

## All Party Parliamentary Group on Sexual Violence Inquiry into Pornography and Sexual Violence 2018

### Evidence Submission from Dr Hannah Bows and Professor Clare McGlynn, Durham Law School, Durham University<sup>1</sup>

#### New FOI Data on Policing of Extreme Pornography

##### 1. Executive Summary

**New FOI data:** Durham University collected new FOI data from just over half of the police forces across England & Wales (53%, n=23) on recording and charging of extreme pornography offences including 'rape pornography', for the period 2015-2017;

##### 1.1 Key Findings:

##### What do we know of those who are accused of possessing extreme pornography?

- 1.1.1 Gender of defendants:** The vast majority (98%) of those charged with extreme pornography offences are men.
- 1.1.2 Age of defendants:** Men across all ages are being charged with extreme pornography offences. This is not an offence being committed only by young people sharing 'gross' images, engaging in 'sexual experimentation' or having greater internet use.
- 1.1.3 Ethnicity:** Those accused are predominantly White (71%).

##### What types of extreme pornography are recorded and charged?

- 1.1.4 Bestiality Images:** Vast majority of charges were for possession of bestiality images (85%).
- 1.1.5 Rape Pornography:** Only 3 charges (1%) were made in relation to possession of rape pornography
- 1.1.6 Attrition:** Of all recorded incidents of extreme pornography (n=500) 62% led to a charge.
- 1.1.7 Additional offences charged:** where information was available (n=116), in just over half of cases (59%) an additional offence was recorded at the same time as the extreme pornography offence, with the majority of those additional charges (62%) being for sexual offences.

##### 1.2 Recommendations

- 1.2.1 Wholesale review of obscenity & pornography laws:** The law is piecemeal, inconsistent and out of date. It is based on notions of disgust and offence. It

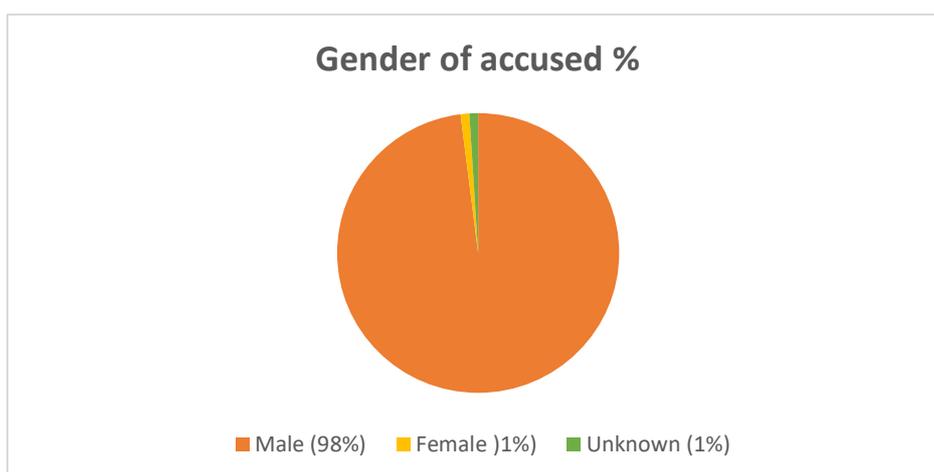
requires review and reform. Further info required on prosecution processes for extreme pornography offences.

- 1.2.2 Resourced, expert sex & relationships education:** high quality, and expert-led or informed, sex and relationships education is vital for all young people, including discussion of the realities of online pornography.

## 2 What do we know of those who are accused of extreme pornography?

- 2.1** This new FOI data reveals for the first time information on those who are accused of extreme pornography offences. These results reveal that the overwhelming majority of those charged are men, that their ages range across the life-course and that they are predominantly white.

