of isolation, humiliation and domination post-assault.

instance, abuse delivered by SMS). Regardless of the nature of the communication, participants identified the increased accessibility of victims through the use of communication technologies as providing an added dimension to the abuse.

An example of monitoring behaviour is described in Case Study 3. This case illustrates that technology can be used to locate the victim after an offence has occurred. In this case, the offender used the networking aspect of social media to locate the victim via a mutual contact.

Case study 3: The use of technology in post-assault intimidation

I think the torment rang a bell for me because another case where my [client] had been sexually abused as a child by her neighbour over a period of time. And for various reasons she hasn't told her family this yet, about what happened. And that neighbour, who is a lot older, still happens to be friends with her brother. And the brother was staying at my client's house and flippantly put on the Facebook that he was staying at her house; and the perpetrator was linked. It happened that she looked at Facebook and saw this, and it was total ... Just the calculation of it and the manipulation, just absolute continued torment of this person and that's exactly what sent her into a suicidal relapse again. From that to that, for him to know now where she lives, just like that. It's just terrible and it's totally calculated ... He groomed her all her life and then just that manipulation, very contrived, just players, you know.

Source: Counsellor/Advocate Group 2

As described by the participant above, the use of technology to maintain contact of any form can be traumatic to victims of sexual violence. In the same way that knowledge of essentially permanent images can cause lasting harm to a victim, the networked aspects of many emerging technologies increase the likelihood of post-assault contact.

A further form of post-offence abuse and intimidation is the use of technology to bombard victims with threats. The effect of this practice relates to the constancy of technology in people's everyday lives. Many victims are reluctant to disengage with social networking and mobile phone use, even after an offence. As such, emerging technologies provide the perpetrator with near-constant access to the victim. Participants identified the compounding of harm caused by this accessibility:

Well, I think the fact that instead of getting one letter each week, they're getting 77 texts on a day. So it's bombarding them with abuse and in a letter, certainly, you can write a number of swear words and bombard them in the letter, but it's one letter and it can be destroyed. Constantly checking—hearing a beep, hoping it's a friend or whatever and then seeing all the hate and vitriol in there—I think it does have a greater effect on the victims ... I think that it really would have a much greater effect than just receiving one letter or one phone call full of hate. It's the constancy and the fact that you never know when you pick up the phone and have a look at it or go on to your Facebook site, when it's going to come. (Legal 3)

Additionally, the person and targeted nature of receiving threats through personal devices and Internet pages provide an added dimension to the experience of abuse:

It is the same with a letter, but it's not the same as being in a pub and ... being abused but there are a whole lot of people around. It's very personal, and opening up a text full of hate and vitriol is a real affront, I think, to the psyche. (Legal 3)

An additional aspect of technology discussed by participants was the use of technology, and social networking sites in particular, as a method of informal help-seeking. While it is not within the scope of this paper to discuss these help-seeking behaviours,⁵³ a number of participants identified the potentially problematic nature of responses received by victims, in addition to the inability to control uploaded information:

⁵³ For a recent and detailed study of victims help-seeking through the use of emerging technologies in Australia, see Webber and Wilmot (2012).

So it seems that the technologies have just made everything just a million-fold, so the damage is so endless and that sense of exposure or that everybody will have an opinion about it. And sometimes even the supportive opinions are actually still contained within the prejudices in the myths and blaming statements. So ... my experience of talking to a victim survivor ... her friends were ...posting all these supportive messages but that was their intention, but then all this stuff came out when she started to read the content of them. There were sort of blaming statements in them and so even though they were going out in support of her ... it just has made everything so much worse, and so much more out of victim survivors' control what happens after and what happens to the information about them. (Counsellor/Advocate Group 2)

It should be noted that while help-seeking through the use of social media can often be a positive practice for victims, participants of this study were concerned with the potentially negative effects of seeking help through peer networks, particularly networks that could potentially include the offender.⁵⁴

Use of social networking sites to discredit the victim/survivor

A further aspect of network-based emerging technologies is the potential for the perpetrator to publicise the offending. Many participants described the use of technology by perpetrators to undermine the victim (and their story) and to discredit the victim's statements after the offence. In Case Study 4, the offender utilised social networking technology to both describe and reframe the instance of offending:

Case study 4: Using technology to discredit the victim/survivor post-assault

The broadcast aspect is enormous, and I am working with a woman who was sexually assaulted by someone within her school—a male within her school at a weekend party ... He raped her at the party [and] ... by Monday morning the whole school knew about it. It just went viral, and the support work and counselling work that I've been doing with her has overwhelmingly been about fallout and her sense of exposure. And certainly there was some support within the school of her, but she was vilified by other portions of—you know, everyone had something to say about it. He basically played out his defence through information technology, but still he was able to—he co-accused her. He retaliated by actually saying that everything that he had done to her she did to him, so he literally played that out.

Source: Counsellor/Advocate Group 2

Distribution of images of sexual violence

As discussed in the preceding section of this chapter, the threat of exposure is a common tool for perpetrators, and a source of continuing harm for victims in cases where images of consensual sexual activity have been recorded. Participants in this research also identified the increased and prolonged harm caused to victims by such use of technology:

Sometimes the punishment for the victim survivor is just the idea that they've been exposed. That's the thing that overwhelmingly I'm thinking of—is that information technology and the technology has meant that the chance of being exposed no matter what. Which is, for many victim/survivors, their worst fear—that someone will find out about this dreadful thing that's happened to them. (Counsellor/Advocate Group 2)

A review of recent media reporting demonstrates that offences of this nature are increasing. Media Case Study 3 describes one of the earliest examples of the potential for technology to

⁵⁴ This is what Morahan-Martin (2000) refers to as the “promise and perils” dichotomy of engaging with emerging technology.

be used to distribute footage of sexual offending.⁵⁵ It demonstrates the amplification of the trauma caused to the victim, given the large number of people who were able to view her being assaulted. The decision of media outlets to publicise stills and footage from the assault highlights the potential extent of image distribution.

Media case study 3: Werribee DVD case

This is a case in which a young woman, who has a mild intellectual impairment, was lured to a park in 2006 by a group of young men who made a video recording of her performing a sex act, being urinated on and having her hair set alight. The men also threw her jacket into the river and told her to walk home topless. The DVD was then circulated among a large number of young people, and was sold at schools for \$5. Parts of the DVD were also aired on Channel 7's *Today Tonight* "current affairs" program.

Eight youths (seven aged 17 and one aged 18) were charged with procuring sexual penetration by intimidation, manufacturing child pornography, and common law assault. Seven of the 11 young men involved pleaded guilty to a range of charges, including one representative count of assault covering all the sex acts, two counts of procuring an act of sexual penetration by intimidation, and one of making child pornography. Several of the men were also expelled or suspended from school as a result of their involvement in the matter.

Parts of the DVD were also posted on YouTube, with many comments left condemning the footage. The *Age* newspaper reported then Federal Communications Minister Helen Coonan as saying, "There could be no more glaring an example of how technology is aiding and abetting acts such as these to reach a wider audience at a remarkable pace" (Rennie, 2006).

Summary

There's a philosophical view of cybercrime, which says that we're playing out the same problems, just in a different framework. I think that's absolutely right. I mean the issue is about people who don't respect people, men who don't respect women. (Academic 1)

This chapter has discussed a number of distinct uses of emerging technologies in the facilitation and perpetration of sexual violence, as well as in the continuation of abuse after an event of sexual assault. This analysis has identified a continuum of coercive and illegal practices that are enhanced through the use of technology. Participants in this study characterised the use of technology as a method of enhancing pre-existing behaviours, due to the ease of access, speed of communication and ability to exploit the networked structure of many emerging technologies. Returning to the original question of whether technology has given rise to new offences beyond the remit of the law, the analysis offered here indicates that many forms of behaviour are adequately addressed by legal intervention.

An additional finding is how technology affects the experience of harm by victims. The potential for non-consensual exposure and distribution of sexual images can be seen to have a profound effect on many victims. Additionally, using threats of exposure and distribution as a method of coercion marks a development in offending behaviour.

Importantly, this analysis draws attention to the common conceptual difficulty in public and media discourse in defining consensual and non-consensual activity, particularly in relation to the experiences of young people. We have also highlighted differential experiences of harm that participants observed in relation to the myriad of behaviours described above. The implications of this are discussed further in Chapter 7 of this report.

⁵⁵ This case suggests that more serious forms of offending that involve technology or social media in some respect are fairly well covered by existing legislation. In addition, the recording of the actions provides tangible evidence and ultimately facilitated prosecution. This aspect is discussed further in the next Chapter of this report.

6

Current responses

This section outlines interview and roundtable participants' discussions of current responses to the use of mobile phone and other technologies in facilitating sexual assault.

Roundtable participants identified a number of gaps and challenges in responding to issues of young people and the role of mobile phone and social networking technologies in sexual violence. These issues broadly fall into three categories: understanding the nature of the issue; the framework within which practitioners operate; and difficulties around identifying the best approach to address the issue.

Participants in our roundtable were of the view that a dearth of research on this issue was exacerbated by the complexity of the technologies and the speed with which they evolve. This absence of a fundamental understanding about both the behavioural drivers and the technological tools available hinders the response and may mean attempts to address the issue are not well targeted.

Roundtable participants were also conscious of the importance of not getting distracted by the technologies and not being intimidated by a lack of technical skill in using them. These participants reminded us that, while training for teachers, advocates and law enforcement officers is important, parents also have a critical role in developing an understanding of the issues by engaging with their children.

A further challenge raised by participants in our roundtable is the framework in which practitioners operate. From the perspective of these participants, there are limitations to the framework, which manifest themselves in three ways. First, is the legal framework, which participants perceived as being both outdated and insufficient for dealing with these matters, but also as being an inappropriate response in many situations. The second is the lack of collaboration between sectors and their perception that discreet categorisation of the issues by sector lessens the capacity of practitioners to adequately respond. Thirdly, participants felt that the cultural framework—on one hand, “political correctness” and on the other a normalisation of certain behaviours—inhibits discussion around these issues. From the point of view of a number of participants, this is because there is often an unwillingness to acknowledge or engage non-pejoratively with issues concerning young people and their sexual behaviours.

The main challenge identified by roundtable participants is the difficulty of determining the most effective approach for dealing with these issues. Nevertheless, participants were almost unanimous in their understanding of the need for an educative, rather than punitive, approach that focuses on talking to young people about ethical and respectful behaviours. Participants identified the need for a holistic approach that targets younger children, as well as older children, in a developmentally appropriate way. Nonetheless, participants were cautious of attributing all responsibility to the education system and felt that, consistent with the importance of being more collaborative, a coherent system-wide approach was needed.

In conjunction with the discussions of roundtable participants, interview participants were asked to identify how well they were able to respond to these behaviours under current legislative and other frameworks, any particular challenges they faced in responding, and any gaps in

current approaches. There were four main areas identified by participants that either facilitated or limited their ability to address these behaviours:

- access to, and availability of, resources;
- jurisdictional issues;
- responding through social media and other emerging technologies; and
- discretionary powers, flexibility and the spectrum of responses in law enforcement approaches and legislation.

Access to resources

Policing and criminal justice system resources

Participants in our roundtable who work in the criminal justice sector had the view that the focus of the criminal justice system should be on therapeutic responses, including issues around body image. However, they felt that keeping up with the pace of technology was particularly difficult from a law enforcement or legal perspective and, consequently, the current response reflected an ad hoc approach characterised as “making it up as they went along”. This group also noted the importance of the media and public attention in driving organisational priorities and responses.

The interview participants identified having adequate access to resources as a key issue faced by a range of sectors. The rapid development of technology and constantly shifting landscape of the online environment means that it is particularly difficult for participants to keep up with these changes in the face of limited resources:

The technology; the dynamic nature of it. It's just changing daily. Kids are using different networking sites every day, so it's difficult to keep up with. It's difficult to maintain the knowledge for us, as a small unit, the knowledge of previous investigations and how they've worked. (Law Enforcement 3)

Our challenge is as much of that trying to keep up with ... technology in preventing the offending as much as it is about making the victims aware and building the resilience of target hardening and that sort of stuff.⁵⁶ (Law Enforcement 6)

Further, the ability to distribute images quickly and widely means that there is little that police can realistically do to stop the spread of non-consensually forwarded images:

Well, ... there's, yeah, huge challenges, and once it's out there, once anything is out on to the Internet, it is available to be copied and to be distributed all around the world. It would be impossible to police and prevent all of that happening. (Legal 3)

The comments of one law enforcement participant hinted at the police always being one step behind those using technology to offend, and having to catch up to the technical expertise of offenders:

The predatory type [of] offenders, they're fairly well connected and networked, and they know all the latest ways of achieving things. They will use the latest technologies and they will move their operations very quickly once they think that the police are actually on to them. (Law Enforcement 6)

While a positive aspect of the use of technology to facilitate sexual assault is that records of online conversations and other activity can be used as a form of evidence, the volume of this evidence, in conjunction with limited police resources (in terms of time and number of staff) means that fully utilising it is a difficult task:

He did not actually have the time—and this might sound insane to someone who is not in this sort of industry—but he actually did not have the time to go through all of the printouts of the thing. He just said, “Look, I have thousands of pages. I could investigate this bloke for another year”. (Legal Group 5)

⁵⁶ In the law enforcement context, the term “target hardening” refers to the practice of educating individuals in order to increase their resilience to becoming victims.

Because they've got to ... compile the brief together, and when you've got emails and chat logs and you name it—I mean phone, mobile phone print outs and text messages—it is voluminous to say the least. (Legal Group 5)

Further, many of the companies that run or host social networking sites are located overseas, which acts as a further impediment to investigating these cases. Contacting these companies is often time-consuming. Several participants noted that these companies are often unwilling to cooperate or are slow to respond:

Electronic crimes—one of the problems is they are resource-intensive. Even something quite simple, like a Facebook-type issue, does require you to get in touch with Facebook in the United States, trying to persuade them, it's time-consuming, even if it's not, *technically*. (Academic 1)

While evidence from chat logs or text messages are frequently gathered for use as evidence in court, one law enforcement participant noted that courtrooms are often not adequately fitted with the technology to allow these forms of evidence to be easily and readily displayed in court. This was seen as hindering the effective use of these forms of evidence:

But the courtroom is not, again, not really set up for presentation of this evidence, and I think a lot of the magistrates and judges don't really understand Facebook either, or either mobile phones, very well. So I think that can make presenting the evidence quite difficult. (Law Enforcement 4)

In this particular example, the ability to effectively use this evidence was further constrained by the limited understanding of technology and the online space by other criminal justice workers. Thus, a lack of resources also intersects with other broader issues surrounding this issue, such as the apparent generation gap in understanding and using these technologies, which further restrains responses to this issue.

Law enforcement respondents in particular noted that the lack of adequate, locally available facilities and expertly trained staff affects their ability to respond to technology-related offences:

I think we could get these knocked over a lot quicker if we had a much better e-crime facility. We need something local. We need to be able to just take it to the local e-crime guy who's sitting upstairs and say, "Right, can do you this phone right now?". (Law Enforcement 4)

These responses indicate that a lack of adequate resources (such as staff numbers or technical expertise), coupled with the rapidly evolving nature of technology and the online space, and the ability to share images prolifically, act as significant restraints in responding to this behaviour.

