



**Written Comment: Request for Information (RFI) Related to NIST's Assignments Under Sections 4.1, 4.5 and 11 of the Executive Order Concerning Artificial Intelligence (Sections 4.1, 4.5, and 11)**

Prepared for: The National Institute of Standards and Technology

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*Contributions to this written comment represent the voices of the following partner who have written their positions reflected in the below submission.*

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## About the Reclaim Coalition

[The Reclaim Coalition to End Online Image-based Sexual Violence](#) launched in 2023 to foster a stronger global response to the issue of image-based sexual violence (IBSV) and to build a survivor-centered global movement that works towards a day when all can be safely and freely online without the threat of violence and abuse. Through partnerships with over 20 organizations in 10 countries, the work of The Reclaim Coalition is guided by a systems change lens, which seeks to address root causes and the deeper long-standing conditions that hold a social problem in place, such as entrenched social norms, or lax laws. Reclaim is scoped to work on all forms and sub-types of image-based sexual violence, including nonconsensual deepfake pornography. As a field catalyst, The Reclaim Coalition serves as an inclusive platform for convening, increased coordination, and fostering collaboration and unified action amongst leading advocates, tech experts, civil society groups, and government regulatory bodies. Key activities of Reclaim include supporting increased opportunities for survivor leadership and community-building; facilitating and convening additional spaces for coordination and partnership-building amongst survivor leaders and NGOs; enabling cross-sector strategy development, visioning, and knowledge sharing; and elevating the issue with different key audiences, including funders and policy-makers. The Reclaim Coalition is currently comprised of 32 partners in 14 countries. Our partners include survivors of image based sexual violence who we refer to as lived experience experts. This includes survivor leaders who have experienced AI generated harms most often referred to as nonconsensual “deepfake” pornography.

## The Harms of AI Generated Sexual Violence

At the Reclaim Coalition, an initiative program at Panorama Global, we refer to “deepfake pornography” as a form of sexual violence. Even though the online content is AI-generated, the actual harm experienced by victims is profoundly real. These so-called “deepfakes” are anything but fake to the thousands of women and girls whose faces and bodies become someone else’s to manipulate and abuse for all the world to see. Survivors have little recourse for healing or justice, and there are few pathways to hold perpetrators accountable and stop them from doing this to more people. Survivor experts within The Reclaim Coalition’s consistently share thoughts of suicide, financial effects due to trying to pay out-of-pocket for image removal services, lost relationships, dropping out of school due to shame and trauma, post-traumatic stress and paranoia, body dysmorphia, and inability to trust and create new relationships. In short, what is called a “deepfake” has real, lasting damage that can ruin lives and most survivors do not have the support they need due to very little resources for counseling, image removal, legal aid or other protection. These women and girls are seen – without their consent by anyone who finds or shares the images that depict them but are on their own..

The rise of “deepfake pornography” over the past five years is in fact a rise in AI-generated online image-based sexual violence. The AI-created sexual violence content is almost always non-consensual, and the people whose faces are used in deepfakes often are unaware and uninvolved in content creation. Anyone who wishes to take someone’s face - usually a woman’s or young girl’s - and attach it to sexually explicit images or videos can do so through new AI tools that can be discovered online within a few clicks on major search engines. This occurs because one in every three deepfake tools that exist today enables the creation of nonconsensual deepfake pornography. A recent report studying the state of deepfakes in 2023 found that deepfake pornography comprises over 95 percent of all deepfake videos found online and that 99 percent of those targeted in deepfake pornography are women. In fact, [the United States ranks #2](#) for the most nonconsensual AI generated sexual violence.

Despite this recent rise in this new form of online sexual violence, global remedies and responses are lagging far behind in multiple areas such as policy, accountability, prevention, and services and support for victims. On the policy front, in the United States, there is no federal statute that explicitly covers this conduct, and only 10 states currently address deepfake pornography in either their criminal or civil laws. Law enforcement, if they are aware of these laws, have little to no investigative training in how to apply the laws and work cases, and prosecutors rarely bring cases forward.

Meanwhile, recent cases highlight examples of the rise in this new form of cyberbullying and online violence. While most incidences likely don't reach the media's radar, some significant cases have been reported. In September of 2023 in Almendralejo, Spain, more than 20 girls between the ages of 11 and 17 were victimized by AI-generated pornographic images tied to sextortion and demands for money. Similarly, in recent cases reported in 2023 in [New Jersey and Washington](#), teen girls have also been betrayed by male classmates who created and distributed nonconsensual deepfake pornographic images of the girls in their classes. A simple Internet search on the topic results in easy access to free apps, tools, how-to guides, and web sites like MrDeepfakes.com that enable the creation and distribution of this form online image-based sexual violence.

