

Not Just For Jilted Ex-Lovers: The Criminalisation of the Non-Consensual Distribution of Intimate Images in WA

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This week marked the conclusion of the first prosecution under the *Criminal Law Amendment (Intimate Images) Act 2018* (WA). Mitchell Joseph Brindley, 24 years old, pleaded guilty to posting ten intimate images of the woman he dated. The images were taken with the woman's consent whilst they were in a relationship. When it ended, Mr Brindley created fake Instagram accounts under her name and posted the images without her consent.

Non-consensual intimate image dissemination is colloquially known as 'revenge porn'. A study in 2017 found that 20% of Australians between the ages of 16-49 years had a picture or video of themselves shared without their consent.

A global movement has emerged to counter the surge of 'revenge porn'.

All Australian states and territories (except Tasmania) have implemented intimate image legislation. The WA Act amends the WA Criminal Code by creating a new offence relating to the non-consensual distribution of intimate images, empowering courts to make an order requiring a person to remove the images, and ensuring that existing threat offences apply.

Mr Brindley was this week given a 12-month intensive supervision order. The Magistrate found that the case fell in the least severe of the four categories of image-based abuse, being relationship retribution. More severe cases involve "sextortion", "voyeurism" and "sexploitation". The Magistrate said that if Mr Brindley's crime had been motivated by sexual gratification or to obtain money, he would have received a jail term.

In April, videos emerged of NRL players engaging in sexual acts with women. Although the case involving player Tyrone May is ongoing, it will be interesting to see the outcome of any sentence, particularly if a jail term is sought.

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