One law enforcement participant also raised the issue of the significant costs involved in running the equipment necessary for policing problematic online behaviour, and in keeping staff adequately trained. The rapidly changing nature of technology, and thus the need for ongoing training and development, is likely to add to this cost:

Another challenge we face is just the cost of maintaining equipment [and] training for us. It's huge. It's huge. (Law Enforcement 3)

However, some organisations harnessed this as a training tool:

We've recently developed a technically enabled crime training course, which is delivered through [an Internet platform] ... It goes through how the Internet works, basic issues in relation to evidence, preservation, collection—like the role of Internet service providers, IP addresses, all that sort of thing. Then, at the end, it also goes into criminal offences captured under the relevant legislations. (Law Enforcement 1)

Participants in our roundtable who are working in policy roles also raised issues associated with a slow-moving or absent legal framework, and the lack of training and other resources, and the effect this has on an effective policy response. Policy-workers felt that a lack of understanding in the criminal justice sector, combined with inconsistent system responses, hindered their organisational response. However, policy-workers did not support a "top-down" regulatory approach and felt that young people needed to be taught to self-regulate their behaviour.

All participants felt that technology poses both challenges and opportunities in respect to resources.

Educational resources

A second key challenge identified by respondents was the lack of educational resources available for young people. A number of participants discussed educational resources as being either inadequate or inconsistent in content and delivery, or as promoting problematic messages to young people. For instance, one participant expressed concern at the failure to recognise sexting as an activity that happens within the context of a loving teenage relationship:

But it's like, it's a cautionary tale isn't it. The girl, she sends the picture, something goes wrong, he sends it off. They break up or something, he cheats on her. She's sitting on the bed with the long blonde hair and hound dog expression and the sad music.⁵⁷ It's kind of like nobody actually considers ... the situation where two people are quite happy and they're quite in love, and then something goes wrong. (Policy 1)

There was also a perception that some current educational campaigns use scare tactic approaches, and focus on legal penalties that in reality are unlikely to be used on young people:

I think there is a fair bit of scaremongering out there in the current online training area ... As in for presenters going out and saying, "You will be charged with this, this, this and this or possibly charged with this", and that happens on rare occasions. (Educator 1)

Participants in our roundtable who work in victim services were very clear that there is a disconnect between frontline service needs and policy directions. This group highlighted the need for a prevention and education focus, but felt the current response was ad hoc. They also highlighted the importance of addressing the immediacy of young people's needs because, from a victim/survivor perspective, the effects may be no different from any other sexual assault.

Some interview participants identified what they viewed as significant gaps in the current curriculum, such as a lack of programs focused on providing young people with the skills to engage more critically in the online space:

I don't believe there's any programs at the moment teaching young adults how to think critically online and not just believe. And I've heard the term from young adults: if it's on the Internet it must be true. (Educator 1)

Other participants criticised educational programs for failing to engage with young people in an effective and meaningful way:

So they're about being safe online, and respectful behaviours, and those sorts of things, but what we seem to see is that the kids can tell you what the rules are and what's good and what's bad, but they don't connect with it. They don't relate to it. They know how they should act, but they don't act that way. It's that sort of: "It's not going to happen to me" separation that they seem to be having. (Policy 3)

For this participant, the problem stems from a lack of connection between educative messages and the experiences of young people. In addition, the following participant identified problems in the communicative medium:

I guess when we're saying that we're trying to be proactive and talk with them about how to use the materials safely and all these sorts of things, we're not talking their language. We should be twittering, Facebooking, whatever ... We should be communicating with them at the level that they understand and that they connect with. (Policy 3)

While some participants expressed concern over the lack of consistency in the content of these programs, others spoke more positively of current educational approaches:

But a lot of the packages are self-generated. They've got the same sort of issues, so there's no control about what's being put out there to schools. I'm sure it's the right message, but there's just no control about whether it's a standard message, or whether you get a

⁵⁷ Here, this participant is describing a scene provided in a specific educational video.

slight confliction between the different messages. It just needs a bit of standardisation I guess. (Law Enforcement 3)

I think the messaging currently is pretty consistent, but that's going to become ... that's important ... to keep it on track. (Law Enforcement 1)

Overall, participant responses were critical of current educational approaches, as a result of a perceived lack of resources, a lack of consistency in the messages, and inappropriate or inadequate content. Given the importance placed on education as a preventive strategy, these responses are concerning, and suggest that young people may not have access to adequate resources to guide their engagement with the online world.

Jurisdictional issues

A number of jurisdictional issues arose from the participants' discussions, including the challenge of responding to an issue that crosses both national and international borders, the lack of consistency in responses across jurisdictions, and a lack of clarity about who should be responding to these issues and in what circumstances.

Legal jurisdictions

A key challenge identified by respondents was the lack of standardisation and consistency in legislative and other law enforcement approaches across jurisdictions:

There's also no standardisation for investigation of Internet-type investigation, so how we do it here is different to how they do it in South Australia. How they do it is different to WA. How they do it is different to New Zealand. How they do it is different to the States ... So there's no sort of standardisation or control of it. I don't think there's a way you can probably get around that. I think it's just the way it's always going to be. (Law Enforcement 3)

It's difficult for us to respond on a Commonwealth scale. I mean ... we can, but we've really got a couple of options. So where someone is going and meeting up with girls all over Victoria and all over Australia, having sex with them, with those interstate girls or boys, we've got that dilemma about whether we just go with a, like, a use carriage service procure type thing and then leave it up to the other states whether they want to prosecute for the rapes or ... So you, really, you've got that overlay, which can be complex if you've got a lot of victims. (Legal Group 5)

This was seen as sending inconsistent and confusing messages to young people, and meant that the ramifications for engaging in behaviours such as sexting or predatory sexual behaviour could be vastly different for young people across the country:

Even nationally the legislation should be standardised because we still have a situation where in one state for possession of child pornography is under the age of 16 or 16 and under, whereas a lot of the states have gone 18 years and under. And I just don't see how a person—and we're talking about serious indictable offences or serious offences—how a person can live in one state and if they travel across a line, an imaginary line, it's then a serious offence—where it's no offence to a serious offence. And that's from a criminal perspective, but I think it sends mixed messages as well. (Educator 1)

There was also debate over who had jurisdiction to respond to these behaviours, in terms of both legal and non-legal responses. The global nature and reach of these technologies means that if the perpetrator resides in an overseas location there is often little that can be done to respond:

It's cross-border issues too. We're not just dealing with a local issue here. We can only respond to Victoria jurisdiction. We've got to have interaction with other states overseas. That can slow the whole process down ... Often, if your offender is overseas and the victim's here, there's admissibility issues with evidence and that sort of issue. (Law Enforcement 3)

It's certainly throwing up some challenges in the legal framework, because clearly if somebody is in another state or another country that's engaging in this conduct towards somebody in Victoria, then there are some jurisdictional and constitutional issues that arise. So there are certainly some challenges in terms of the elements of the offence and how they're made out with those sorts of environments. (Legal 4)

Jurisdictional issues pose a notable challenge to both police and other sectors in knowing when and how to respond. In some instances, such as when a criminal offence is perpetrated from an overseas location, police are simply unable to respond or face great difficulty in responding. In other cases, particularly circumstances involving younger perpetrators, there is debate over who should respond and what the best avenues for addressing this behaviour are, such as whether a legal or diversionary approach should be taken.

Educational jurisdictions

In addition, participants discussed the responsibility of schools in responding to this behaviour. While some participants felt that schools had an important role to play, particularly in diverting young people away from the criminal justice system, others expressed concern at the limited capacity of schools to adequately investigate and respond to what might constitute criminal behaviour:

Look, to be honest with you, I think the legislation's there. The problem is whether it's the best vehicle. (Law Enforcement 1)

That's often when people go to the police, because you might have one person in one school and one person in another school. How do you sort of link that sort of link, that behavioural arrangement, or people don't go to school, or it's happening after people leave school. So it's much more difficult than to sort of find an appropriate authority and that's sort of why people tend to go to the police. (Legal 1)

One counsellor/advocate advised that schools often prefer to conduct their own investigation first rather than involve police, and that this frustrates and hinders police investigations once police are subsequently involved. This particular participant was highly critical of the ability of schools to conduct investigations into these incidents.

Others suggested that schools have a role to play in supporting the wellbeing of students and their families, and in the prevention of these behaviours, but not in responding to the criminal behaviours per se:

It's really not their responsibility to deal with the criminal part of the activity, but it is to provide support to families and the kids involved, to try and minimise the stuff. (Policy 3)

Using emerging communication technologies to support responses

While the global, cross-jurisdictional nature of offending via social media and technology clearly poses challenges to law enforcement and other responses, there are also ways in which technology can facilitate and enhance responses. The most notable way in which this occurs is via using the records from emerging technologies as a form of evidence:

We're now able to retrieve evidence that would have been unimaginable once upon a time. These conversations once happened in the ether and were never recorded and were then denied. So there is an upside in terms of the technology in an evidentiary sense, to capture people's Facebook exchanges. (Academic 1)

This view was echoed by one legal practitioner, who stated:

I mean, if anything it's better for the investigation because you've got more record of communications taking place. There's so much happening where you can download from the server exactly what the conversation was. That might not have happened in the past. So ... in some ways it can facilitate the prosecution of those activities. (Legal 1)

However, the use of this form of evidence also poses some challenges, particularly around the sheer volume of evidence produced, and limited access to resources also plays a role in how effectively these forms of evidence can be utilised:

But what you may find is that they do it on Facebook, but they'll also be doing it on email, and will also be doing it on SMS. And so do you pursue all those different forums? Do you pursue enquiries with the telecommunication providers to determine when and where the emails were sent? (Law Enforcement 1)

Information on social networking sites also has the potential to be used against victim/survivors in court, with behaviour that is commonplace and normative in the online space being taken out of context in a court setting. For instance, while the creation of “fake” or alternative personas is common practice in social networking spaces, in the following example this practice was used against a victim/survivor to cast her as a liar:

So then defence cross-examined her heavily: “Well, you’re making up information about a boyfriend who you were cheating on your real boyfriend with, and creating posts and saying you were here and there with this particular post. And “f***” my boyfriend, this guy treats me so much better”. (Legal Group 5)

However, there were also instances discussed where victim/survivors were able to use these technologies to record and provide evidence of the offences committed against them:

She’d been smart enough to push record while he was doing it. Suddenly we had all the evidence of him screaming like a banshee at her, calling her every name and gender-related offensive term under the sun. He was Mr Businessman sitting in court with his barrister. It was, as she said, it was a beautiful sense that justice could be done. So she’d used the technology. (Legal 2)

I had one who said, whilst she was being touched up, texting her friend saying, “Take a photo of this guy touching my leg”. So the friend took a photo of them. (Legal Group 6)

Some law enforcement respondents suggested that although these forms of evidence were highly useful, they were often difficult to obtain from the relevant companies. For instance, companies may not keep records of the required information, and some companies were viewed as being extremely reluctant to cooperate with law enforcement efforts:

The issue with that is that telecommunications companies aren’t retaining logs of login sessions, that type of stuff. So if somebody uses a computer, we can get information from Telstra or Optus about sessions, IP numbers. All that sort of stuff. Whereas the phones, it’s very difficult—very hit and miss, at the moment. (Law Enforcement 3)

So if we need information to help us with an investigation, by rights we’re supposed to go through a mutual assistance request via the Attorney-General’s office in Canberra and send a hard file over to the US Government, and then they’ll take it up with Facebook. I mean, that can take months and months and months. In a dynamic investigative field, we need to have that information at our fingertips. So there’s some ongoing challenges for law enforcement around getting access to those records. (Law Enforcement 5)

One legal respondent noted that they were able to make direct orders for individuals to remove content from social networking sites such as Facebook, and this appeared to be an effective mechanism for responding to these behaviours:

Now I always say, report it to Facebook. Take it down. Delete it. But I’m certainly very happy to put in an order requiring people to delete, within two hours of service of the order—real timelines. I don’t care if they’re served at midnight and it’s open. To deliver copies, to not make others, to not distribute them. So about that, I’m sort of all over it. (Legal 2)

However, another respondent suggested that courts require more power than they currently have to make these kinds of orders:

There ought to be some way that the courts can direct the administrators of Facebook to close someone’s site or—if it’s proved that they’ve been breaking the law on the

site—they should be excluded from the site. I think there could be more powers within the courts in that way. (Legal 3)

In a similar vein, a number of participants suggested that they would like to see more in-built mechanisms in social networking sites and mobile technologies to allow people to easily block other users or contacts engaging in problematic or abusive behaviour:

What I would like to see? Some sort of easy method of people being able to block emails from a particular email site and texts. The person simply getting a message saying ... your number or email has been blocked to this address, and no mail or messages or calls will be delivered. (Legal 3)

Technology was also seen to play a positive role in facilitating responses to instances of victimisation, as technology can be used to engage younger people. Police are also able to utilise technology in their proactive policing efforts; for example, it allows them to more easily detect child pornography offences. Many saw this technology as facilitating their work:

We also run a YouTube account, we run a Twitter account and an Internet site ... I think the Internet account is a valuable one for us because we then also use it as a vehicle for parents or children to report inappropriate behaviours. (Law Enforcement 1)

Some of our online work, we will never use. If, for example, we're doing proactive work in regards to a paedophile online, and there's the undercover people and they want to exchange images [with suspected paedophiles], well, we would never exchange an image of a person or that you would ever recognise. So what we've got the capability of now is actually graphically produce an image. We can actually do that and it's of no one—it's a manufactured photograph and you actually provide that, or it can be a manufactured image/video—and you actually provide that. It's no one at all. Then that gives us a lot more opportunity to do the proactive work. (Law Enforcement 6)

The role of parents in monitoring the online lives of their children was also discussed. Several participants held the view that currently many parents lacked the requisite knowledge to adequately be involved with and address their children's use of technology and social networking sites:

Parents need to be proactive. Parents need to not take [the technology] away completely, because then you've got issues of being ostracised and that brings a whole heap of other problems. (Legal Group 5)

It's about ... teaching parents that they should be involved in their child's online life. (Law Enforcement 1)

In summary, social networking sites and mobile phone/Internet technologies were harnessed as a useful tool in responding to sexual assault by criminal justice workers and victims alike, particularly as a form of evidence.

Flexibility to respond to a spectrum of behaviours

There was much debate from participants around the issue of discretionary invocation of, and flexibility in, current criminal justice responses, and around the ability of the justice system to respond appropriately to a broad range or spectrum of behaviours under current legislative provisions.