### **Sector Specific Recommendation, An Overview:**

While AI generated harms range from election fraud, cyber terrorism, democracy infringement and financial scams, it is clear and documented that AI generated sexual violence - aka "deepfakes" - are harming women and girls worldwide. The sectors that can engage are within technology, law enforcement, the judicial system, direct services and beyond. In simple terms, we must be coordinated, inclusive and diverse if we aim to stop the harms of AI generated sexual violence.

The technology that permits generative AI to create sexual violence such as "deepfakes" relies upon the theft or forgery of images, videos, and audio from people, about people, and of people. People and companies profit off this vast market where there are upwards of 9,000 websites solely created for the uploading, sharing and distribution of predominately women and girls nonconsensual AI generated sexual violence. Thus, this commodification of women and girls is effectively free to create for the abusers and extremely difficult for victims to find and remove. Sadly, it should come as no surprise that generative AI has become another means by which sexual predators are able to generate child sexual abuse material and non-consensual intimate material – quickly, easily, and at low-cost.

Technology mirrors that of the people who create and use it. We must respond in a multi-faceted way.

### **Policy Recommendations:**

Legal measures also need to recognize and address the continuum of harm experienced by women. Deepfake image-based sexual abuse mirrors the historic

patterns of sexual exploitation and abuse experienced by women. Sexual exploitation and abuse in the physical and digital realms operate together in a continuum. They are a part of the same structure of violence rooted in gender-based inequality and systemic misogyny that perpetuates women's subordination in society.

#### *Crime Victim Compensation:*

Crime victim compensation is a critical way to assist victims of all forms of image based sexual violence, including AI generated sexual violence harms.

According to Noelle Martin, an Australian expert:

“An important inadequacy of Australia's regulatory framework on this issue is that there is no specific compensation fund to victims to assist in accounting for the fact that this abuse has long-lasting economic consequences for people - from their future earning capacity, employability, and costs for mental health support and counselling.”

#### *Civil Redress:*

Civil remedies, in particular in the United States, are often out of bounds for adult survivors because of the burden of paying for legal fees, in particular if they lose. As a result, many survivors may find this too burdensome to bear.

Despite the aforementioned barriers, it is high imperative that civil remedies be made accessible to all victims of AI generated sexual violence. The financial harms that follow this sex crime often include loss of employment, lack of educational opportunities and relocation. Civil remedies should be accessible regardless of income.

#### *Criminalizing AI generated sexual violence:*

The criminalizing image based sexual violence remains a deeply needed conversation. Those who seek out and create AI generated sexual violence are committing an act of serious harm. That said, a nuanced approach to address that act with the fact that incarceration may not lead to the desired result of deterrence should be debated across the Department of Justice and other federal agencies.

#### **Addressing Technology Reform:**

*“We need an entire paradigm shift with respect to how law and public policy treat people’s digital identities, images, videos, audio, and texts. Technology companies developing and deploying this technology should not be permitted to expropriate any*

*material from, about, or of, people without their express and informed consent. This should be the gold standard.” - Noelle Martin, (Australian Human Rights Attorney, Lived Experience Expert, Researcher at the UWA Tech & Policy Lab*

Nonconsensual deepfake pornography is used to silence and oppress people, predominantly women and gender minorities. The internet is forever. Even once platforms "remove" the content, people are still able to find it easily. Victims talk about feeling hopeless.

*Global partnerships must be expanded and strengthened:*

Global partnerships can reduce the challenge of limiting jurisdictions that do not address the global nature of AI generated sexual violence. To truly address this issue, global partnerships must be expanded to hold people accountable for this abuse and to ensure websites, apps and other functions like encrypted chatrooms are held accountable worldwide. An example of such leadership is the [Global Regulators Network](#), currently chaired by the eSafety Commissioner of Australia. Current membership includes: Australia, Canada, France, Ireland, Fiji, the Republic of Korea, South Africa and the United Kingdom.

**The United States should consider joining this network.**

Digital content can spread across multiple platforms and countries making it difficult to remove or track and protective laws in one country would not be enough to protect all victims across the world. National responses and mechanisms have to be supported by strong interconnected, international responses. The technology sector also needs to play a role by not promoting this content on their platforms and removing it, especially when it has been reported as offending content.