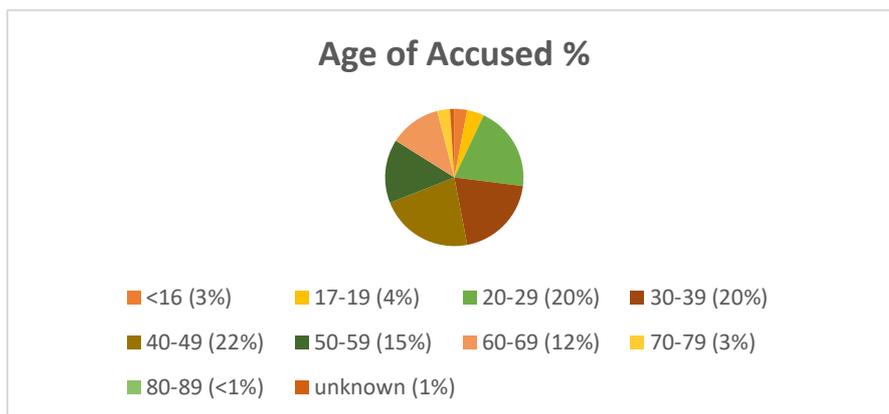
### 3 The Vast Majority of Accused are Men



- 3.1** Information on the gender of persons charged was available for 99% of cases. The vast majority of those charged were men 98% (n=301), compared to 1% (n=6) women.<sup>2</sup>

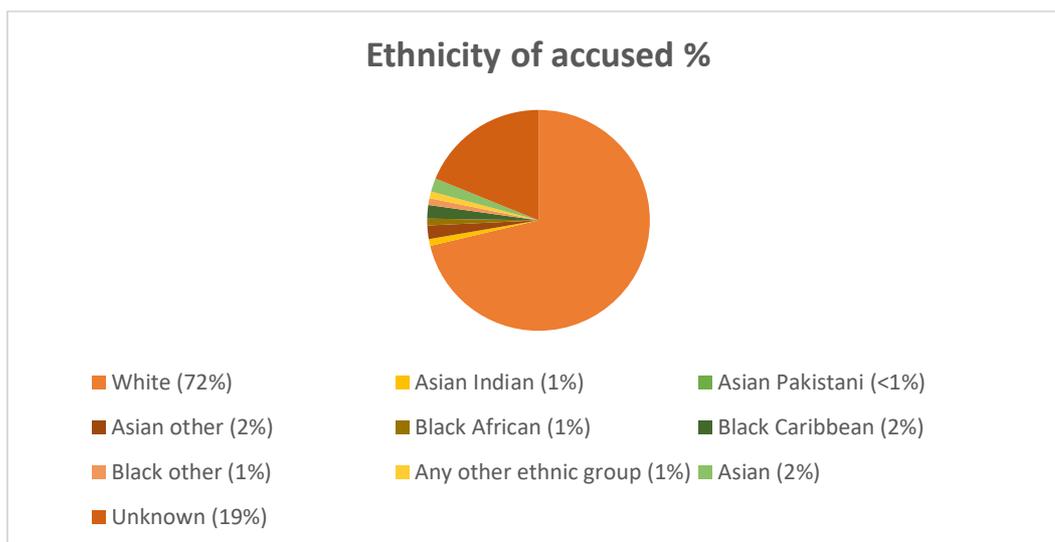
### 4 Accused of All Ages from Under-16s to 80-89

- 4.1** For the first time, we have data on the age of those accused of extreme pornography offences. Extreme pornography crimes were charged against men of all ages, including 11 under-16s and 9 accused over the age of 70. Those accused are spread across the life-course meaning that these are not crimes perpetrated by particular age groups (ie younger men). Therefore, it cannot be assumed that these crimes are about sexual experimentation by young people, sharing 'gross' images for fun, or young people's greater internet use.