Consistency of police responses

Views held by interview participants about the consistency of current police responses were highly variant and often contradictory. For instance, while some argued that flexibility in police responses was a necessity, particularly when dealing with young offenders, others saw the use of discretionary powers as frustrating and as resulting in inconsistent practices:

So that inconsistency in the response by police is only making a very murky subject get even murkier. (Academic 2)

So depending on the seriousness of that type of thing, they say ... What's the best approach? Is it just a phone call? Is it popping over to the house, depending on where it is? Is it lodging a full-scale investigation into something as well? (Law Enforcement 2)

While the quote above indicates that police use their discretion when responding, depending on the perceived seriousness of the offence, some participants from other sectors viewed the police as taking more hardline, “law-and-order” type responses to this behaviour:

I think there's a pressure to act, as in law enforcement their job is if there's a criminal offence been committed and there's evidence to prosecute that therefore we should prosecute that. I suppose an element within law enforcement [is that] we've spent three days or a week looking at this offence, we're not a social service. A lot of parents don't want to take it further and stuff like that, but there's pressure. There's the offence there, therefore we should prosecute. (Educator 1)

Yet, others saw the police as being highly dismissive towards activity conducted online:

You hear examples of not necessarily sexual violence, but I think these two get closely related, particularly with young people, you know—harassment, bullying, stalking, whatever. And the police can be quite dismissive. It's not seen as real crime. (Academic 1)

One law enforcement participant suggested this inconsistency in practice may be related to the confidence of individual police officers in responding to matters involving the use of technology, with older members seen as being more reluctant to pursue these cases:

With this, some of them haven't previously pursued these sort of matters, so they wouldn't necessarily be familiar with the forms ... to forward to the Internet service provider, stating the legislative offence. (Law Enforcement 1)

In some cases, the sheer number of individuals involved may mean that police are unsure who they should charge or how to practically respond:

If you look at just one case, where a male or a female sends a picture to their partner, and it just goes viral in the school. You might have three or four hundred kids in the school that have this picture—two hundred even, being a little bit conservative. How do you charge two hundred [young people]? (Law Enforcement 3)

Flexibility of the legislative framework

A number of participants discussed the contradictory nature of current legislative approaches in Victoria, generally in reference to the inconsistencies between the age of sexual consent and offences relating to the possession and distribution of child pornography. It was also clear from participant discussions that child pornography laws are being used to prosecute behaviours that they are not designed to address, such as young people taking and sending naked photos of themselves to others:

People have been charged potentially with child pornography images. So dealing with that cohort, the young people, it was never thought of. Child exploitation was thought of—that the producer is the abuser—not that the producer was the person [being victimised]. (Academic 1)

But ... the legislation's written to get rid of the paedophiles or the adult sex offenders offending against children. It wasn't geared up towards the two schoolyard kids in pictures. So there's that huge grey area there, but there's nothing that covers that. (Law Enforcement 3)

This behaviour is in at least some instances occurring within the context of consensual relationships:

So she's taken some photos of herself, voluntarily sent them to him. He's been found with the photos on his phone and now he's facing criminal charges. (Legal 1)

Participants thus argued that there is a need for more flexibility within current legal approaches to child pornography so that young people are not charged with criminal offences for engaging in consensual and normative sexual behaviour:

We need to maybe think about bringing in some more flexibility, especially when we're looking at putting people on the sex offence register, so that justice can be done for each particular situation ... But at the moment what we're not seeing is that there are these levels of seriousness, and the law's not designed to capture anything other than the most serious level. (Legal 1)

In terms of current criminal justice responses, many participants felt that more serious offences are currently well addressed. However, there was a suggestion that less serious offences are not well-responded to, and that there is a lack of an appropriate range of responses and penalties:

I guess it's easier to start up with the high end of the spectrum, obviously. The law's pretty good at capturing, like, areas where there are actual sexual assaults. There's physical violence involved, there's a physical sexual assault involved, that's pretty [much] covered ... The other end of the spectrum, it's almost impossible to get police to do anything about it ... Something's been put on Facebook and often people will come to me after having spoken to the police, and one of the complaints was that the police have not done anything or they refused to take any action. (Legal 1)

I think it is a big problem where you can't actually, the only sanction that you can give somebody is so huge that it can potentially ruin their lives. I mean, you can have a 16-year-old kid who's an absolute jerk, who's completely disrespectful of women and who has a porn collection as long as my arm. But does he deserve to be charged for it? Probably not. (Policy 1)

The legal respondent quoted above also suggested that the law is a heavy-handed tool that is inappropriate to use in the vast majority of cases involving young people and technology. A lack of middle ground or flexibility in responses means that often the only other option available to police is to do nothing.

Others suggested that while current legislation is able to capture a broad range of behaviours, current penalties are too harsh for many minor offences:

I think that most of the legislation could capture most of the behaviours. I guess the one there is whether sexting is appropriately captured in the child pornography legislation, and you would have to say, I don't think it is. The penalties are far too large. (Law Enforcement 1)

The non-consensual forwarding of nude photos was an area that was commonly cited as not being well addressed by current legislation and criminal justice responses. Some participants questioned the capacity of the law to "keep up" with rapid changes in technology, and for legislation to be framed in a way that remains relevant to the lives of young people:

So that highlights technology is moving at an extraordinary fast pace. The law has never been fast. It's a very slow environment in which to work, so it's just not caught up with the modern communication. Also, laws are written by older people generally, so the rapidity of the explosion in technology and the use of it has really been picked up by young people. (Legal 4)

I think it's still a massive problem with the provision. And this is not so much a problem with the law [itself]; I think it's a problem with the law and the pace at which these technologies develop just not being in sync with each other. (Legal Group 5)

Once again, these comments raise the question of whether the law is always the most appropriate or effective vehicle for responding to problematic behaviours involving the use of technology.

Summary

This section has presented an overview of participants' discussions on current responses to the use of technologies and social networking sites in facilitating sexual offending. Though there were areas in which respondents felt they are currently able to respond well to, such as serious sexual offending, there were other instances where it was clear that current responses and frameworks can be improved. In particular, participants identified the following as hindrances to effective responses:

- a lack of access to resources:
- a lack of flexibility in current legal frameworks:
- a lack of clarity around jurisdiction and who should be responding to these behaviours: and
- a lack of agreement concerning under the circumstances under which the criminal justice process should be evoked.

However, some participants were also able to harness technology as a tool for responding; for instance, through the use of court orders instructing individuals to remove problematic or offensive online material. It is clear from this analysis that while participants easily identified gaps in responding to offending behaviour and the experiences of victims, they were optimistic about future responses. In the following chapter, we describe the implications of these identified gaps for addressing the issue of technology-facilitated sexual violence in the future.

7

Implications and future directions

In this chapter, we draw together the key issues raised by participants and consider their implications for policy and service responses in terms of the initial research questions. These implications fall into two broad categories:

- the conceptual framework(s) currently being used to understand the interface between emerging communication technologies and sexual violence; and
- practical avenues of intervention, such as legislation, educational interventions and opportunities for industry involvement.

We begin by summarising the key themes and issues before discussing the above dimensions in turn.

Key themes and issues

The matrix in Table 4 (on page 54) synthesises the key issues raised by participants in relation to: the general effects of emerging communication technologies, the trends and behaviours participants are experiencing in their various roles, and their thoughts on current responses.

When participants were asked whether using emerging communication technologies in sexual violence was a new behaviour, there was general agreement that: “Behaviour has not changed with children, it’s just it’s facilitated by online technology” (Educator 1). What *was* new was what emerging communication technologies enabled: more victims (and more quickly), more ways of making contact, and more ways of threatening and blackmailing victims, including after the assault. As can be seen in Table 4, many of the behaviours identified by service providers and agencies related to facilitation; that is, emerging communication technologies being used in a variety of ways to set up the opportunity for sexual contact. The use of emerging communication technologies during acts of sexual violence was relatively limited. However, when asked about the general context in which the use of emerging communication technologies in sexual violence was occurring, participants more readily spoke of a scenario in which the combination of access to pornography, the ubiquity of emerging communication technologies in young people’s lives, and (gendered) expectations about sex and relationships result in highly sexualised behaviours without traditional boundaries, in ways that were seemingly unheard of among older generations.

In relation to the role of criminal law, respondents felt that there was already legislative capacity to address many unwanted and/or violent sexual behaviours—from those that are themselves technological in nature (e.g., unwanted image capture, unwanted distribution of explicit images) to those that are more “traditional” offences but facilitated by emerging communication technologies (e.g., stalking, sexual assault). There was also shared concern about the use of criminal justice approaches to child pornography offences to address the capture and distribution of sexual images. In part, this related to the inconsistency of the law, in that the age of consent is 16, yet sexual images of individuals under 18 constitute child pornography. This concern also related to the fact that child pornography legislation was drafted to capture adult sex offenders not children. Most participants expressed reluctance for such provisions to be used in cases involving adolescents. However, there was less consistency when it came to the adequacy of current practice. In particular, there was confusion about the police approach regarding young

Table 4: Key themes and issues**Effects of emerging communication technologies**

Accessibility	Blurring of boundaries between social settings, especially between public and private domains (e.g., school and home life) Increased avenues, and constancy of contact Access to pornography Enhanced capacity to connect and communicate with others
Online/offline social spheres	Blurring between online and offline (“real world”) domains Online sociality is central to young people’s interactions Young people have a limited understanding that online communication has offline consequences Online anonymity enables different forms of communicating, including harmful and abusive behavior Generation gap between adults and young people in relation to these spaces
Permanence of material	Changes the consequences of “youthful exploration”
Shift in youth culture	Accessibility, especially in relation to pornography, and the nature of social media is reflective of normalised sexualised interactions between young people (e.g., sexting, permissive sexual culture) Young women experience more pressure than young men to create a digitised and sexual(ised) self through emerging communication technologies

Trends and behaviours in using emerging communication technologies

Using to facilitate of sexual violence	Emerging communication technologies are used in a range of ways to facilitate or precipitate sexual violence: increased access to people, hastened the relationship and trust-building process Using networked linkages to connect with people with whom the perpetrator may not previously have had a direct relationship with Saturating sites with friend requests, multiple profiles to eventually make contact In adult-to-child perpetration enhances grooming strategies because of speed, ability to set up fraudulent profiles and websites, and ability to exploit networks In peer-to-peer perpetration: <ul style="list-style-type: none"> ■ gendered expectations have normalised coercive behavior ■ blackmail and threats are used to extort further sexual acts
Using during acts of sexual violence	Threats to distribute images Recording sexual assaults for distribution Distributing still or moving images without consent of other person
Using post-assault	Threats to distribute or upload images Contacting, threatening or abusing victim following the assault

Current responses to using emerging communication technologies

Access to resources	<i>Criminal justice</i> <ul style="list-style-type: none"> ■ Keeping up with: changes in emerging communication technologies, the traffic and distribution of images, perpetrators’ movements ■ Volume of evidence collected ■ Technological limitations of courtrooms in trying to view emerging communication technology evidence ■ Global or offshore companies, making it difficult to issue warrants and obtain material ■ Lack of expertise and facilities to undertake investigations <i>Education sector</i> <ul style="list-style-type: none"> ■ Inadequate education resources ■ Inconsistent education programs and messages ■ Safety messages don’t resonance with young people
Jurisdictional issues	Lack of standardisation across state and territory legislation, including admissibility rules Critical questions about whether the law or education is the most appropriate instrument
Using to support responses	Using emerging communication technologies as a form evidence, and difficulty in obtaining the material Using emerging communication technologies to make and post orders Using emerging communication technologies in proactive policing and in entrapping child sex offenders
Flexibility to respond to spectrum of behaviours	Lack of clarity about whether police responses are based on discretionary decisions or inconsistent decisions For police, not always clear to what or whom they are responding Need for flexibility to ensure that young people are not inappropriately charged

people, emerging communication technologies and sexual violence. Some respondents thought that police have a “gung-ho” response, with obtaining prosecution being a key focus. Others felt that police responses are dismissive or inconsistent. From the education sector perspective, there seemed to be a view that it is best to involve police as a matter of course.

The research team discussed these inconsistencies and disjunctions at length. What these views suggested to us was firstly that there appears to be a lack of clarity across the sectors about the how the spectrum of behaviours described should be conceptualised. Participants talked about various behaviours and associated harms, ranging from the consensual capturing and sharing of sexual/nude self-images, to the recording and distribution of coerced or non-consensual images, through to deliberate and predatory behaviour with the intent to sexually exploit or sexually coerce. Although some participants explicitly acknowledged that there was a spectrum, when the discussion considered the effects of technology more generally, there tended to be a conflation between young people’s sexual behaviour and relationships in the “information age” and sexual violence facilitated through emerging communication technologies. It appeared to be difficult for participants to separate out the changes that the world of Internet connectivity has meant for social interaction, particularly young people’s social interaction, from what it has meant for sexual assault and sexual violence perpetration. The following section discusses the implications of this analysis.

Implication 1: Importance of clear conceptual frameworks

The first research question was about how emerging communication technologies interfaced with or facilitated sexual violence. It is important to note that our insights on this are limited by our sample (i.e., key informants who are responding to incidents, but not young people who have experienced such violence). It may be that the addition of these voices could alter the conclusions we draw below. Thus, we make the caveat that our analysis refers to the views of the services and stakeholders responding to the issues.

As noted, there were disjunctions and contradictions in terms of how participants understood the relationship between sexual violence and emerging communication technologies. This had flow-on effects in terms of how participants understood the role of others or what appropriate responses involved. We think that this stems from an absence of, or lack of clarity on, a shared conceptual framework in which to locate the behaviours.

Conceptualising sexual violence and the roles of emerging communication technologies

Our observation is that although there was agreement that the criminal law is a limited and blunt instrument for intervention with young people, the issue of sexting created a lot of “noise” in participants’ views of (a) just how emerging communication technologies interfaced with experiences of sexual violence; and (b) what sort of challenges this presented for the criminal justice system.

Sexual violence broadly refers to unwanted sexual interaction or threats of such interaction (such as sexual intercourse, sexual touching, or sexual exposure) in circumstances of non-consent and/or force, threat, incapacitation or blackmail. The creation of nude or sexually explicit images of yourself or another person does not of itself constitute sexual violence. This does not mean that sexual violence is not part of sexting. In terms of the creation and distribution of nude and explicit images, participants did refer to a culture of expectation and pressure that taking a “selfie” was simply what you did, and that this pressure was disproportionately experienced by girls. In discussing harms and consequences, this too was disproportionately experienced by girls who experienced judgement, shame and humiliation because images they had created were circulated around school and peer networks.

However prevention messages and programs often focus on sexting per se in order to address these issues, with the warning that there is “no such thing as safe sexting” (ACMA, 2011). Risks named in educational material, such as DVDs, fact sheets, programs include:

- being charged with producing or distributing child pornography;
- damage to your “digital reputation”;
- sending the wrong message to other Internet users; and
- on-forwarding to unintended recipients.

Commentators have noted that in conflating sexting with risks of harm and sexual violence, young women are positioned as being both “at risk’ from sexting, and being responsible for resisting/preventing the practice” (Albury, Crawford, & Byron, 2012, p. 3). From a sexual assault prevention perspective, this approach poses problems.

First, it replicates misconceptions about sexual assault generally, in which women are positioned as somehow precipitating their own victimisation, and postulates that prevention involves rape-avoidance programs. A clear evidence base now exists that such endeavours are not effective, as they misapprehend the determinants of violence against women (Carmody, 2009).

Secondly, there is a very real risk of reproducing the very attitudes and social norms about sex and gender that facilitate sexual violence, particularly those that draw on “good girl/bad girl” dichotomies, in which women who are sexually active or sexually adventurous are “cheap”. More subtly, this dichotomy is communicated through warnings about “reputation”. As our participants noted, such risks are not gender neutral, nor are risks equally distributed across boys and girls.

Thirdly, in recent years there has been a concerted effort across governments, communities and schools settings to introduce sexual assault prevention education. Respectful relationships initiatives⁵⁸ have been designed as primary prevention interventions, targeting the underlying factors that excuse or condone sexual violence. The messages described above undermine these.

Developing a conceptual framework

Figure 1 offers a visual representation of this spectrum of sexual violence, mapped against the factors influencing the behaviour, and system responses as identified by participants. The diagram describes the following:

- *The context or situation*—This is a continuum along which the interface between sexual interactions and emerging communication technologies occur. This ranges from the consensual to the coercive, violent or exploitative.
- *Enablers or facilitators*—These are the factors participants identified as shaping that interface. Thus, many participants acknowledged that there is a gendered expectation for girls to provide nude images that draws on already existing social norms and scripts about heterosexuality, male entitlement and female attractiveness. This creates contexts in which pressure or coercion is exercised to obtain images and/or where their distribution has a ready economy of meaning. A range of enablers was identified by police as facilitating motivated offenders to make contact with potential victims.
- *A response continuum*—This continuum reflects the overall evidence base about violence prevention, which includes primary, secondary and tertiary prevention (Harvey, Garcia-Moreno, & Butchart, 2007; World Health Organization [WHO], 2002). Such interventions tend to focus on education and capacity-building, early therapeutic intervention in risky behaviours, and criminal justice responses. We have further indicated an overlap between educational and criminal justice responses, where participants identified a degree of discretion in whether to formally involve the justice system.