*Image-Removal of AI generated nonconsensual sexual violence content must be done with effective regulation:*

While removal is necessary and vital for individual victims, at a macro-level it remains a superficial response that fails to tackle the root causes of this problem. All removal does is seek to take offending content down at any one time in any one place. But more importantly, removal will only be effective if it is done simultaneously with strong enforcement. Removal without enforcement does little to meaningfully regulate this scourge. Both must occur.

## Concrete Technology Recommendations:

### *Labeling Requirements:*

There must be regulations requiring all AI-generated content to be labeled. This could be visible, such as a watermark. It could also be invisible, such as immovable fragments of code that computer programs can flag if/when needed.

### *Consent Requirements*

There must be regulations requiring tech companies to ask for consent from users before creating deepfakes using their images. This is important for all content, not just explicit content. Whenever an algorithm is given content, it becomes better at recreating that content. For example, Taylor Swift's fans uploaded a bunch of non-explicit photos of her to deepfake sites in order to create fake album covers. Those sites were then far better at creating realistic-looking pornography of her because they had been trained using so many of her photos in multiple iterations.

### *User Rights:*

Technology companies need to have easily accessible, clear and intuitive reporting pipelines so victims or end users can report instances of CSAM and/or image-based abused. These pipelines should be standardized across platforms to support removal.

### *Advertising:*

It should be illegal for companies to advertise their deepfake/AI services with the mention or implication of pornography.

### Content Moderation and Trust and Safety:

Last year, large tech platforms were [laying off their content moderators](#) – staff who review image removal requests by survivors and their advocates. All technology platforms could learn from survivors that when they fail to remove this content, they are not only likely violating their own user agreements but they are further harming survivors – some as young as [11 years old](#).

There is a large and growing network of Trust and Safety professional networks that have dedicated leadership who, together with lived experience experts such as those contributing to this report, can advocate and advise for the best practices of content moderation.

Examples include:

Trust and Safety Forum: <https://trust-safety.forum-incyber.com/>

Trust and Safety Professional Associations: <https://www.tspa.org/>

#### *Platform Responsibility:*

Tech companies should be accountable for hosting and distributing nonconsensual deepfake porn. This could involve regulations requiring platforms to implement effective content moderation policies and tools to detect and remove deepfake porn.

Technology companies need to be held accountable for responsiveness to and timely action of end user and victim reports of the distribution of image-based abuse via AI-generation, CSAM or non-consensual sharing of intimate images.

Technology platforms need to be held account for the blocking of future uploads of or de-indexing of known and previously reported CSAM and image-based abuse imagery (real or AI-generated).

#### **Law Enforcement Recommendations:**

Consistently, survivors within The Reclaim Coalition share that law enforcement, however well intended, is not capable of addressing AI generated sexual violence due to a lack of investigative tools, training and education. We need a clear model law, stemming from the federal government, to ensure that consistent provisions apply across state lines.

*"I had images made of my face edited onto another woman's body that was then shared on twitter and posted online. It was extremely violating and as though I was not even a person, just a body to be manipulated for others pleasure and my shame."* - Megan Sims, Advocate and Survivor

Laws as good as how well they are enforced and applied. What victims often express is that this issue is not taken seriously by law enforcement who may not be able to investigate without adequate state of federal law. . A lack of seriousness of this issue is also reflected in court sentencing. If we are to truly tackle this issue, law enforcement, courts, and the judiciary should be trained and skilled on this issue, from a survivor-, and trauma-informed perspective.

Legal measures also need to recognize and address the continuum of harm experienced by women. Deepfake image-based sexual abuse mirrors the historic patterns of sexual exploitation and abuse experienced by women. Sexual exploitation and abuse in the physical and digital realms operate together in a continuum. They are



a part of the same structure of violence rooted in gender-based inequality and systemic misogyny that perpetuates women's subordination in society.

Following the horrific abuse Taylor Swift experienced at the hands of those who created her AI generated sexual violence, the White House has called for what survivors have been advocating for years – [federal legislation](#) against image based sexual violence. This legislation must be robust and enforced. It must be centered around consent, not intent of the abuser and must be able to hold the facilitators – ie tech companies – also appropriately accountable for their role in the sexual violence itself. It must include all forms of image based sexual violence such a sextortion, nonconsensual intimate image sharing (often referred to as revenge porn but there is context in which sexual violence can be justified by revenge). It must also hold technology companies accountable to reporting how they remove these images.

**Consultations with survivors with lived experience will shift the landscape to ensure justice reflects their needs.**

Survivors are uniquely poised to impact legislative and technology changes but are rarely heard or given the chance to impact the change needed to stop the harms that nonconsensual deepfake sexual violence cause.