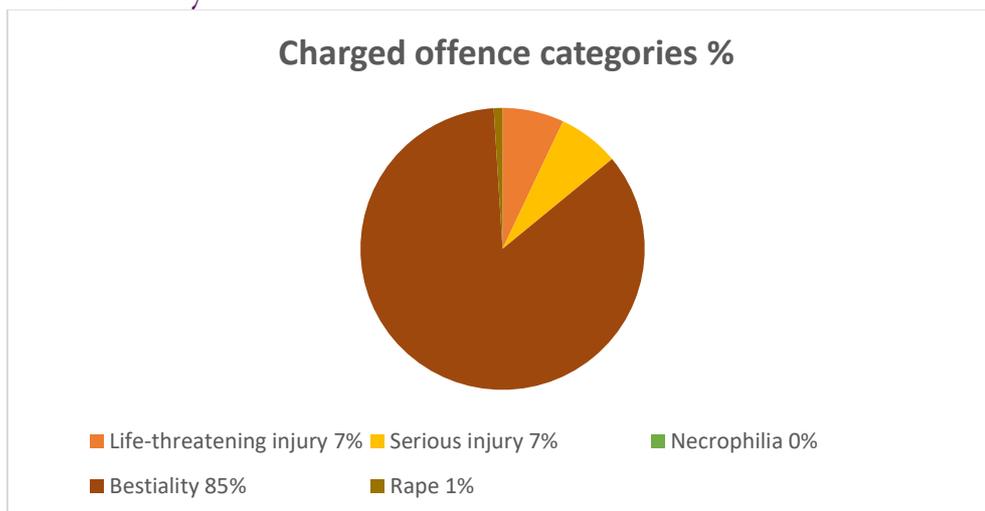
## 5 Accused Predominantly White

5.1 The FOI data reveal, for the first time, ethnicity data on those charged with extreme pornography offences. The majority of offenders were 'White' (71%), although in 19% of cases the accused ethnicity had not been recorded or was 'unknown'.



**What types of extreme pornography are recorded and charged?**

## 6 Vast Majority of Charges were for Possession of Bestiality Images



- 6.1** This new FOI data found that of the total charged cases where data on the nature of the pornography was available (n=308) the vast majority (85%) relate to bestiality images. One offence was charged for possession of material including a corpse.
- 6.2** This confirms the pattern from the first few years of the offence being in force.<sup>3</sup> Thus, in 2014, there were 91 defendants convicted of extreme pornography offences, a figure that has steadily increased since the legislation was first adopted. Of those 91 defendants, 77 (85%) of convictions were for the possession of bestiality images; a proportion also reflected in previous years. It is likely that the high number of bestiality offences charged is due to the easier process of identifying such images as constituting 'extreme pornography'.

## 7 Few Charges of Possessing Rape Pornography

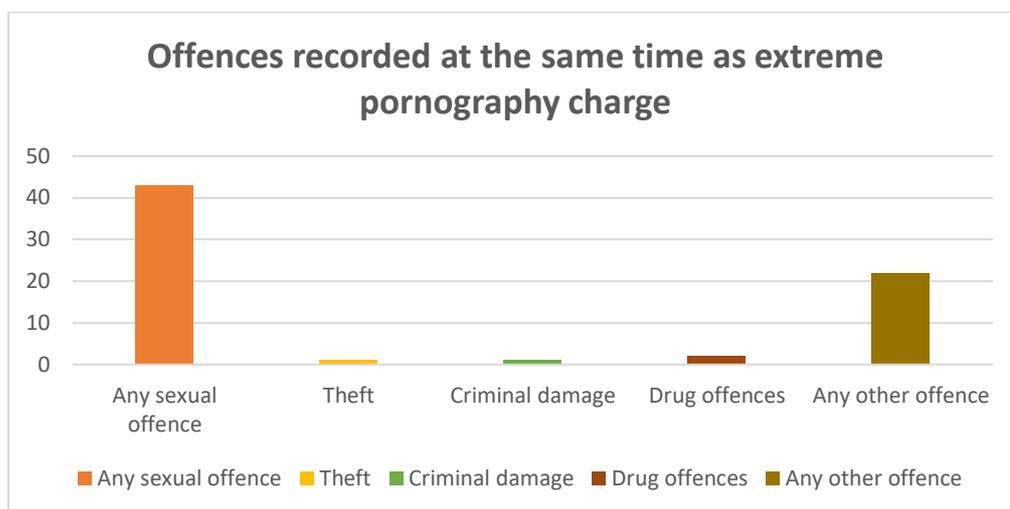
- 7.1** Only 3 charges (1%) were made in relation to the new offence of possessing rape/forced penetration pornography (none in 2015-2016, 3 in 2016-2017). However, a total of 8 offences were recorded by police between 2015-17 meaning 62% of these cases 'dropped out' at the first stage of the criminal justice process.
- 7.2** This is a similar figure to that provided by the Crown Prosecution Service which recently reported that 1.2% of extreme pornography prosecutions in 2016-2017 related to rape pornography.<sup>4</sup>