The following section describes the practical implications for responses by the sectors involved in preventing and responding to sexual assault and sexual violence.

⁵⁸ See the ACSSA practice profiles for more information about these programs, at <www.aifs.gov.au/acssa/ppdb/pppsubject.html>.

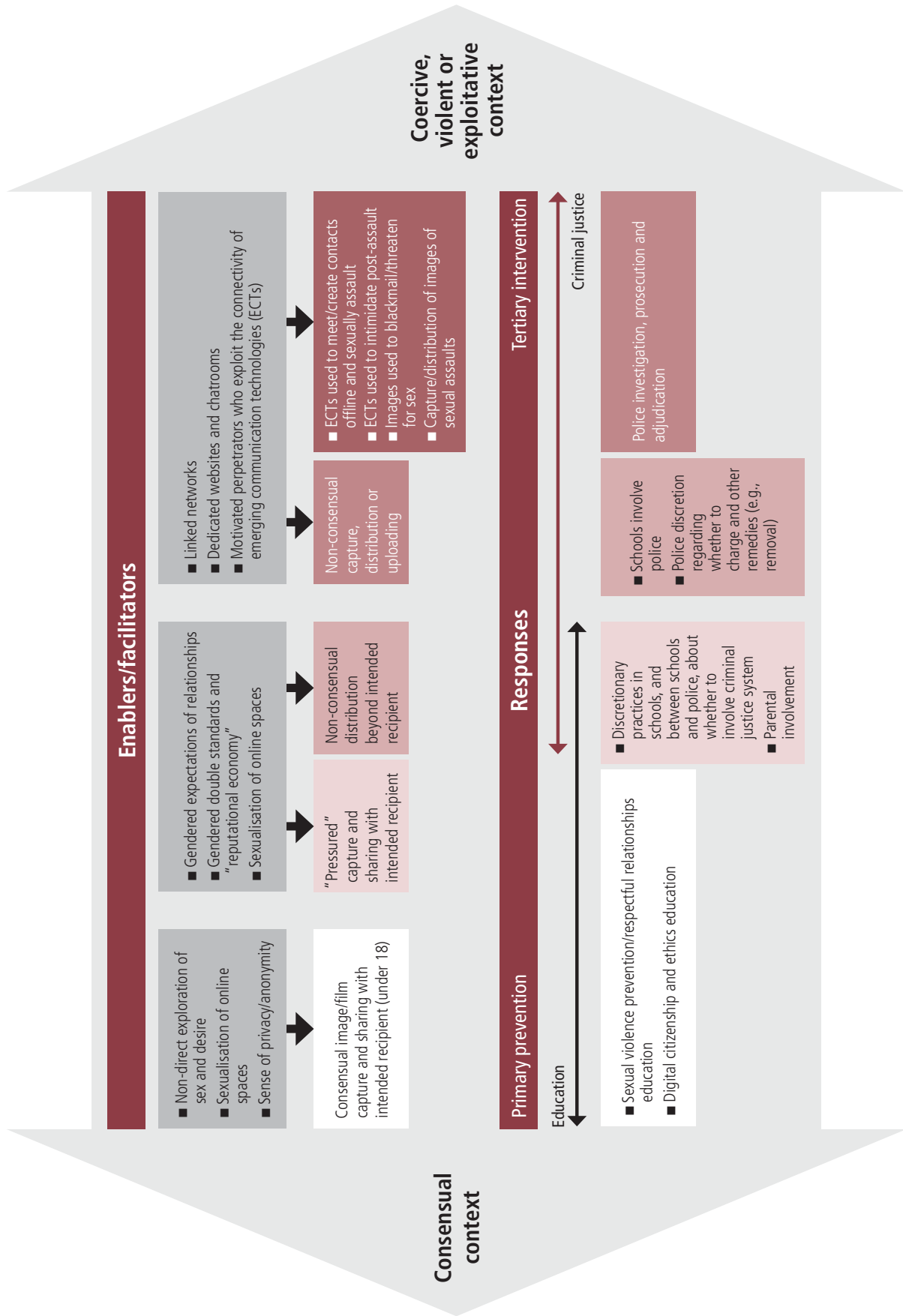


Figure 1: Conceptual framework for responding to technology-facilitated sexual violence

Implication 2: Practical implications for various sectors

This conceptual framework provides direction for many practical measures for addressing the issue of technology-facilitated sexual violence. Most significantly, as demonstrated in Figure 1, the appropriate response to many of the behaviours that could be considered sexual violence facilitated by emerging communication technologies is often not primarily a legal one. Given our understanding of the underlying attitudes and social dynamics that influence perpetration in this context, participants in this research consistently identified an education-based response as the primary vehicle.

Adequacy of legal apparatus

Participants in this research suggested that current legislation adequately addresses behaviour considered to be at the more serious end of the spectrum. Specifically, the use of emerging communication technologies to groom, coerce and harass victims is covered by existing laws. Additionally, the law is seen to address issues of non-consensual image capture and distribution. With regard to behaviour not currently address by legislation, such as sexually based pressure to participate in activities such as sexting, participants felt that these behaviours were better address by a comprehensive educational campaign. In addition, participants questioned the need for legal intervention in cases of consensual, peer-to-peer image capture and targeted distribution, noting in particular the current application of the *Sex Offenders Registration Act 2004*, in cases of consensual image capture.

One deficiency noted in relation to the current legal apparatus is the lack of adequate resources, with reference to the requirements of investigative practice and the process of presenting evidence in court. From a policing perspective, it was noted that:

- training and knowledge transfer for law enforcement officers may be wanting in some jurisdictions, and support for using discretion and alternate, non-legal, means of resolution could be helpful;⁵⁹
- the volume of evidence available in some cases of technology-facilitated sexual violence requires prolonged evidence collection processes that can only be performed by a small number of staff; and
- investigations often require approval through the office of the Attorney-General, given the multi-jurisdictional nature of some investigations.

In relation to the presentation of evidence at trial, it was noted that:

- the majority of courtrooms are not equipped with facilities to display digital evidence, and as such rely on printouts of voluminous evidence;
- similarly, personal devices are being used to display evidence in court; and
- relatedly, many participants felt the judiciary needed more support—in the way of training and information—to understand and engage with the technology. The intersection of rapid technological change with a less dynamic legal system can mean that the judiciary is ill-equipped to respond effectively.

It is clear that emerging communication technologies pose specific problems in the processes of evidence collection and presentation. This area must be adequately resourced so that cases can proceed through the criminal justice process in a timely fashion.

The educational response

As indicated above, participants in this research agreed that a coordinated and ongoing education campaign targeted at young people would have the greatest influence on technology-facilitated sexual violence. Specifically, participants identified the need for a consistent, clear and evidence-based campaign with young people. It was noted that many current campaigns are

⁵⁹ To this end, the Australian Federal Police have developed a training model that is intended to improve consistency.

run as “one-offs” and focus almost exclusively on concepts of safety and risk. While campaigns focusing on privacy and security were seen as a necessary element of digital citizenship, the conceptual framework provided by this research suggests that the campaign needs a broader, more socially based focus. Participants suggested that any campaign with young people should focus on relationships and ethical conduct, and that the use of emerging communication technologies would form part of this campaign. It was also agreed that any campaign should retain consistency so that young people receive a standardised message. For this reason, it was suggested that any education campaign be coordinated across audiences—including young people, parents and schools—in order to maximise engagement and share responsibility.

Form of educational response

Participants advocated a multifaceted, multilayered approach to education. This approach suggests that while educators in the school system are a key source of information for young people, the responsibility for informing young people about ethical and respectful decision-making should be shared by parents, educators and government. Participants expanded on this multi-faceted approach, suggesting that:

- youth should be encouraged to gain information from multiple sources, including through web-based resources;
- parents need access to adequate information in order to engage with their children on the ethical use of emerging communication technologies;
- schools need to be adequately resourced to provide a consistent and ongoing curriculum that includes the practice of respectful relationships and components on ethical digital citizenship; and
- industry, particularly large social media sites, should be involved in the provision of educational resources and funding with respect to the appropriate use of their sites.

Additionally, a number of participants suggested that the scale of the issue warrants a media campaign, similar to the public health campaigns around tobacco, domestic violence and binge drinking. Views about the focus of such a campaign differed, depending on the participant’s professional point of view or experiences, but the common themes were risks and consequences, and personal agency.

Approach of an education campaign targeted towards young people

A conceptual framework would provide direction for future educative strategies. Online and offline social worlds and social connections are much more contiguous than they were ten years ago. In particular, educational responses must acknowledge that the risk of sexual violence very much comes from existing networks—the familiar and the “friended”. In one sense, this marks a departure from many of the current cyber-safety educational responses, which tend to be centred on concepts of “privacy” and “security”. What this research suggests is that there may be a mismatch between the nature of risk and the messages given about risk prevention. This research has echoed much national and international literature in identifying that the use of the Internet in particular is fundamentally relational—people use it to be social.

In this sense, we already have frameworks to draw upon in formulating an appropriate educational response. An educative response targeting the conduct of responsible and ethical relationships and a care of the self within social interactions was seen as being paramount by participants in this research. The use of emerging communication technologies, and the concept of digital citizenship should be encompassed by this broader framework. However, we agree that socialisation using emerging communication technologies requires a specific and tailored educative response.

The difficulty in determining the content and method of such a campaign is acknowledged. In particular, participants identified that:

- a campaign aimed at promoting respectful relationships and conduct between young people would be met with a wide range of differing community views on what constitutes “appropriate” sexual behaviour;

- beyond the difficulties associated with determining the moral positioning of appropriate content, there are challenges in making the message relevant to young people and establishing a sense of connectedness or ownership with that message;
- communication technologies themselves need to be harnessed because using a medium with which young people are comfortable makes for a powerful communication tool;
- using a common language and communicating on the recipients' level is an important foundation for the development of education materials because language that resonates with young people makes conversations about safety and technology more meaningful; and
- within the larger context in which the message is being delivered, there may be an absence of broader critical literacy skills and this may inhibit young people from thinking meaningfully about what they are doing.

Participants also suggested that the underlying approach of any campaign needs to be carefully considered. Many of their suggestions were based on problems experienced in previous educational campaigns. As articulated by participants, potential issues to consider are that:

- scaremongering is unlikely to resonate with young people;
- young people may not see the personal relevance of a message that focuses too heavily on legal consequences that are not a feature of their own learned experience; and
- a negative approach that focuses only on the consequences may not accurately capture the complexity of young people's relationships.

Additionally, the need to ensure age-appropriate messaging was a key issue for many participants. Importantly, participants felt that the education process concerning respectful relationships and the safe use of emerging communication technologies needs to start early. This early education would need to be focused on the short-term practicalities of using emerging communication technologies, whereas for older youths, participants suggested that it could help to focus on the bigger picture and the lasting consequences. A number of participants noted that a more nuanced approach, or a more multi-faceted approach, could also draw on a larger pool of experts to develop content.

Content of the educational response

As detailed above, participants indicated a strong preference for a campaign that was centred around respectful relationships and ethical conduct more broadly, while also incorporating the practice of digital citizenship. Specific suggestions made by participants as to the content of an effective educational campaign included:

- the need to ensure that educative responses reflect respectful attitudes and behaviours and focus on building capacity within young people to make sound ethical decisions;
- the importance of a focus on personal resilience and skills useful in negotiating behavioural boundaries. It was suggested that young people who have the confidence and skills to navigate the complexities of their interpersonal relationships would be better equipped to mitigate risks faced by the use of emerging communication technologies; and
- particular messages about giving and receiving respect for others, but also themselves, could be helpful for young women, due to the gendered nature of some behaviours.

Despite the very strong view that an education model focusing on respect and ethical decision-making is the best approach, participants were mindful of the need to ensure a balanced message. As such, it was not suggested that this approach replace pre-existing messages concerning privacy and security online, but rather that messages concerning cyber-safety be incorporated into a broader campaign concerning ethical conduct and respectful relationships.

Benefits of such an approach include:

- the use of a strengths-based approach has broader application and can tap into other teaching strategies; and
- an approach that has a core focus on fundamental interpersonal skills, like building respectful relationships, can help to equip young people in the online and offline environments for the longer term.

Engaging parents: As important as educating youth

It is clear from this research that parents play an important role in informing and guiding the use of emerging communication technologies by young people. Participants were clear that engaging parents in the educative process was just as important as engaging young people. Barriers such as a generational gap in knowledge of emerging communication technologies and a common lack of awareness of young people's activities online were seen as being detrimental to young people's ethical engagement with emerging communication technologies. For this reason, participants advocated:

- parents engaging with their children in relation to the technology, in order to be able to have greater influence in guiding their children to consider the consequences of using emerging communication technologies;
- establishing a strong foundation early on to help ensure young people are well equipped to make good decisions, even after parental influence wanes;
- that the most effective engagement by children would commence early and extend until the child is in their late teenage years or beyond; and
- parents taking the practical step of increasing their own knowledge about these technology, which can also be an effective means of interacting and engaging with their children.

Supporting the school-based response

Participants acknowledged the difficulty of successfully implementing a multi-faceted but integrated response, but agreed that supporting a school-based response was important. Notions of clarity and consistency were of primary importance here. In particular:

- counsellor/advocates pointed to the challenges for schools in providing a supportive and balanced, but different, response for victims and perpetrators, and noted that at the tertiary stage a more specialised response may be more effective; and
- a key issue for law enforcement professionals was around supporting schools to deliver appropriate messages, while also responding to criminality.

Informing police discretion

Additionally, law enforcement officers were mindful of the importance of delivering a consistent message to young people. An important element of the educational response is a realistic portrayal of the possible legal consequences of perpetrating sexual violence. In particular, some participants identified challenges in relation to police discretion in responding to matters that may have criminal ramifications. The application of the law is decided upon a case-by-case basis by necessity. This has negatively affected law-and-order-based campaigns, as youth are rarely exposed to actual legal consequences. Many educators and law enforcement officers noted the ineffectiveness of campaigns focusing on the legal consequences of behaviour such as sexting, and were more supportive of campaigns focusing on ethical relationships.

The responsibility of industry

As detailed in Chapter 6, many participants felt that industry was not responsive to requests by those in the criminal justice process, and that the difficulties in obtaining evidence or having material removed were cumbersome and unnecessary. Additionally, a number of participants noted the lack of involvement of industry with educative campaigns concerning ethical behaviours in the online space.

This research found a cross-sector desire for industry involvement and accountability, particularly from social media sites. Participants also stated that technology manufacturers and service providers have a responsibility to support effective responses, particularly where activities have a criminal element or legal consequences. There were different opinions about how this responsibility should be met, but a number of participants were of the view that improved processes and content standards would be helpful.

8

Researching youth, technology and sexual violence

The inclusion of this chapter reflects our desire to inform future research.⁶⁰ For this reason, we outline a number of the difficulties encountered during the completion of this report, including the ethical, methodological and practical challenges we encountered in trying to recruit young people as participants for this project and what we learned along the way. In Box 1, we make some suggestions about what we would do differently.

A key aspect of this project was to develop an understanding of how online and mobile phone technologies facilitated, or were involved in, sexual violence experienced by young people. We envisaged that this would involve:

- in-depth qualitative interviews with victims of sexual assault (self-defined) in which online or mobile phone technologies were a feature; and
- an online “discussion board” with young people about the interface between sexual ethics, online ethics and prevention, which would run for 4–6 months.

Any research project that asks people to talk about experiences of sexual violence must navigate a number of ethical challenges. These include the risk of distressing or re-traumatising participants, the risk of making the participant identifiable, the subsequent risk to the participant’s safety should the perpetrator discover their participation in the research, and the risks of vicarious trauma for the researchers. At the same time, the risk of causing distress needs to be balanced against the need to ask questions, to probe and explore the insights offered by participants. The identification of participants is limited to the confirmation that participants meet the selection criteria and any need to get in touch again (if they desire) to confirm interview transcripts. The legal system limits complete confidentiality as the courts can subpoena interview notes, transcripts and contact records.

