



## Will Banning Pornography Stop the Distribution of Nonconsensual Sexual Images?

Anti-porn advocates have argued that pornography websites increase the prevalence of nonconsensual intimate images (NCII), including what is referred to as “revenge porn,” from being distributed online. However, there is limited reliable research to suggest general pornography sites increase the distribution of such material. In fact, most NCII is shared privately through text messaging or in other private networks and not on social media or pornographic sites.<sup>1 2</sup>

The U.S. has largely failed to introduce effective federal-level policies that would deter perpetrators from sharing nonconsensual sexual content.<sup>3 4</sup> State policies that do exist lack cohesion and oversight across state lines. Countries around the globe have begun to criminalize the distribution of NCII, and some have even legally defined it as a form of sexual assault, but the United States is not one of them.<sup>5</sup>

There is no sound research to suggest that websites featuring adult content are significant vectors for the distribution of nonconsensual intimate images. Sites that were promoting ‘revenge porn’ have since been shut down by the FTC,<sup>6 7</sup> and sites hosting general pornographic content, such as Pornhub or OnlyFans, have internal policies and reporting protocols to manage any nonconsensual intimate images found on their sites.<sup>8 9</sup> Currently, there is a lack of federal oversight and countrywide consistency in prosecuting the distribution of nonconsensual intimate images. An improved policy that is consistent, objective, and clear is necessary to legally identify and prosecute the distribution of nonconsensual intimate images throughout the country.

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<sup>1</sup> Said & McNealy, 2023

<sup>2</sup> Eaton et al., 2017

<sup>3</sup> FindLawStaff, 2023

<sup>4</sup> Franks, 2015

<sup>5</sup> Franks, 2015

<sup>6</sup> Mayfield, 2015

<sup>7</sup> Finley, 2015

<sup>8</sup> Pornhub, 2024

<sup>9</sup> OnlyFans, 2021

## **Myth 1: Does removing access to adult content online stop nonconsensual sexual images from being shared?**

No. There is no research suggesting nonconsensual intimate images (NCII) are distributed more frequently as a result of websites that host adult content, nor does research suggest these sites are a common place to share nonconsensual explicit images.

One of the challenges with existing research is that the definition of “nonconsensual sexual images” differs in each study, which can explain the vast range in responses. For example, research on the frequency of non-consensual forwarding or posting of images has found offending rates to range from 1%-3%. Research respondents reported that victimization rates vary, with adult populations reporting 1%, adolescent samples reporting 6%, and young adults reporting 32%.<sup>10</sup> In the United States specifically, a study found that 1 in 12 adults reported being a victim of nonconsensual sexual content distribution at least once in their lifetime, and 1 in 20 reported distributing nonconsensual sexual images at least once.<sup>11</sup>

The method of sharing NCII content varies significantly. Posting NCII online is the least common method. One study found that only 2% of the victimized individuals have experienced distribution online without their permission<sup>12</sup> and another, on college students in the UK, found publicly posting explicit pictures on social media or other websites was the rarest outlet for sharing nonconsensual explicit content. Furthermore, this study on college students found no reports of explicit videos being shared publicly at all.<sup>13</sup> While evidence suggests that young people are sending and receiving a significant amount of explicit material,<sup>14</sup> there is limited research to suggest publicly posting such content is a widespread issue. In fact, research suggests that most nonconsensual sharing is done privately via messaging or in person.<sup>15</sup> Additionally, the most common type of explicit material among young people are messages or sexts that do not include images or video.<sup>16</sup>

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<sup>10</sup> Said & McNealy, 2023

<sup>11</sup> Ruvalcaba & Eaton, 2020

<sup>12</sup> Said & McNealy, 2023

<sup>13</sup> Walker et al., 2021

<sup>14</sup> Walker et al., 2021

<sup>15</sup> Eaton et al., 2017

<sup>16</sup> Walker et al., 2021

<sup>17</sup> Clancy et al., 2020

There is little valid research regarding the presence of nonconsensual intimate images on pornography websites and minimal evidence to suggest that adult sites support the distribution of non-consensual sexual images.

This is not to say that no distribution of NCII occurs or that adult sites — whether legal sites, pirate sites, or social media sites that host adult content — have not been used to distribute NCII. Certainly, numerous high-profile cases and legal filings have attested to this, and policies and protocols across the internet have evolved over the past two decades. However, we can find no accurate analysis to suggest that legal adult sites are uniquely culpable or complicit in the distribution of NCII.

There is no consistent tracking of NCII on adult sites. Still, it may be instructive to look at numbers for the distribution of other illegal content, such as child sex abuse material (CSAM), as both types of content are distributed in networks with weak moderation and takedown policies. Unlike NCII, annual reports of CSAM distribution online are tracked by the National Center for Missing and Exploited Kids (NCMEC). In these reports, adult sites make up a fraction of a percent of attempted CSAM distribution online: compare Pornhub (2487 reports) or OnlyFans (347) with TikTok (590,000), Dropbox (54,000) and Instagram (11 million). Further, because adult sites moderate before upload, much of the content reflected in those numbers is identified and reported before it can appear on the site.)<sup>18</sup>

In many cases, adult sites have partnered with anti-NCII agencies to attempt to mitigate non-consensual posts on their platforms.<sup>19 20</sup> Internal oversight and consumer report options can help ensure that taking down nonconsensual sexual content is an accessible process for victims. Such oversight is not perfect, but there is little evidence to suggest that sites hosting pornography are complicit or reckless with nonconsensual sexual content distribution, despite what anti-porn advocates might suggest.