*Educating and Training the Judicial System and Law Enforcement:*

While deepfake pornography is the most salient way that generative AI has been used for abuse so far, to date the concern that we have encountered most often has been the impact of generative AI on the perceived provenance of evidence used in court proceedings. In an environment where photos, audio, and video can all be convincingly faked, survivors often experience a persistent expectation of digital gaslighting that erodes any confidence they might have that law enforcement or courts will believe or help them. Judges experience a similar anxiety over the idea that the evidence that informs their rulings could be nothing more than digital smoke. Guidance and training for law enforcement and the judiciary, expanded tools for investigations, and aggressively updated Federal Rules of Evidence, are all critically needed to maintain the effectiveness of our legal system in an era where most forms of evidence can be easily and convincingly falsified.

**Prevention Education**

As with more familiar forms gender-based violence, the capability of AI-facilitated gender-based violence to empower abusive people to cause harm is outpacing structural and technological methods to limit that capability. While technology-based approaches like digital watermarking and blockchain content verification must be pursued, these harms can only be truly addressed if people who use AI tools to abuse are held accountable for their choices. AI-facilitated GBV is a human problem, not a technological problem, and social approaches have always been the most effective ways to address human problems. In the context of AI-facilitated GBV, a social approach would look like education and tools that non-abusive people can use to support victims/survivors, recognize abusive behavior and the abusive use of AI by others, discourage or confront abusive behavior, and report abusive behavior to authorities who are both empowered to, and capable of, a meaningful response to AI-facilitated GBV.

### **Funding Investments:**

Tech that detects AI deep fakes and effective legislation which prohibits non consensual deepfake intimate content, policies orgs that create the AI software to prohibit any users of creating non consensual deepfakes.

Ensure that vulnerable people - such a refugees and those in conflict - are protected from AI generated harms, including nonconsensual deepfake pornography.

Increase funding for direct services for survivors of image based sexual violence.

### **Implications of AI Generated Sexual Violence in the Global South:**

In the Global South, where there is both a lack of information against such machine-learning technologies and a lack of regulation by government bodies, marginalised people have no information or recourse to deal with the violence created by such technologies.

Many of the platforms used in the Global South (like Meta) have organizations which operate under United States law, but nevertheless have a huge user base in the Global South. So policy changes in the US regarding platform accountability and content also affects users in the Global South.

### **Conclusion:**

Digital content can spread across multiple platforms and countries making it difficult to remove or track and protective laws in one country would not be enough to protect all victims across the world. National responses and mechanisms have to be supported by strong interconnected, international responses. The technology sector also needs to play a role by not promoting this content on their platforms and removing it, especially when it has been reported as offending content.

When we listen and invest in recommendations by survivors of lived experience with AI generated sexual violence harms, we can prevent more victims in the future.

Appendix:

The Reclaim Coalition: <https://www.panoramaglobal.org/reclaim>

I Didn't Consent: A Landscape

Report: <https://www.panoramaglobal.org/publications/image-based-abuse-initiative-landscape-report-2023>

Documentary Film, Another Body:

[www.anotherbodyfilm.com](http://www.anotherbodyfilm.com)

## About Panorama

Panorama is a platform for social change: our goal is to maximize social impact by partnering with visionary leaders to co-develop solutions with audacious thinking and bold action. Panorama is led through a social entrepreneurship lens and a mission-oriented ethos where being of service to others is a core value and advancing social change is the bottom line.

Panorama tackles a wide range of issues, recognizing there are common connections, patterns, intersections, and cross-cutting solutions between them. The defining features of our approach include a systems-thinking mindset, a deep belief in partnerships, a preference for teamwork and catalytic coalitions, and a solutions-oriented optimism that strives towards new frontiers of what is possible.

Today, more than 60 diverse social change initiatives on 20 different issue areas are sponsored by, hosted at, or fully implemented by Panorama Global. In addition to the Reclaim Coalition, our core programs include:

- Fiscal Sponsorship services for national and international organizations and networks;
- Accelerating Social Change Leadership initiative supporting early-stage new social entrepreneurs;
- Managing grantmaking funds and donor collaboratives (e.g., The Ascend Fund, The Upswing Fund for Adolescent Mental Health, and The T1D (Type1 Diabetes) Community Access Fund);
- Catalyzing solutions to identified gaps in different fields (e.g., mobilizing the Pandemic Action Network; and
- Providing custom solutions for partners and clients including peer learning communities, donor advising, secretariat services, and architecture, strategy, and design of major initiatives.