Researchers employ a number of strategies to mitigate or contain these risks, particularly the risks of traumatising the participant, jeopardising their safety or jeopardising criminal proceedings. The trouble is that such strategies present difficulties for research that seeks to recruit young people as victims of sexual violence, especially in light of this generation’s affiliation with online and networked forms of communication (ACMA, 2009; Boyd, 2007).

Challenges in undertaking the research

As noted, sexual violence represents a sensitive research area. Involving young people as the research population adds to the sensitivity. Younger victims of violence are less likely to access support services, and are less likely to disclose their experiences to unfamiliar adults (Quadara, 2008; Vynckier, 2012). In addition to this, online communication platforms present their own ethical and methodological conundrums, as evidenced by the growing scholarship on

⁶⁰ Roundtable participants from the research sector also highlighted the difficulties associated with the pace of technological change and suggested that research protocols are out-of-date in relation to technology and cultural change. This group provided the example of the problems associated with obtaining ethical clearance to interview young people for research purposes. Where ethical clearance is unable to be obtained, researchers must rely on perspectives from other parties, such as parents, or proxy measures, to develop the empirical base. Participants felt this hinders the capacity for research to be responsive to issues as they arise.

ethics and Internet-based research (e.g., Bassett & O’Riordan, 2002; Beaulieu & Estalella, 2011; Convery & Cox, 2012).

The challenges we experienced in recruiting young people came from three areas:

- engaging young people in research on sexual victimisation;
- using the Internet in social science research; and
- researchers bringing an outsider’s perspective.

Although these are listed as separate issues, we found that they were—frustratingly—interconnected. Halfway into the recruitment phase it became clear that our data collection method of face-to-face interviews was likely to be a barrier for young people. Were there other ways of collecting their stories? Could we use the Internet as a way of communicating with young people who had experienced technology-facilitated sexual violence? But what seemed like a solution—the Internet—quickly produced its own problems.

These challenges and the efforts to overcome them are described in the sections below.

Engaging young people in research on sexual victimisation

An early issue was the age range we had initially suggested. Our ethics application to the AIFS Ethics Committee stated that age range of young participants would be 18–25, as this would ensure that we did not need parents’ consent for their child to participate. However, the project’s reference group was quick to advise that this age bracket was too old. Reference group members suggested that the proposed age range of 18–25 years did not capture those individuals most likely to have experienced sexual violence through emerging communication technologies. The behaviours they were seeing were among a much younger cohort (i.e., 13–16 years). Further, it was not possible for older participants to provide retrospective accounts because the technologies have changed so rapidly, particularly since the wide availability of broadband Internet and mobile phones in the last decade. The issues raised by members include that:

- the relatively short length of time that these technologies have been in existence and therefore accessible to young people (for instance, social networking sites such as Facebook) mean that they are more likely to be used by those in younger age ranges;⁶¹
- cases involving 13–16 year olds are more common because they tend to have private access to computers, are less likely to speak with parents about their online activity and are also less likely to report illegal activity to authorities; and
- sexting is more frequent with younger people, particularly those 13–15 years of age.

We anticipated that it would be very difficult to obtain ethics approval for interviewing younger participants (i.e., 13–15 years) without parental consent. Yet the requirement of parental or guardian consent would compromise participants’ confidentiality. It was agreed that the age range capable of balancing all these issues was 16–20 years. We address two key issues in engaging this age group: confidentiality and researching experiences of sexual violence.

Consent, guardianship and breaches of confidentiality

Obtaining parental/guardian consent for persons under 18 years of age is a measure of protection for a young person. However, to require such consent is seen as a possible barrier to youth participation, study validity and, ultimately, relevant outcomes (particularly in research concerning the health and wellbeing of youth) (Morrow & Richards, 1996; Sancu, Sawyer, Weller, Bond, & Patton, 2004; Taraszow et al., 2010).

With specific reference to the present study, the importance of parental/guardian consent needed to be weighed against the privacy rights and ultimate welfare of the young person. Research suggests that young people do not typically disclose experiences of sexual violence to their parents/guardians, and are in fact more likely to disclose to a peer. Therefore, obtaining parental/guardian consent in this instance could constitute a breach of confidentiality and could

61 A timeline relating to the introduction of various forms of ICTs can be found at <en.wikipedia.org/wiki/Timeline_of_popular_Internet_services>.

discourage any participation by the young person in the research. Additionally, as recruitment was occurring through the Victorian Centre Against Sexual Assault (CASA)—an organisation that provides counselling to persons under 18 years of age without parental consent—to require this form of consent would compromise CASA’s own processes.

We turned to the concept of a “mature minor”. An ethical review body may approve research to which only the young person consents if it is satisfied that he or she is mature enough to understand and consent, and not vulnerable through immaturity in ways that would warrant additional consent from a parent or guardian (NHMRC, 2007).⁶² This principle recognises the autonomy and decision-making capacity of young people regarding matters affecting their life. (Indeed, the age of consent in the state of Victoria is 16 years.) The NSW Department of Community Services (2008) research ethics guidelines state that:

In some research with child participants, particularly where they agree to participate, keeping information about a child or young person confidential from their parents can be ethically justified. These situations include research in which the child or young person’s participation needs to be on the basis that the information that the children provide cannot be provided without compromising the welfare of the child. The child or young person is entitled to privacy about his or her opinion and views. (2008, p. 8)

The AIFS Ethics Committee therefore approved the amendment of the age range to 16–20 years. To manage the potential risks associated with participant-only consent by minors, and to protect the wellbeing of young participants, we had in place a number of protocols and procedures, such as:

- using an “opt-in” approach whereby participants contact a CASA or the researcher directly, thereby choosing in the first instance to be part of the research;
- researchers consulting extensively with those experienced in working with and counselling youth in relation to sexual violence, prior to, during and at the conclusion of the research;
- explaining the terms of the research (such as the meaning of, and legal limits to, confidentiality, anonymity and consent) in plain, age-appropriate language and allowing for clarification by the participant;
- providing young people with the option of having a CASA support person or friend present at the interview;
- maintaining the confidentiality of the participant at all times through the processes of oral consent and de-identification of transcript data;
- providing participants the opportunity to review all transcript data and publication data prior to information being produced in any public format; and
- ensuring that participants were aware that consent could be removed at any time up to the point of de-identification of the transcripts, and that there would be no adverse effects from choosing this course.

Researching experiences of sexual violence

Researchers involved in this field are acutely aware of the effects of victimisation on mental health, physical health, wellbeing, relationships, social networks and social participation (Boyd, 2011). In addition, victim/survivors who disclose their experiences can experience negative reactions from others, such as family, friends, and services to whom they have reported (Campbell, Wasco, Ahrens, Sefl, & Barnes, 2001; Martin & Powell, 1994; Ullman 1996).

From a research ethics perspective then, there is a high risk that participating in research that asks people to recount their victimisation will cause the participant distress, either during the interview or subsequently. Researchers have an ethical obligation to ensure that the risk and extent of distress is contained, and use a number of strategies to do this including:

- being clear in the recruitment information and plain language statements about the nature of the research (i.e., that it will be about sexual assault or sexual violence);

⁶² The United States and United Kingdom have also recognised the concept of the mature minor in their ethics guidelines (Sanci et al., 2004).

- engaging sexual assault services to assist with recruitment and providing any debriefing support the participant might require (this could involve letting the services know ahead of time when interviews are scheduled so they can be prepared should a participant contact them);
- restricting participation to those who have accessed a support service in the past;
- letting potential participants make initial contact;
- monitoring distress during interview, suspending the interview if necessary, and supporting the participant to get in touch with a service immediately, if that is requested; and
- interviewing in quiet, private and comfortable spaces.

In short, the key aim for researchers is to create a space of respect and emotional safety for participants to share their experiences (Campbell, Sefl, Wasco, & Ahrens, 2004). It quickly became apparent from discussions with some sexual assault services that young people were less likely to access services, particularly face-to-face. Conversations with others involved in youth services sector⁶³ indicated that asking young people to speak about something called “sexual violence” might not be meaningful to them.

Our first corrective action was to change the language on the youth participant flyer. We included behavioural examples and made the language more informal in order to give participants a sense of the range of experiences we were interested in hearing about. We later considered that from the perspective of young people, speaking face-to-face to someone they didn't know about unwanted sexual experiences would be daunting. It was briefly discussed among reference group members whether we could broaden the language to sexual activity more broadly. We felt, however, that this could undermine the principle of informed consent by not being explicit about what we would be asking young people to share with us.

A second avenue was to consider using the Internet as a way of communicating with young people. Ultimately, we were interested in their stories and experiences, so we started to look at other methods of data collection that could capture these. Such methods included: email,⁶⁴ instant messaging (see, for example, Hinchcliffe & Gavin, 2009), and Skype.

To use any of these methods would have required approval anew from the AIFS Ethics Committee for such an amendment (we had only specified face-to-face interviews), which presented issues for us. Eynon, Schroeder, and Fry (2009) noted that the physical distance between researchers and participants in the online environment presents challenges, particularly when trying to protect participants from psychological harm—a key concern for ethics bodies. We did not feel that at this later stage of the research we would be able to have in place safeguards for creating safe spaces for people to talk about sexual victimisation through computer-mediated formats.

Other challenges in using the Internet in research are taken up below.

Using the Internet in social science research

In preparing the ethics application for the AIFS Human Research Ethics Committee, it became apparent that setting up an online discussion board would be difficult. We had intended to use Facebook as the platform for this, as it is well suited to ongoing commentary. But the question presented itself: How would we keep this a safe place for discussion? First, there was a possibility that someone might disclose an experience of sexual violence, with the possible risks of a negative or victim-blaming reaction from another commentator. Further, given that we did not have the resources for 24-hour monitoring, we would have little capacity to support any disclosures made. Second, given the focus on sexual ethics, there was a risk that we were in fact creating a space for perpetration of the very behaviour we were researching. Third, there was the methodological issue of being unable to confirm that participants in the discussion were indeed young people. A restricted discussion format, where comments could be sent in, moderated and posted would not be able provide this either. Finally, we were advised that there was no way to completely erase discussions. These issues presented unacceptable

⁶³ For example Reachout, the Inspire Foundation and Youth Advisory Council of Victoria.

⁶⁴ Reflecting on her research using computer-mediated communication mediums, Shepard (2003) noted that chat room communication was slow and stilted, with gaps in responses that were difficult to interpret. Email proved a more natural modality and tended to encourage more intimate responses.

ethical risks. For these reasons, we did not pursue the online discussion board as a part of the methodology for the study.

A second issue is the speed of technological change, and the slowness of research or, as one participant said to us, “by the time you finish writing your report, it will no longer be relevant”.⁶⁵ This is not specific to this project, but has been observed by a number of researchers and stems both from the nature of “Internet time”⁶⁶ and from the general failure of researchers to incorporate this into research designs:

“Internet time” is a subject grudgingly acknowledged in our research designs, rather than incorporated within them ... In the time it takes to formulate, fund, conduct, revise and publish a significant research question, we are all left to worry that changes in the media environment will render our work obsolete. (Karpf, 2012, p. 640)

The antidote to this mismatch is what Karpf calls “kludgy” solutions. Solutions, in other words, that are inelegant but get the job done, and which researchers describe clearly to others as part of their methodology. In certain sensitive subject areas such as ours, using untested methods halfway through the research process and having to retrospectively fit the ethics application to the online environment was simply too difficult.

Researchers bringing an outsider’s perspective

Our final challenge, which we identified somewhat belatedly, was that perhaps the behaviours we were identifying as topics worthy of study, and therefore implicitly a problem, were not necessarily viewed as such by the young people we were hoping to speak with. This may be case in two ways. First, research on young people and sexual violence suggests that in general it can be difficult for them to identify particular experiences as violence (see Quadara, 2008). Second, in terms of behaviours such as consensual and non-consensual sexting, it may be that it is only adults naming it as a particular practice (like “drug-taking” or “trainsurfing”), rather being than a feature of young people’s relationships. As noted by participants throughout, a lack of resonance and relevance was apparent in young people’s reactions to and perceptions of cybersafety education.

What we would do differently

As noted by us earlier in the report, there is, in general, a lack of research into what the role of emerging communication technologies is in experiences of sexual violence. The issues outlined above contribute to the paucity of research available. However, in Box 1, we provide suggestions to facilitate the growth of research in this area.

Box 1: What we would do differently

- Reframe the area under investigation as being about the role of emerging communication technologies in peer, romantic and sexual relationships, in which issues of consent, negotiation and respect can be explored.
- Use focus group methodologies to problem-solve more “abstract” or removed instances of unwanted sexual interactions and technology (i.e., a case study approach).
- Offer multiple methods of data collection (e.g., face-to-face, email, Instant Messenger Service/video chat).
- Partner with services such as Kids Help Line or other online counselling services to ensure that participants who did offer experiences of sexual violence have a debriefing pathway; or develop an online space that is directly linked to or part of the service.

⁶⁵ Comment by educator during interview.

⁶⁶ This term refers to the qualitatively different nature of the Internet each time it evolves.

It is envisioned that the conduct of research concerning the social effects of emerging communication technologies will increase in the near future. In order to address a clear limitation of our research, it is our suggestion that future research remain guided by a clear understanding of the social worlds of young people, and be informed by their voices. Relatedly, research concerning emerging communications technology should incorporate, and take advantage of, the new methods of data collection afforded by this technology. Finally, cross-sector involvement is key to providing a conceptually sound understanding and ensure the effectiveness of future responses to this constantly developing phenomena in the lives of young people.

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References

- Albury, K., Crawford, K., & Byron, P. (2012). *Submission to the Law Reform Committee, Parliament of Victoria in response to its Inquiry into Sexting*. Melbourne: Parliament of Victoria.
- Australian Bureau of Statistics. (2006). *2005 Personal Safety Survey Australia*. Canberra: ABS.
- Australian Communications and Media Authority. (2007). *Media and communications in Australian families: Report of the Media and Society Research Project*. Canberra: ACMA.
- Australian Communications and Media Authority. (2009). *Click and connect: Young Australians' use of online social media* (Quantitative Research Report). Canberra: ACMA.
- Australian Communications and Media Authority. (2011). *Teens: How do I deal with ... sexting*. (Cyber[smart:] website). Canberra: ACMA. Retrieved from <www.cybersmart.gov.au/teens/how do I deal with/sexting.aspx>.
- Australian Communications and Media Authority. (2012). *Schools: Cyber issues. Sexting*. (Cyber[smart:] website). Canberra: ACMA. Retrieved from <www.cybersmart.gov.au/Home/Schools/Cyber%20 issues/Sexting.aspx>.
- Bassett, E. H., & O'Riordan, K. (2002). Ethics of Internet research: Contesting the human subjects research model. *Ethics and Information Technology*, 4(3), 233–247.
- Beaulieu, A., & Estalella, A. (2011). Rethinking research ethics for mediated settings. *Information, Communication & Society*, 15(1), 23–42. doi: 10.1080/1369118x.2010.535838
- Berg, B. (1995). *Qualitative research methods for the social sciences* (2nd Ed.). London: Allyn and Bacon.
- Boyd, C. (2011). *The impacts of sexual assault on women* (ACSSA Resource Sheet). Melbourne: Australian Centre for the Study of Sexual Assault, Australian Institute of Family Studies.
- Boyd, D. (2007). Why youth (heart) social network sites: The role of networked publics in teenage social life. *The John D. and Catherine T. MacArthur Foundation Series on Digital Media and Learning*, 119–142. doi: 10.1162/dmal.9780262524834.119
- Bradford, J. (2006). On sexual violence. *Current Opinion in Psychiatry*, 19, 527–532.
- Bryman, A. (2004). *Social research methods*. Oxford: Oxford University Press.
- Campbell, R., Sefl, T., Wasco, S. M., & Ahrens, C. E. (2004). Doing community research without a community: Creating safe space for rape survivors. *American Journal of Community Psychology*, 33(3), 253–261. doi: 10.1023/b:ajcp.0000027010.74708.38
- Campbell, R., Wasco, S. M., Ahrens, C. E., Sefl, T., & Barnes, H. E. (2001). Preventing the “second rape”: Rape survivors' experiences with community service providers. *Journal of Interpersonal Violence*, 16(12), 1239.
- Carmody, M., (2009). *Sex and ethics: Young people and ethical sex*. Melbourne: Palgrave Macmillan.
- Choo, K. -K. R. (2009). *Online child grooming: A literature review on the misuse of social networking sites for grooming children for sexual offences* (AIC Reports: Research and Public Policy Series, No. 103). Canberra: Australian Institute of Criminology.
- Clark, H., & Quadara, A. (2010). *Insights to sexual assault perpetration: Giving voice to victim/survivors' knowledge* (Research Report No. 18). Melbourne: Australian Institute of Family Studies.
- Connolly, C. (2009). Social networking sites. *Hot Topics: Legal Issues in Plain Language*, 70, 10–12.
- Convery, I., & Cox, D. (2012). A review of research ethics in Internet-based research. *Practitioner Research in Higher Education*, 6(1), 50–57.
- Couts, R., & Selby, H. (2009). *Safe and unsafe use of mobile phone evidence*. Paper presented at Public Defenders Criminal Law Conference. Retrieved from <www.lawlink.nsw.gov.au/lawlink/pdo/ll_pdo.nsf/pages/PDO_safeunsafeusemobilephoneevidence>.

