

## Police Response to Youth Offending Around the Generation and Distribution of Indecent Images of Children and its Implications

### Aims

- To explore arrest and crime recording of minors in the UK for the generation or distribution of indecent images of children, under the 1978 Protection of Children Act.
- To determine the volume of arrests of minors under Home Office crime code 86/2, and also the number of outcome 21 recordings made against minors related to image offences, since December 2016.

### Key Findings

- In the UK Children and young people are still being arrested under crime code 86/2. In some forces (10 in total), while small in number, arrests are being made to those under the age of 14. Outcome 21 recording is being applied by most forces, to varying levels and the number of outcome 21 recordings, in more cases, far exceeds the number of arrests, which is a positive thing.
- Therefore, the research reports a mixed picture regarding the challenges of policing youth involved in the possession and distribution of indecent images of minors, and the clear relationship between this and teen sexting. We can see that since the advent of outcome 21 recording, some forces are applying this a great deal, which is preferable to arrest (albeit with the caveat that there are cases where the arrest of a minor for possession and distribution of indecent images of a minor is entirely valid, particularly if done with malicious intent or coercion).
- In some forces there are extremely high outcome 21 figures which implies, although we have no means of demonstrating causation, that since the advent of outcome 21, it is far more likely that a recording will be made. There is insufficient evidence to suggest why this is the case, but it does suggest a lot more police involvement with teen sexting issues that data prior to 2016. This is a worrying trend because an OC21 could still be recalled in an advanced DBS check, at the discretion of the then chief constable of a given region. Therefore, we still have a subjective interpretation of the use of OC21 which could impact upon a young person's future.
- In conclusion, the research presents a mixed picture. It is positive that outcome 21 recording is, in a lot of cases, being applied far more than arrest. However, we still see that arrest of minors does occur. Perhaps more concerning, however, is that the practices seem highly disproportionate and inconsistent across forces. As a result, young people may still be subject to a postcode lottery should they be discovered engaging in the exchange of images where in some instances they would be arrested for doing something that in another location would be recorded as an Outcome 21 incident. Further research is needed to unpick the reasons behind the data, particularly with police, youth offending and probation services.

### Policy Context

For teen (and pre-teen) sexting, the UK legislation that is applied centres on section 1 of the Protection of Children Act 1978. This legislation makes it illegal for someone to generate and distribute an indecent image of a child. Clearly in the event of self-generation and sharing, the victim will also be the perpetrator under this legislation. The legislation was introduced and debated in a time before the day when someone might self-generate an indecent image of themselves from their bedroom and have it passed around many recipients with the touch of a button could have ever been envisioned. However, in the modern digital world, we have a legislation tension between on the one hand protecting the victim and on the other hand addressing the illegality of the generation and sharing. We should note that an 18 year old victim of the non-consensual sharing of an intimate image would be protected by law, whereas a 17 year old could be threatened with prosecution.

Those who produce images of themselves and send to others, sometimes voluntarily, sometimes as a result of pressure or coercion risk criminalisation should knowledge of this self-generation be made public and reported to the police.

While many instances of youth self-generation were private and went no further than the intended recipient, there were also many that did. As a result of further distribution, victims are often abused or pressured into other harmful behaviours. Therefore, victims would disclose the abuse to adults with responsibility for their safeguarding (parents, school teachers, etc.), which would often result in police involvement and if police were made aware of the production and distribution of an indecent image of a minor, it would have to be recorded as a crime. Even if no further action was taken, the recording of a crime could be recalled in the event of a future criminal records check (for example a Disclosure and Barring Service check) which could have severely impacted on the “offender’s” future.

### Methodology

We sent Freedom of Information (FOI) requests to all police forces in the UK to request data that would give an indication of the volume of arrests of minors made between December 2016 and March 2019. We specifically asked for data for those under 14, as well as under 18, to determine whether those who were pre-teen, or barely teenagers, were being arrested under this legislation and whether outcome 21 was being applied in these cases. 30 police forces returned usable responses.

### Background

Concern around youth sexting is well established and rightly so. Since the advent of mobile technology with built in camera capabilities, the means to be able to take an image of oneself and send to others has become available. Unsurprisingly, minors adopted such practices, as well as adults. Introduced in 2016, Outcome 21 allows the recording of a crime that is not considered worth pursuing because it is not in the public interest to do so. The new recording method was introduced specifically to address the increasing number of minors who were being charged under s1 of the PCA as a result of engaging in “youth sexting” – the self-generation and distribution of indecent personal images by minors, to peers.

Concern has grown around the criminalisation of minors, with a criminal record that would follow them into adulthood, as a result of a practice that was being broadly adopted with the advent of mobile technologies and

### Source

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Report available online from <https://www.uos.ac.uk/sites/default/files/FOI-Report-Final-Outcome-21.pdf>

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