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<sup>18</sup> National Center for Missing & Exploited Kids, 2024

<sup>19</sup> Pornhub, September 2023

<sup>20</sup> Pornhub, March 2023

## **Myth 2: Are current laws effectively prosecuting the nonconsensual distribution of explicit images?**

No. While there are laws and policies aimed at minimizing the distribution of NCII (nonconsensual intimate images), more effective and consistent regulation would drastically increase the protection of NCII victims.

Currently, there is no federal law banning the distribution of nonconsensual intimate images. In 2022, Congress created a civil right of action allowing individuals to file suit against anyone who shares sexual content without the consent of the person depicted in said content. In other words, individuals can file a lawsuit against those who distribute nonconsensual explicit content. Still, there is no explicit law defining the parameters for the illegal sharing of nonconsensual sexual content. Effective legislation would ensure freedom of speech while accurately protecting victims by focusing on clear definitions of intimate body parts, sexual acts, consent, and identification of explicit images.<sup>21 22</sup>

Some legal action has been successful in managing the public spaces in which the distribution of nonconsensual intimate images did take place — sites specifically designated as revenge porn sites. In 2015, the Federal Trade Commission launched a largely successful initiative to upend revenge porn websites based on their reliance on hacking and fraud.<sup>23 24</sup> Additionally, major social media companies, including Google, Facebook, Twitter, and Reddit, have banned nonconsensual sexual images and have internal policies in place to remove it.<sup>25</sup> Overall, the FTC has upended public spaces that were popular for NCII. Other public sites, such as free porn websites and social media platforms, have their own internal policies to mitigate the distribution of nonconsensual intimate images and are among the least prominent avenues of such distribution.

While 48 of the 50 states have criminalized the nonconsensual sharing of sexual content, there is significant variation and deficit in these regulations. Some require specific emotional motivation, but the impact on the victim is unrelated to the intent of the perpetrator. Others require proof that the victim suffered serious financial or emotional stress, that the perpetrator was aware of the distress sharing the content could cause, or

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<sup>21</sup> Franks, 2015

<sup>22</sup> Arthur, 2019

<sup>23</sup> Finley, 2015

<sup>24</sup> Federal Trade Commission, 2015

<sup>25</sup> Said & McNealy, 2023

limits prosecution solely to current or former romantic partners.<sup>26</sup> These added stipulations do not wholly represent the range of NCII cases and can be difficult to prove, therefore often failing to deter the non-consensual sharing of sexual images.<sup>27</sup> The result of such flawed laws has led to countless victims of nonconsensual intimate images experiencing severe harm without their perpetrators facing legal consequences.<sup>28 29</sup>

An additional barrier is the historical lack of support for victims of sexual-related crimes. International studies have found limited police response to NCII was explained by attitudes of victim-blaming and harm minimization among officers, as well as inconsistent laws, jurisdictional limits, and a lack of resources.<sup>30 31</sup> These attitudes among law enforcement suggest there are other significant barriers to the reporting and legal retribution of nonconsensual intimate images. Improving the reporting process and educating law enforcement about the harms of NCII would likely also be more effective at minimizing non-consensual explicit content.

### See Also:

- ['Is this you?!' How revenge porn victims are forced to deal with the incompetence of the police](#) (Business Insider)
- [How changes in the law will finally help victims of 'revenge porn'](#) (Phys.org)
- [I Was a Victim of Revenge Porn. I Offered Him a Plea Deal](#) (Newsweek)
- [Revenge Pornography](#) (Free Speech Center)

### Policy Suggestion:

- Sex education curriculum that addresses sharing and receiving sexually explicit content. This must focus on identifying and exercising consent and the effect of sharing this content on potential victims. Research shows some perpetrators identify humor or normalization of distributing nonconsensual intimate images as the reason for sharing,<sup>32</sup> suggesting sex education that identifies the harm caused by nonconsensual intimate images could denormalize perpetration.

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<sup>26</sup> Said & McNealy, 2023

<sup>27</sup> Franks, 2015

<sup>28</sup> Fay, 2018

<sup>29</sup> Franks, 2015

<sup>30</sup> Henry et al., 2018

<sup>31</sup> Zvi & Shechory-Bitton, 2020

<sup>32</sup> Walker et al., 2021

- Pass federal and state legislation to ban the distribution of nonconsensual intimate images. These policies must protect the First Amendment and include objective definitions of explicit images or videos, consent, and distribution. These policies should not include loopholes for motive, proof of harm, or voluntary sharing of images.<sup>33</sup>
- Improve education for law enforcement personnel about the severity of nonconsensual intimate imagery to address biases and improve support for victims.
- Introduce curriculum in schools about how to keep intimate images secure on individual devices, as many Americans report limited use of password protection or other safety features.<sup>34</sup>

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<sup>33</sup> Franks, 2015

<sup>34</sup> Fay, 2018

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