- Creswell, J. W. (1994). *Research design: Qualitative approaches*. Thousand Oaks, CA: Sage.
- Crimes Against Children Research Centre. (2007). *Second Youth Internet Safety Survey (YISS-2)*. New Hampshire: University of New Hampshire.
- Eynon, R., Schroeder, R., & Fry, J. (2009). New techniques in online research: Challenges for research ethics. *Twenty-First Century Society*, 4(2), 187–199. doi: 10.1080/17450140903000308
- European Network and Information Security Agency. (2011). *Cyber-bullying and online grooming: Helping to protect kids against the risks*. Heraklion, Greece: ENISA.
- Finkelhor, D., Mitchell, K., & Wolak, J. (2000). *Online victimization: A report on the nation's youth*. Alexandria, VA: National Center for Missing & Exploited Children.
- Flood, M. (2007). Exposure to pornography among youth in Australia. *Journal of Sociology*, 43(1), 45–60. doi: 10.1177/1440783307073934
- Flood, M. (forthcoming). 'Young men using pornography', cited in Crabbe, M., and Corlett, D., *Eroticising inequality, (2010), Issue 3, DVRCV Quarterly*.
- Flood, M., & Hamilton, C. (2003). *Young people and pornography in Australia: Evidence on the extent of exposure and likely effects* (Discussion Paper 52). Bruce, ACT: The Australia Institute.
- Forde, P., & Patterson, A. (1998). *Paedophile Internet activity* (Trends and Issues in Crime and Criminal Justice, No 97). Canberra: Australian Institute of Criminology.
- Gillespe, A. (2008). *Child exploitation and communication technologies*. Dorset, UK: Russell House Publishing.
- Hanson, R., Kievit, L., Saunders, B., Smith, D., Kilpatrick, D., & Resnick, H. (2003). Correlates of adolescent reports of sexual assault: Findings from the national survey of adolescents. *Child Maltreatment*, 8(4), 261–272.
- Harvey, A., Garcia-Moreno, C., & Butchart, A. (2007). *Primary prevention of intimate partner violence and sexual violence: Background paper for WHO expert meeting May 2–3, 2007*. Geneva: World Health Organization, Department of Violence and Injury Prevention and Disability.
- Hinchcliffe, V., & Gavin, H. (2009). Social and virtual networks: Evaluating synchronous online interviewing using instant messenger. *The Qualitative Report*, 14(2), 318–340.
- Hird, M. (2000). An empirical study of adolescent dating aggression in the UK. *Journal of Adolescence*, 23, 69–78.
- Hird, M., & Jackson, S. (2001). Where “angels” and “wusses” fear to tread: Sexual coercion in adolescent dating relationships. *Journal of Sociology*, 37(1), 27–43.
- Holzer, P., & Bromfield, L. (2007). *Australian legal definitions: When is a child in need of protection?* (Resource Sheet No. 12). Melbourne: National Child Protection Clearing House, Australian Institute of Family Studies.
- Jackson, S., Cram, F., & Seymour, F. (2000). Violence and sexual coercion in high school students' dating relationships. *Journal of Family Violence*, 15(1), 23–36.
- Joint Select Committee on Cyber-Safety. (2011, July). *High-wire act: Cyber-safety and the young. Interim report*. Canberra: Parliament of Australia.
- Jones, L. M., Mitchell, K., & Finkelhor, D. (2012). Trends in youth Internet victimization: Findings from three youth Internet safety surveys 2000–2010. *Journal of Adolescent Health*, 50, 179–186.
- Karpf, D. (2012). Social science research methods in Internet time. *Information, Communication & Society*, 15(5), 639–661. doi: 10.1080/1369118x.2012.665468
- Kietzmann, J. H., Hermkens, K., McCarthy, I. P., & Silvestre, B. S. (2011). Social media? Get serious! Understanding the functional building blocks of social media. *Business Horizons*, 54(3), 241–251. doi: 10.1016/j.bushor.2011.01.005
- Lenhart, A., Purcell, K., Smith, A., & Zickuhr, K. (2010). *Social media and mobile Internet use among teens and young adults*. Washington, DC: Pew Research Centre.
- Liamputtong, P., & Ezzy, D. (2005). *Qualitative research methods*. Oxford: Oxford University Press.
- Livingstone, S., & Bober, M. (2005). *UK children go online: Final report of key project findings*. London: London School of Economics and Political Science.
- Livingstone, S., & Brake, D. R. (2010). On the rapid rise of social networking sites: New findings and policy implications. *Children & Society*, 24(1), 75–83.
- Livingstone, S., Haddon, L., Görzig, A., & Ólafsson, K. (2011). *Risks and safety on the Internet: The perspective of European children. Full findings and policy implications from the EU Kids Online survey of 9–16 year olds and their parents in 25 countries*. London: London School of Economics and Political Science, EU Kids Online.
- Loader, B. D., & Dutton, W. H. (2012). A decade in Internet time. *Information, Communication & Society*, 15(5), 609–615. doi: 10.1080/1369118x.2012.677053

- Lordan, T., Fiinkelhor, D., Ybarra, M., Lenhart, A., & Boyd, D. (2007). *Just the facts about online youth victimization: Researchers present the facts and debunk myths* [Transcript]. Washington, DC: Advisory Committee to the Congressional Internet Caucus. Retrieved from <www.netcaucus.org/events/2007/youth/transcript.shtml>.
- Mallan, K. (2009). Look at me! Look at me! Self-representation and self exposure through online networks. *Digital Culture and Education*, 1(1), 51–66.
- Martin, P. Y., & Powell, R. M. (1994). Accounting for the “second assault”: Legal organizations’ framing of rape victims. *Law & Social Inquiry*, 19(4), 853–890. doi: 10.1111/j.1747–4469.1994.tb00942.x
- McGrath, D. & Casey, J. (2002). Forensic psychiatry and the Internet. *The Journal of the American Academy of Psychiatry and the Law*, 30(1), 82–94.
- Mitchell, K. J., Finkelhor, D., Jones, L. M., & Wolak, J. (2012). Prevalence and characteristics of youth sexting: A national study. *Pediatrics*, 129(1), 13–20.
- Morahan-Martin, J. (2000). Women and the Internet: Promise and perils. *CyberPsychology & Behaviour*, 3(5), 683–691.
- Morrow, V., & Richards, M. (1996). The ethics of social research with children: An overview. *Children & Society*, 10(2), 90–105. doi: 10.1111/j.1099–0860.1996.tb00461.x
- Mouzos, J., & Makkai, T. (2004). *Women’s experiences of male violence: Findings from the Australian component of the International Violence Against Women Survey (IVAWS)* (Research and Public Policy Series No. 56). Canberra: Australian Institute of Criminology.
- National Campaign to Prevent Teen and Unplanned Pregnancy. (2008). *Sex and tech: Results from a survey of teens and young adults*. Washington, DC: National Campaign to Prevent Teen and Unplanned Pregnancy and CosmoGirl.com.
- National Children’s and Youth Law Centre. (2012). *Inquiry Into Sexting: Submission to the Law Reform Committee Parliament of Victoria*. Melbourne: Parliament of Victoria. Retrieved from <www.parliament.vic.gov.au/lawreform/article/946>.
- National Crime Prevention. (2001). *Young people and domestic violence: National research on young people’s attitudes and experiences of domestic violence* (Fact sheet). Canberra: Attorney-General’s Department.
- National Health and Medical Research Council. (2007). *National statement on ethical conduct in research involving humans*. Canberra: AusInfo. Retrieved from <www.nhmrc.gov.au/_files_nhmrc/publications/attachments/e35.pdf>.
- NSW Department of Community Services. (2008). *DoCS research ethics guidance: For conducting research involving services, clients or information about clients of the NSW Department of Community Services*. Ashfield, NSW: NSW DoCS. Retrieved from <www.community.nsw.gov.au/DOCSWR/_assets/main/documents/RESEARCH_ETHICS.PDF>.
- Nutley, S., Walter, I., & Davies, H. T. O. (2003). From knowing to doing. *Evaluation*, 9(2), 125–148. doi: 10.1177/1356389003009002002
- Office of the Australian Information Commissioner. (2012). *Your privacy rights FAQs: Social networking*. Canberra: OAIC. Retrieved from <www.privacy.gov.au/faq/individuals#social_networking>.
- Powell, A. (2010). “Safe sext”?: Young people, technology and sexual violence. *DVRCV Quarterly, Winter*, 1–5.
- Presser, L. (2005) Negotiating power and narrative in research: Implications for feminist methodology. *Signs*, 30(4), 2068–2090.
- Price-Robertson, R. Bromfield, L., & Vassallo, S. (2010). Prevalence matters: Estimating the extent of child maltreatment in Australia. *Developing Practice: The Child, Youth and Family Work Journal*, 26, 12–20.
- Quadara, A. (2008). *Responding to young people disclosing sexual assault: A resource for schools* (ACSSA Wrap No. 6). Melbourne: Australian Centre for the Study of Sexual Assault.
- Rennie, R. (2006, 25 October). Coonan warns of Internet’s underbelly. *The Age*. Retrieved from <www.theage.com.au/news/national/coonan-warns-of-internets-underbelly/2006/10/25/1161749173525.html>.
- Roberts, L. (2008). *Cyber-victimisation in Australia: Extent, impact on individuals and responses* (Briefing Paper No. 6). Hobart: Tasmanian Institute of Law Enforcement Studies.
- Sanci, L. A., Sawyer, S. M., Weller, P. J., Bond, L. M., & Patton, G. C. (2004). Youth health research ethics: Time for a mature-minor clause? *Medical journal of Australia*, 180(7), 336–338.
- Sharples, S. (2009). The footprints of social networking. *Lawyers Weekly*, 4 June. Retrieved from <www.lawyersweekly.com.au/features/the-footprints-of-social-networking>.

- Shepherd, N. (2003). *Interviewing online: Qualitative research in the network(ed) society*. Paper presented at the Qualitative Research: Creating Spaces for Understanding, Association of Qualitative Research Conference, Sydney, Australia. Retrieved from <espace.library.uq.edu.au/view/UQ:10232>.
- Smallbone, S., & Wortley, R. (2001). *Child sexual abuse: Offender characteristics and modus operandi* (Trends and Issues in Crime and Criminal Justice No. 193). Canberra: Australian Institute of Criminology.
- South Eastern Centre Against Sexual Assault. (2012). *Written submission to the Victorian Parliament Law Reform Committee Inquiry Into Sexting*. Canberra: Parliament of Victoria. Retrieved from <www.parliament.vic.gov.au/lawreform/article/946>.
- Taraszow, T., Aristodemou, E., Shitta, G., Laouris, Y., & Arsoy, A. (2010). Disclosure of personal and contact information by young people in social networking sites: An analysis using Facebook profiles as an example. *International Journal of Media & Cultural Politics*, 6(1), 81–101. doi: 10.1386/macp.6.1.81/1
- Ullman, S. E. (1996). Social reactions, coping strategies, and self-blame attributions in adjustment to sexual assault. *Psychology of Women Quarterly*, 20, 505–526.
- Urbas, G., & Choo, K.-K. R. (2008). *Resource materials on technology-enabled crime* (Technical and Background Paper). Canberra: Australian Institute of Criminology.
- Victoria Police. (2012). *Inquiry Into Sexting: Submission*. Melbourne: Parliament of Victoria. Retrieved from <www.parliament.vic.gov.au/lawreform/article/946>.
- Victorian Parliament Law Reform Committee. (2011). *Terms of reference: Inquiry Into Sexting*. Melbourne: Parliament of Victoria. Retrieved from <www.parliament.vic.gov.au/lawreform/inquiries/article/947>.
- Vynckier, G. (2012). Mid-adolescent victims: (Un)willing for help? *International Review of Victimology*, 18(2), 109–132. doi: 10.1177/0269758011432966
- Webber, R. & Wilmot, J. (2012) *Social media and help seeking by young people on sexual assault* (Somazone Report). Melbourne: Australian Catholic University.
- World Health Organization. (2002). *World report on violence and health: Summary*. Geneva: WHO.
- Wolak, J., Finkelhor, D., Mitchell, K., & Ybarra, M. (2008). Online “predators” and their victims: Myths, realities, and implications for prevention and treatment. *American Psychologist*, 63(2), 111–128.
- Women’s Health Grampians. (2012). *Written submission to provide comment on the Victorian Parliament Law Reform Committee: Inquiry Into Sexting*. Melbourne: Parliament of Victoria. Retrieved from <www.parliament.vic.gov.au/lawreform/article/946>.
- Women’s Health West. (2012). *Submission: Victorian Parliament Law Reform Committee: Inquiry Into Sexting*. Melbourne: Parliament of Victoria. Retrieved from <www.parliament.vic.gov.au/lawreform/article/946>.
- Wyn, J., Cuervo, H., Woodman, D., & Stokes, H. (2005). *Young people, wellbeing and communication technologies*. Melbourne: VicHealth.
- Ybarra, M., & Mitchell, K. (2008). How risky are social networking sites? A comparison of places online where youth sexual solicitation and harassment occurs. *Pediatrics*, 121(2), 250–257.
- Ybarra, M. L., Mitchell, K. J., Wolak, J., & Finkelhor, D. (2006). Examining characteristics and associated distress related to Internet harassment: Findings from the Second Youth Internet Safety Survey. *Pediatrics*, 118(4), e1169–e1177.
- Yin, R. (1984). *Case study research: Design and methods*. Beverly Hills, CA: Sage.
- Youthlaw. (2010). *Cyberbullying: Fact sheet*. Melbourne: Youthlaw, Young People’s Legal Rights Centre Inc.
- Zaidah, Z. (2007). Case study as a research method. *Jurnal Kemanusiaan*, 9, 1–6.
- Zwart, M., Lindsay, D., Henderson, M., & Phillips, M. (2011). *Teenagers, legal risks and social networking*. Melbourne: Monash University.