## 8 Considerable Attrition from Police Recorded Incidents to Charge

- 8.1** Overall, the total number of recorded incidents for 2015-2016 was 207, rising to 293 for 2016-2017, across 23 police forces.<sup>5</sup> However, the number of incidents that resulted in charge was significantly less. In 2015-2016, there were 127 incidents charged, increasing to 183 for 2016-2017. This means that overall 62% of recorded incidents led to a charge.
- 8.2** It should also be noted that some cases may not be caught by these statistics as the police only 'record' an incident that they consider constitutes a crime, on the balance of probabilities. We know from studies of sexual violence incidents that many cases drop out of the system as they are not even recorded as a crime by the police.<sup>6</sup>

**8.3** This is a broadly similar pattern for the offence of sharing of intimate images without consent (sometimes referred to as 'revenge porn') where in 2016 only 61% of cases resulted in action being taken.<sup>7</sup>

## 9 Extreme Pornography prosecutions as stand-alone or with additional offences



**9.1** Information on whether other offences were charged together with the extreme pornography offence was given for 116 cases (38% of all cases). For over half of those cases where information was given, in just over half (59%; n=69) an additional offence was recorded at the same time as the extreme pornography offence. That is, in the majority of cases where information was available, the extreme pornography offence was not stand-alone. Most additional offences were classified as sexual offences (62%) although 22 were categorised as "any other offence type". It is not known how the police categorised any prosecutions relating to child sexual abuse image offences, ie whether as sexual offences or 'any other offence'.

**9.2** Cases that were stand-alone (41%) may suggest a more proactive approach to investigating extreme pornography. However, it may also be that only an offence of extreme pornography passed the threshold for charging and prosecuting.

## 10 Recommendations

**10.1 Wholesale review of obscenity & pornography laws:** The law on pornography and obscenity is not fit for purpose. It remains based on out-dated ideas of 'obscenity', focussing on disgust, offence and public nuisance. Harm, particularly harm to women, should be central to the law, with women's sexual expression, autonomy and human rights being protected. The law is ad hoc, piecemeal and inconsistent. It has failed to cope with technological advances.

**10.2 Resourced, expert sex & relationships education:** All young people are entitled to education on consent and sexual relationships. Education must engage with the realities of pornography and its use. Education and training for teachers must be provided by experts in the field, informed by knowledge and understanding of harms of sexual

violence and victim-blaming. There are many excellent examples of high quality resources and training.

## 11 Methodology<sup>8</sup>

**11.1** An FOI request was sent by email to all 43 forces across England and Wales.<sup>9</sup> The request comprised of four questions: the first two questions requested aggregated data on the total number of recorded (question 1) and charged (question 2) 'extreme' pornography offences (as per Criminal Justice and Immigration Act 2008) recorded between 1<sup>st</sup> April 2015 and 31<sup>st</sup> March 2017, namely:

- An act which threatens a person's life – s63(7)(a)
- An act which results, or is likely to result, in serious injury to a person's anus, breasts or genitals s63(7)(b)
- An act which involves sexual interference with a human corpse – s63(7)(c)
- A person performing an act of intercourse or oral sex with an animal (whether dead or alive) – s63(7)(d)
- An act which involves the non-consensual penetration of a person's vagina, anus or mouth by another with the other person's penis, or an act which involves the non-consensual sexual penetration of a person's vagina or anus by another with a part of the other person's body or anything else. s63(7)(A) as amended by Criminal Justice and Courts Act 2015

**11.2** We requested this data be broken down by year (1<sup>st</sup> April 2015 – 31<sup>st</sup> March 2016 and 1<sup>st</sup> April 2016 – 31<sup>st</sup> March 2017). The third and fourth question asked for data on offender gender, age group (a multiple-category measure of nine-year subgroups (i.e. 20-29) was used) and ethnicity, broken down by offence category for charged offences (as per question 2). The final question requested data on the number and nature of any other separate offences recorded at the same time/during the course of the investigation, again broken down by offence category. 23 forces provided full data, with negotiation continuing with more forces at the time of writing. It is expected that this further data will be made available.