Appendix A: Plain language statement provided to participants

ACSSA Research Project titled “The Role of Social Networking Services and Mobile Phone Technology in Sexual Violence”

The Australian Centre for the Study of Sexual Assault (ACSSA) at the Australian Institute of Family Studies (AIFS) is currently conducting research on the use of information and communication technologies in sexual assault. Through this research we are hoping to gain a better idea about how sexual violence is perpetrated using these technologies, and how to prevent these crimes in the future. We are also interested in how the legal system can better address these situations.

ACSSA is speaking to a range of professionals in areas relating to sexual violence and the use of technology. You have been approached to participate in this research due to your experience with victim/survivors of technology-facilitated sexual assault, your involvement in legal responses to these crimes or expertise in the area of technology facilitated crime. We are interested in your ideas about how to respond to sexual violence when it is facilitated by new technologies. We are also interested in how you think the use of social networking sites and mobile phone technologies could be better regulated by law.

Participation in this research will involve taking part in a recorded interview with a researcher from ACSSA. You will have control over the interview and you are able to decide what you would and would not like to discuss. You can also stop it at any time. If you do not wish to continue, all information related to you will be destroyed. If you chose to participate you will be assigned a pseudonym in any public documentation arising from the research and you will not be identified in any way.

This research will draw on your particular expertise in relation to sexual violence and/or information and communication technologies. The aim of the research is to enhance the understanding of legal and other professionals and improve the response of the legal system to technology-facilitated sexual violence. Your insights will contribute to how the community understands these crimes, how the criminal justice system responds to these crimes and future prevention strategies.

Results

If you would like to be informed of the aggregate research findings, please contact Nicole Bluett-Boyd on the details provided below. If you would like counseling/debriefing facilities and trained personnel please contact CASA on 9635 3610 or visit the website www.casa.org.au for a full list of local services.

For information on the project including how to participate contact Nicole Bluett-Boyd on (03) 9214 7888/Toll Free on 1800352275 or via email frontierproject@aifs.gov.au. Or you can visit our website www.aifs.gov.au/acssa.

Appendix B: Consent form provided to participants



Australian Government
Australian Institute of Family Studies
Australian Centre for the Study of Sexual Assault

Legal Services BOARD
Funded through the Legal Services Board Grants Program

Consent form for key informants/professionals participating in Australian Centre for the Study of Sexual Assault (ACSSA) Research Project “The Role of Social Networking Sites and Mobile Phone Technology in Sexual Violence”.

I, _____

Hereby consent to be a subject of a research study to be undertaken by researchers from the Australian Centre for the Study of Sexual Assault (ACSSA) at the Australian Institute of Family Studies (AIFS).

I understand that the purpose of the research is to investigate how information and communication technologies are utilised to facilitate sexual violence, and explore options for legal redress and prevention strategies.

I understand that the key aim of the research is to advance understanding of the role of social networking sites and mobile phone technologies in the perpetration of sexual violence.

I acknowledge


1. That the aims, methods, and anticipated benefits, and possible risks/hazards of the research study, have been explained to me.
2. That I voluntarily and freely give my consent to my participation in such research study.
3. I understand that aggregated results will be used for research purposes and may be reported in academic and professional journals.
4. I understand that quotes and accounts (given in the context of my participation in the research) may be attributed to me under a pseudonym (i.e., a false name), and any other potentially identifying information removed or changed.
6. The material from my interview will be held securely and will not be able to be connected to me.
7. That I am free to withdraw my consent at any time during the study, in which event my participation in the research study will immediately cease and any information obtained from me will not be used.

Signature: _____ Date: _____


Researcher: Nicole Bluett-Boyd

Phone: (03) 9214 7888/Toll Free on 1800352275. Email: frontierproject@aifs.gov.au

Appendix C: Seeking participants flyer (key informants)



Australian Government
Australian Institute of Family Studies
Australian Centre for the Study of Sexual Assault



Seeking participants

Research is now being undertaken for ACSSA's project

The role of social networking services and mobile phone technology in sexual violence

The Australian Centre for the Study of Sexual Assault (ACSSA) is currently conducting research on the use of information and communication technologies in the facilitation of sexual assault. Through this research we are hoping to gain a better idea about how sexual violence is perpetrated using these technologies, and how to prevent these crimes in the future. We are also interested in how the legal system can better address these situations.

ACSSA is speaking to a range of professionals in areas relating to sexual violence and the use of technology. We would like to hear from you if:

- you have experience with victim/survivors of technology-facilitated sexual assault, particularly young people;
- involvement in legal responses to these crimes; or
- expertise in the area of technology facilitated crime.

We are interested in your ideas about how to respond to sexual violence when it is facilitated by new technologies. We are also interested in how you think the use of social networking sites and mobile phone technologies could be better regulated by law.

For information on the project including how to participate contact Nicole Bluett-Boyd
Phone: (03) 9214 7888 or 1800 352 275 (Toll Free) ■ Email: frontierproject@aifs.gov.au
Or visit our website: www.aifs.gov.au/acssa

All enquiries will be treated privately and confidentially

Australian Centre for the Study of Sexual Assault at the Australian Institute of Family Studies
Level 20, 485 La Trobe Street, Melbourne VIC 3000, Australia | Tel (03) 9214 7888 | Fax (03) 9214 7839

Appendix D: Semi-structured interview script



Australian Government
Australian Institute of Family Studies
Australian Centre for the Study of Sexual Assault

Legal Services BOARD
Funded through the Legal Services Board Grants Program

ACSSA Research Project titled “The Role of Social Networking Services and Mobile Phone Technology in Sexual Violence”

Key informant semi-structured interview script

Trends

1. In relation to the use of information and communication technologies in facilitating sexual violence, what kinds of trends are you observing?
2. Are there any specific types of activity that are increasing? Can you give a specific example?
3. Are there any specific types of activity that are decreasing? Can you give a specific example?
4. Why do you think this is the case?

Response

5. How are you able to respond to this activity?
6. Under what circumstances are you unable to respond?
7. In what way does the current legislative framework assist or hinder your response or ability to respond?
8. In what way does your organizational structure assist or hinder your response or ability to respond?

Challenges

9. What is it about this kind of technology that poses a challenge for your work?
10. Why is this a challenge?
11. What are you observing about challenges for other related sectors?

Changes

12. What would assist you in being able to respond to this activity?
13. Why might this assist?

Appendix E: Invitation to participate in a roundtable session

A new legal frontier? The role of social networking services and mobile phone technology in sexual violence

The Australian Centre for the Study of Sexual Assault (ACSSA), as part of the Australian Institute of Family Studies, is currently conducting research on the use of information and communication technologies in the facilitation of sexual assault. Through this research we are hoping to gain a better idea about how sexual violence is perpetrated using these technologies, and how to prevent these crimes in the future. We are also interested in how the legal system can better address these situations.

We are interested in hearing views from people involved in researching and responding to issues relating to sexual violence and the use of technology.

To help us do this, we are holding a roundtable session:

2pm - 4pm

Tuesday 31 May 2011

Australian Institute of Family Studies

Level 20, 485 Latrobe Street, Melbourne

Please RSVP if you would like to attend this session.

This session may be of particular interest to:

- Researchers
- Sexual assault crisis/support service providers
- Educators
- Policy/program managers
- Legal or other practitioners

We're inviting you to share your knowledge and experience to help us enhance the understanding of legal and other professionals and improve the response of the legal system to technology-facilitated sexual violence. Your insights will contribute to how the community understands these crimes, how the criminal justice system responds to these crimes and future prevention strategies.

If you would like to attend, or you require more information, please contact the Australian Institute of Family Studies on 03 9214 7888/Toll Free 1800 352 275 or via email at AIFS ACSSA <aifs-acssa@aifs.gov.au>.

Appendix F: Invitation to youth forum on role of social networking services in sexual violence



Australian Government

Australian Institute of Family Studies
Australian Centre for the Study of Sexual Assault

ACSSA

Seeking participants

Youth Forum on the role of social networking services and mobile phone technology in sexual violence

Here at the Australian Centre for the Study of Sexual Assault (ACSSA) we are trying to understand how technologies (such as Facebook and mobile phones) are used to hurt and upset young people. It is important that we hear your views. As part of the New Legal Frontier Project, we want to hear your thoughts and insights about social networking and mobile phone technologies and how you use these tools to interact with your peers. We are interested in positive and negative views about the role of these technologies in relation to a variety of different activities, for example, messaging sexy pictures or posting them on Facebook, or taking video footage with a mobile phone when fooling around with someone.

We'd like to invite young people, aged 16 to 25, to join us for an informal discussion

When: 4.30 pm, Monday 21 February

Where: Australian Institute of Family Studies, Level 20 485 La Trobe St, Melbourne.

Food and drinks will be provided

You won't be asked to talk about your own personal experiences during the roundtable.

Your identity will be kept confidential in any publications related to the project.

Want to participate in the roundtable discussion?

Please contact Nicole Bluett-Boyd via email <frontierproject@aifs.gov.au> or phone (03) 9214 7888

For catering purposes, **please RSVP by Friday 10 February.**

To find out more about this project please contact Nicole (above),
visit us on our website: <www.aifs.gov.au/acssa>
or like us on Facebook at "The Role of Communication Technology in Sexual Violence"

Australian Centre for the Study of Sexual Assault at the Australian Institute of Family Studies
Level 20, 485 La Trobe Street, Melbourne VIC 3000, Australia | Tel (03) 9214 7888 | Fax (03) 9214 7839

Appendix G: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Crimes Act 1958 (Vic.)</i>	s.21A	Stalking	<p>A person stalks another person if the offender engages in a course of conduct which includes any of the following—</p> <ul style="list-style-type: none"> ■ following the victim or any other person; ■ contacting the victim or any other person by post, telephone, fax, text message, e-mail or other electronic communication or by any other means whatsoever; (ba) publishing on the Internet or by an e-mail or other electronic communication to any person a statement or other material— <ul style="list-style-type: none"> ■ relating to the victim or any other person; or ■ purporting to relate to, or to originate from, the victim or any other person; (bb) causing an unauthorised computer function (within the meaning of Subdivision (6) of Division 3) in a computer owned or used by the victim or any other person; (bc) tracing the victim’s or any other person’s use of the Internet or of e-mail or other electronic communications; ■ entering or loitering outside or near the victim’s or any other person’s place of residence or of business or any other place frequented by the victim or the other person; ■ interfering with property in the victim’s or any other person’s possession (whether or not the offender has an interest in the property); ■ giving offensive material to the victim or any other person or leaving it where it will be found by, given to or brought to the attention of, the victim or the other person; ■ keeping the victim or any other person under surveillance; ■ acting in any other way that could reasonably be expected to arouse apprehension or fear in the victim for his or her own safety or that of any other person— ■ with the intention of causing physical or mental harm to the victim or of arousing apprehension or fear in the victim for his or her own safety or that of any other person. <p>For the purposes of this section an offender also has the intention to cause physical or mental harm to the victim or to arouse apprehension or fear in the victim for his or her own safety or that of any other person if—</p> <ul style="list-style-type: none"> ■ the offender knows that engaging in a course of conduct of that kind would be likely to cause such harm or arouse such apprehension or fear; or ■ the offender in all the particular circumstances ought to have understood that engaging in a course of conduct of that kind would be likely to cause such harm or arouse such apprehension or fear and it actually did have that result. 	Level 5 imprisonment (10 years maximum)

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Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Crimes Act 1958 (Vic.)</i>	s. 31	Assault	<p>A person who—</p> <ul style="list-style-type: none"> ■ assaults or threatens to assault another person with intent to commit an indictable offence; ■ <i>assault</i> means the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by, another person where the application of force is— <ul style="list-style-type: none"> ■ without lawful excuse; and ■ with intent to inflict or being reckless as to the infliction of bodily injury, pain, discomfort, damage, insult or deprivation of liberty— ■ and results in the infliction of any such consequence (whether or not the consequence inflicted is the consequence intended or foreseen). 	Level 6 imprisonment (5 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 38(3)	Rape	<p>A person commits rape if he or she compels a person—</p> <ul style="list-style-type: none"> ■ to sexually penetrate the offender or another person, irrespective of whether the person being sexually penetrated consents to the act; or ■ who has sexually penetrated the offender or another person, not to cease sexually penetrating the offender or that other person, irrespective of whether the person who has been sexually penetrated consents to the act. <p>A person compels another person (the victim) to engage in a sexual act if the person compels the victim (by force or otherwise) to engage in that act—</p> <ul style="list-style-type: none"> ■ without the victim's consent; and (b) while— (i) being aware that the victim is not consenting or might not be consenting; or (ii) not giving any thought to whether the victim is not consenting or might not be consenting. 	Level 2 imprisonment (25 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 38A	Compelling sexual penetration	<p>A person compels another person to take part in an act of sexual penetration if—</p> <ul style="list-style-type: none"> ■ the offender compels the victim to introduce (to any extent) an object or a part of his or her body into his or her own anus or, in the case of a female victim, her own vagina, other than in the course of a procedure carried out in good faith for medical or hygienic purposes; or ■ the offender compels the victim to take part in an act of bestiality within the meaning of section 59. <p>A person compels another person (the victim) to take part in an act of sexual penetration if the person compels the victim (by force or otherwise) to engage in that act—</p> <ul style="list-style-type: none"> ■ without the victim's consent; and (b) while— (i) being aware that the victim is not consenting or might not be consenting; or (ii) not giving any thought to whether the victim is not consenting or might not be consenting. 	Level 2 imprisonment (25 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 40	Assault with intent to rape	<p>A person must not assault or threaten to assault another person with intent to commit rape.</p>	Level 5 imprisonment (10 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 47	Indecent act with a child under the age of 16	<p>A person must not wilfully commit, or wilfully be in any way a party to the commission of, an indecent act with or in the presence of a child under the age of 16 to whom he or she is not married.</p>	Level 5 imprisonment (10 years maximum)

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Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Crimes Act 1958 (Vic.)</i>	s. 49	Indecent act with 16 or 17 year old child	A person must not wilfully commit, or wilfully be in any way a party to the commission of, an indecent act with or in the presence of a 16 or 17 year old child to whom he or she is not married and who is under his or her care, supervision or authority.	Level 6 imprisonment (5 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 49A	Facilitating sexual offences against children	A person must not make travel arrangements for another person or do or omits to do any other act that aids, facilitates or contributes to in any way whatever the commission by another person of an offence against this Subdivision (other than this section) or against Division 2 of Part IIIA of the Crimes Act 1914 of the Commonwealth or against a law in force only in a place outside Victoria the necessary elements of which consist of or include elements which, if present or occurring in Victoria, would constitute an offence against this Subdivision (other than this section).	Level 3 imprisonment (20 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 57	Procuring sexual penetration by threats (or fraud)	A person must not by threats or intimidation procure a person to take part in an act of sexual penetration.	Level 5 imprisonment (10 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 68	Production of child pornography	A person must not prints or otherwise make or produce child pornography. <i>Child pornography</i> means a film, photograph, publication or computer game that describes or depicts a person who is, or appears to be, a minor engaging in sexual activity or depicted in an indecent sexual manner or context.	Level 5 imprisonment (10 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 69	Procurement of minor etc. for child pornography	A person must not - <ul style="list-style-type: none"> ■ invite a minor to be in any way concerned in the making or production of child pornography; or ■ procure a minor for the purpose of making or producing child pornography; or ■ cause a minor to be in any way concerned in the making or production of child pornography; or ■ offer a minor to be in any way concerned in the making or production of child pornography. 	Level 5 imprisonment (10 years maximum)
<i>Crimes Act 1958 (Vic.)</i>	s. 70	Possession of child pornography	A person must not knowingly possess child pornography. <i>Child pornography</i> means a film, photograph, publication or computer game that describes or depicts a person who is, or appears to be, a minor engaging in sexual activity or depicted in an indecent sexual manner or context. It is a defence against prosecution of the offence if— <ol style="list-style-type: none"> i) the accused made the film or took the photograph or was given the film or photograph by the minor and that, at the time of making, taking or being given the film or photograph, the accused was not more than 2 years older than the minor was or appeared to be; or ii) that the minor or one of the minors depicted in the film or photograph is the accuse 	Level 6 imprisonment (5 years maximum)