## Who we are

### **Dr Hannah Bows, Durham Law School, Durham University**

Hannah Bows currently holds the position of Senior Lecturer in Criminology at Teesside University and will be taking up the position of Assistant Professor at Durham Law School in August 2018. She has researched in the broad area of violence against women for the last five years. Key projects include: [the first national study to examine rape and sexual assault of older people in the UK](#); the first analysis of homicides of older people in the UK; and a project [exploring risk assessment of older sex offenders](#). This work has fed into Home Office briefings on crimes against older people and an HMIC scoping report on police responses to crime involving older victims. She has extensive experience of using [Freedom of Information requests as a research method](#), alongside more conventional quantitative and [qualitative methods](#). [Hannah.Bows@durham.ac.uk](mailto:Hannah.Bows@durham.ac.uk) [@Hannah Bows](#)

### **Professor [Clare McGlynn](#), Durham Law School, Durham University**

Clare McGlynn is an expert on laws relating to sexual violence, pornography and online abuse including image-based sexual abuse. She worked closely with Rape Crisis South London and the End

Violence Against Women coalition to campaign for the introduction of the offence criminalising the possession of rape pornography. Her research (with Erika Rackley) also helped to shape the development of laws in England & Wales, and Scotland, criminalising forms of [image-based sexual abuse](#) (sometimes known as 'revenge porn'). She [gave evidence](#) before the Women & Equalities Select Committee in December 2017 on women's experiences of sexual harassment, and has given evidence before the Scottish and English Justice Committees on these issues.

[Clare.McGlynn@durham.ac.uk](mailto:Clare.McGlynn@durham.ac.uk) [www.ClareMcGlynn.com](http://www.ClareMcGlynn.com) @McGlynnClare

---

<sup>1</sup> We are grateful to Dr Fiona Vera-Gray for her valuable comments on many of the issues raised in this submission.

<sup>2</sup> In one case the gender of the accused was 'unknown'.

<sup>3</sup> See A Antoniou and D Akrivos, *The Rise of Extreme Porn – legal and criminological perspectives on extreme pornography in England & Wales* (Palgrave, 2017), p 203.

<sup>4</sup> CPS, *Violence against Women and Girls Report 10<sup>th</sup> edition, 2016-2017*, November 2017: [https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2017\\_0.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/cps-vawg-report-2017_0.pdf).

<sup>5</sup> Data so far shows that the number of prosecutions for extreme pornography offences has continued to rise, with 1564 prosecutions in 2014-2015: Antoniou and Akrivos, above, at p 202.

<sup>6</sup> Her Majesty's Inspectorate for Constabulary, 'Crime-recording: making the victim count: The final report of an inspection of crime data integrity in police forces in England and Wales' (2014).

<sup>7</sup> BBC News, 'Victims as young as 11, revenge porn investigation finds', BBC News, 27 April 2016: <http://www.bbc.co.uk/news/uk-england-36054273>.

<sup>8</sup> For more detail on the use of FOI requests as a research tool, including discussion of the scope and limitations of the FOI legislation, see: [Hannah Bows, 'Researching Sexual Violence Against Older People: Reflecting On The Use Of Freedom Of Information Requests In A Feminist Study' \(2017\) 115 \*Feminist Review\*](#) and [Hannah Bows and Nicole Westmarland, 'Rape of Older People in The United Kingdom: Challenging The 'Real-Rape' Stereotype \(2017\) 57 \*British Journal of Criminology\*](#).

<sup>9</sup> This excludes Port police forces. The law on extreme pornography is different in Scotland, see s.51A of the Civic Government (Scotland) Act 1982. The law in Northern Ireland is the same as in England & Wales, though elements of the provisions came into force at different times to England & Wales.