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Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Crimes Act 1958</i> (Vic.)	s. 70AC	Sexual performance involving a minor	<p>A person must not—</p> <ul style="list-style-type: none"> ■ invite a minor to be in any way concerned in a sexual performance; or ■ procure a minor for the purpose of being in any way concerned in a sexual performance; or ■ cause a minor to be in any way concerned in a sexual performance; or ■ offer a minor to be in any way concerned in a sexual performance— ■ in circumstances where there is payment or reward to the minor or to any other person in respect of the performance. 	Level 5 imprisonment (10 years maximum)
<i>Summary Offences Act 1966</i> (Vic.)	s. 41A	Observations or visual capturing of genital or anal region	A person must not, with the aid of a device, intentionally observe another person's genital or anal region in circumstances in which it would be reasonable for that other person to expect that his or her genital or anal region could not be observed.	3 months imprisonment
<i>Summary Offences Act 1966</i> (Vic.)	s. 41B	Visually capturing genital or anal region	A person must not intentionally visually capture another person's genital or anal region in circumstances in which it would be reasonable for that other person to expect that his or her genital or anal region could not be visually captured.	2 years imprisonment
<i>Summary Offences Act 1966</i> (Vic.)	s. 41C	Distribution of image of genital or anal region	A person who visually captures or has visually captured an image of another person's genital or anal region (whether or not in contravention of section 41B) must not intentionally distribute that image.	2 years imprisonment
<i>Sex Offenders Registration Act 2004</i> (Vic.)	s. 14(1) (dd)	Initial report by registrable offender of personal details	The details any registrable offender must report are any Internet user names, Internet messaging user names, chat room user names or any other user name or identity used or intended to be used by the registrable offender through the Internet or other electronic communication service.	2 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 272.9	Sexual activity (other than sexual intercourse) with a child outside Australia	<p>A person commits an offence if: (a) the person engages in sexual activity (other than sexual intercourse) with another person (the child); and (b) the child is under 16; and (c) the sexual activity is engaged in outside Australia.</p> <p>A person commits an offence if: (a) the person engages in conduct in relation to another person "the child"; and (b) that conduct causes the child to engage in sexual activity (other than sexual intercourse) in the presence of the person; and (c) the child is under 16 when the sexual activity is engaged in; and (d) the sexual activity is engaged in outside Australia."</p>	15 years imprisonment

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Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Criminal Code Act 1995</i> (Cth)	s. 272.14	Procuring child to engage in sexual activity outside Australia	<p>A person commits an offence if:</p> <ul style="list-style-type: none"> ■ the person engages in conduct in relation to another person (the child); and ■ the person does so with the intention of procuring the child to engage in sexual activity (whether or not with the person) outside Australia; and ■ the child is someone: (i) who is under 16; or (ii) who the person believes to be under 16; and ■ one or more of the following apply: (i) the conduct referred to in paragraph (a) occurs wholly or partly outside Australia; (ii) the child is outside Australia when the conduct referred to in paragraph (a) occurs; (iii) the conduct referred to in paragraph (a) occurs wholly in Australia and the child is in Australia when that conduct occurs. 	15 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 272.19	Encouraging an offence against Division 272 (Child sex offences outside Australia)	<p>A person commits an offence if:</p> <ul style="list-style-type: none"> ■ the person engages in conduct; and ■ the person does so with the intention of encouraging an offence against this Division (other than this section or section 272.20); and ■ the conduct is reasonably capable of encouraging such an offence. <p><i>Encourage</i> means:</p> <ul style="list-style-type: none"> ■ encourage, incite to, or urge, by any means whatever, (including by a written, electronic or other form of communication); or ■ aid, facilitate, or contribute to, in any way whatever. 	20 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 272.20	Preparing for or planning an offence against Division 272 (child sex offences outside Australia)	<p>A person commits an offence if:</p> <ul style="list-style-type: none"> ■ the person does an act; and ■ the person does so with the intention of preparing for, or planning, an offence against section 272.8, 272.9, 272.10, 272.11 or 272.18. 	10 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 273.5	Possessing, controlling, producing, distributing or obtaining child pornography material outside Australia	<p>A person commits an offence if: (i) has possession or control of material; or (ii) produces, distributes or obtains material; or (iii) facilitates the production or distribution of material; and (b) the material is child pornography material; and (c) the conduct referred to in paragraph (a) occurs outside Australia.</p>	15 years imprisonment

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Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Criminal Code Act 1995</i> (Cth)	s. 471.16	Using a postal or similar service for child pornography material	<p>A person commits an offence if:</p> <ul style="list-style-type: none"> ■ the person causes an article to be carried by a postal or similar service; and ■ the article is, or contains, child pornography material. <p>A person commits an offence if:</p> <ul style="list-style-type: none"> ■ the person requests another person to cause an article to be carried by a postal or similar service; and ■ the article is, or contains, child pornography material. 	15 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 471.17	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a postal or similar service	<p>A person commits an offence if: (a) the person: (i) has possession or control of material; or (ii) produces, supplies or obtains material; and (b) the material is child pornography material; and (c) the person has that possession or control, or engages in that production, supply or obtaining, with the intention that the material be used: (i) by that person; or (ii) by another person; in committing an offence against section 471.16 (using a postal or similar service for child pornography material).</p> <p>A person may be found guilty of an offence against this provision even if committing the offence against section 471.16 is impossible.</p>	15 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 471.24	Using a postal or similar service to procure persons under 16	<p>A person (the sender) commits an offence if: (a) the sender causes an article to be carried by a postal or similar service to another person (the recipient); and (b) the sender does this with the intention of procuring the recipient to engage in sexual activity with the sender; and (c) the recipient is someone who is, or who the sender believes to be, under 16; and (d) the sender is at least 18.</p> <p>A person (the sender) commits an offence if: (a) the sender causes an article to be carried by a postal or similar service to another person (the recipient); and (b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person (the participant); and (c) the recipient is someone who is, or who the sender believes to be, under 16; and (d) the participant is someone who is, or who the sender believes to be, at least 18.</p> <p>A person (the sender) commits an offence if: (a) the sender causes an article to be carried by a postal or similar service to another person (the recipient); and (b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person; and (c) the recipient is someone who is, or who the sender believes to be, under 16; and (d) the other person referred to in paragraph (b) is someone who is, or who the sender believes to be, under 18; and (e) the sender intends that the sexual activity referred to in paragraph (b) will take place in the presence of: (i) the sender; or (ii) another person (the participant) who is, or who the sender believes to be, at least 18.</p>	15 years imprisonment

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Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Criminal Code Act 1995</i> (Cth)	s. 471.26	Using a postal or similar service to send indecent material to person under 16	A person (the sender) commits an offence if: (a) the sender causes an article to be carried by a postal or similar service to another person (the recipient); and (b) the article is, or contains, material that is indecent; and (c) the recipient is someone who is, or who the sender believes to be, under 16; and (d) the sender is at least 18.	7 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 474.19	Using a carriage service for child pornography material	A person is guilty of an offence if: (a) the person; (i) accesses material; or (ii) causes material to be transmitted to himself or herself; or (iii) transmits, makes available, publishes, distributes, advertises or promotes material; or (iv) solicits material; and (aa) the person does so using a carriage service; and (b) the material is child pornography material.	15 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 474.20	Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service	A person is guilty of an offence if: (a) the person: (i) has possession or control of material; or (ii) produces, supplies or obtains material; and (b) the material is child pornography material; and (c) the person has that possession or control, or engages in that production, supply or obtaining, with the intention that the material be used: (i) by that person; or (ii) by another person; in committing an offence against section 474.19 (using a carriage service for child pornography material).	15 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 474.25	Obligations of Internet service providers and Internet content hosts	A person commits an offence if the person: (a) is an Internet service provider or an Internet content host; and (b) is aware that the service provided by the person can be used to access particular material that the person has reasonable grounds to believe is: (i) child pornography material; or (ii) child abuse material; and (c) does not refer details of the material to the Australian Federal Police within a reasonable time after becoming aware of the existence of the material.	100 penalty units
<i>Criminal Code Act 1995</i> (Cth)	s. 474.25A	Using a carriage service for sexual activity with person under 16 years of age	A person commits an offence if: (a) the person engages in sexual activity with another person (the child) using a carriage service; and (b) the child is under 16 years of age; and (c) the person is at least 18 years of age. A person (the defendant) commits an offence if: (a) the defendant engages in conduct in relation to another person (the child); and (b) that conduct causes the child to engage in sexual activity with another person (the participant) using a carriage service; and (c) the child is under 16 years of age when the sexual activity is engaged in; and (d) the participant is at least 18 years of age when the sexual activity is engaged in.	15 years imprisonment

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Table G1: Commonwealth and state laws applicable to sexual offences featuring emerging communication technologies or mobile phones in Victoria

Name of Act	Relevant provision	Name of offence	Definition of offence	Maximum penalty
<i>Criminal Code Act 1995</i> (Cth)	s. 474.26	Using a carriage service to procure persons under 16 years of age	<p>A person (the sender) commits an offence if: (a) the sender uses a carriage service to transmit a communication to another person (the recipient); and (b) the sender does this with the intention of procuring the recipient to engage in sexual activity with the sender; and (c) the recipient is someone who is, or who the sender believes to be, under 16 years of age; (d) the sender is at least 18 years of age.</p> <p>A person (the sender) commits an offence if: (a) the sender uses a carriage service to transmit a communication to another person (the recipient); and (b) the sender does this with the intention of procuring the communication to another person (the recipient); and (c) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person (the participant); and (d) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and (e) the participant is someone who is, or who the sender believes to be, at least 18 years of age.</p>	15 years imprisonment
<i>Criminal Code Act 1995</i> (Cth)	s. 474.27A	Using a carriage service to transmit indecent communication to person under 16 years of age	<p>A person (the sender) commits an offence if: (a) the sender uses a carriage service to transmit a communication to another person (the recipient); and (b) the sender does this with the intention of procuring the recipient to engage in sexual activity with another person; and (c) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and (d) the other person referred to in paragraph (b) is someone who is, or who the sender believes to be, under 18 years of age; and (e) the sender intends that the sexual activity referred to in paragraph (b) will take place in the presence of: (i) the sender; or (ii) another person (the participant) who is, or who the sender believes to be, at least 18 years of age.</p> <p>A person (the sender) commits an offence if: (a) the sender uses a carriage service to transmit a communication to another person (the recipient); and (b) the communication includes material that is indecent; and (c) the recipient is someone who is, or who the sender believes to be, under 16 years of age; and (d) the sender is at least 18 years of age.</p>	7 years imprisonment

Appendix H: Glossary of terminology

Table H1: Glossary of terminology	
Term	Description
Bebo	See <i>Social networking site</i>
Blogs	Informational or discussion-based websites characterised by discrete entries called “posts”. Posts appear in reverse chronological order, with the most recent post appearing first. Blogs can be authored by an individual, or a group of individuals. Content can vary from journal writing to topic-specific posts. Popular platforms include WordPress, LiveJournal and Blogger.
Chatrooms	Sites that allow for real-time, text-based communication between two or more users.
Chatroulette	See <i>Webcam-based chat</i>
Cyber-bullying	An established pattern of behaviour over a period of time that includes negative, insulting or threatening communications using mobile phone or Internet technologies (such as texts and instant messages).
Cyber-safety	An educative campaign that focuses on the safe and responsible use of emerging communication technologies. It focuses on risk reduction and promoting awareness of potential dangers.
Cyber-stalking	The use of emerging communication technologies to stalk or harass an individual or group of individuals. It includes monitoring individuals, publishing defamatory statements, gathering information for the purpose of harassment and making threats. In law, cyber-stalking is covered by existing stalking legislation.
Emerging communication technologies	Modes of communication that are ever-evolving in nature. It is a necessarily imprecise term that includes both devices (for instance, computers and mobile telephones) and associated platforms of communication (for instance, social networking sites and text messages).
Discussion boards	Web-based forums or message boards on which users conduct conversations in the form of posted messages. They differ from chat rooms in that the posted messages are typically archived, conversations do not occur in real time and boards are often moderated externally. Most discussion boards are public, allowing those not involved in the discussion to read comments.
Facebook	See <i>Social networking site</i>
Friendster	See <i>Social networking site</i>
Handles	The pseudonym used by individuals in online communication. Also referred to as “screen names”, handles allow communication without revealing an individual’s identity.
Internet relay chat (IRC)	A service that provides real-time text messaging between individuals over the Internet. It can be used by groups to communicate on discussion forums or “channels” or between individuals by communicating through private messaging. Most IRC platforms offer a file-sharing function.
Micro-blogs	Shorter versions of blogs, involving significantly smaller file sizes. Users typically exchange short messages or “micro-posts”, which can take the form of text (often short sentences), web links or images. Popular micro-blogging platforms include Twitter, Tumblr and FriendFeed.
Mobile phone technology	Telephonic and Internet-based services, including text messaging, MMS, Internet access, email and Bluetooth. Phones incorporating computing capabilities—including photography, gaming and business applications—are generally referred to as “smartphones”.
MySpace	See <i>Social networking site</i>
Omegle	See <i>Webcam-based chat</i>

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Table H1: Glossary of terminology

Term	Description
Online games	Internet-based games based on the depiction of a society or “world”. Often constructed around themes of fantasy, science fiction, horror, war or historical eras, players interact within the game through the use of an “avatar” (or personalised virtual character). Players can communicate with each other by text or real-time voice communication. Popular examples of online games include World of Warcraft, Call of Duty and Battlefield.
Skype	See <i>Webcam-based chat</i>
Smartphones	see <i>Mobile phone technology</i>
Social media	The use of emerging communication technologies to create, exchange and share commentary and content. Social media involves the use of web-based applications to produce user-generated content. This content is often shared by communities based on mutual interest.
Social networking sites	Online services, platforms or sites that aim to build social relations and social networks. Individual users are represented by a profile that reflects varying degrees of information about them, including biographical details, interests and activities. Networks may mirror offline relationships or be expanded to include those with shared interests. Most services offer communication through one or more of the following: micro-blogging, instant messaging (both public and private) and emailing. Many sites have image-sharing capabilities and functions that allow for the organisation of both online or offline events. Popular social networking sites include Facebook, MySpace, Friendster and Bebo.
Tumblr	See <i>Micro-blogs</i>
Twitter	See <i>Micro-blogs</i>
Virtual worlds	Online communities that occur within computer-based simulated environments. Users interact with each other using text-based communication and the control of two-dimensional or three-dimensional “avatars” (or personalised virtual characters). Interaction in virtual worlds is not necessarily “game”-based and can include text-based chat rooms or computer conferencing. Popular examples of virtual worlds are Second Life and Sims.
Webcam-based chat	The use of video-based communication over the Internet. Services that offer this function employ a combination of text, audio and video to facilitate communication between users. Services may be profile-based, allowing users to communicate with friends (for instance, Skype), or anonymous and aimed at connecting users unknown to each other (for instance, Chatroulette or Omegle).
World of Warcraft	see <i>Online games</i>
YouTube	A searchable video-sharing website based on registered users creating and uploading videos. Uploaded videos are then viewed by registered and unregistered users. Frequent contributors often create their own channels, which archive uploaded videos, often according to specific topics or themes.