"TRANSFER TO SHAME"
- INVESTIGATING PROVENANCE AND PROCESS IN FOUR SWEDISH REVENGE PORN-CASES 2017-2018

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Introduction

One of the more shameful events that could happen to an individual in the contemporary information society is the spread online of compromising media connected to that individual. When this media is of a sexual nature it is called "Revenge Porn" and defined and described by the research community as non-consensual pornography – pictures or video material of a sexual nature spread without the portrayed persons consent.[1] Some scholars sees it as a part of the continuum of sexual abuse, and that it should be put in the same category as other forms of (often physical) forms of sexual abuse.[2] Before the digitization of our lives compromising media (as analog photos, video recordings et cetera) also existed – but because of the rules regarding publishing compromising media seldom reached the public eye on a massive scale. In the town where I grew up during the pre-digital era there was a rumor regarding a teacher who had been photographed with less clothes than appropriate by a former boyfriend, a boyfriend who after their break up sent these pictures to the open pages of a pornographic magazine. This was of course a hideous thing to do – and a terrible thing to live with for the exposed teacher – but the spread of the picture in the paper society was scarce in comparison to the possibilities of distribution today. There were no Facebook pops sounding to announce the shame of the victim. Just rumors that someone had seen a picture. The Information War were less effective back then, its weapon not as effective yet. Already in 1964 Marshall McLuhan claimed in his epic work "Understanding Media – The Extensions of man" that telegraphs were a "common extension of the central nervous system" – but we must agree upon that it was a very primitive nervous system in comparison with the broadbands of today.[3] Even earlier there were thoughts of how machines could take over the human gaze, like in Francis Picabia's work *Universelle Prostitution* (1916), one of the works I have chosen to use as an illustration in this article.[4] In Picabia's work the camera is connected to sexuality and sexualization, this during a time when the connection were not as obvious as it is today. If we go further back in time another example could be the Icelandic Sagas written down in medieval times. In *Gísla saga Súrssonar,* the classic Icelandic saga about the hero Gísli and his family, Gísli's enemies constructs a wooden sculpture to present before a fight. It portraits Gísli and his friend Kolbiorn when "one of them stands behind the other" – a paraphrase for them having sexual intercourse. This is supposed to be shameful for them both.[5] The context of sexual shame is not new: It is not the content who has changed with digitalization – what is new since the beginning of this millennium – with the introduction in the west of the private internet access – is the possibilities of brutal distribution. In this article I will use two concepts used in Archival Science to try to gain insight in what happened during four Swedish Revenge Porn-cases who were settled during the years 2017 and 2018. My focus will be on the movement of information

in these cases and the goal is to review the possible usage of concepts from Archival Science when describing revenge-porn cases and similar phenomenon. Another goal is to point towards possible further research regarding both revenge-porn and the usage of the mentioned concepts.
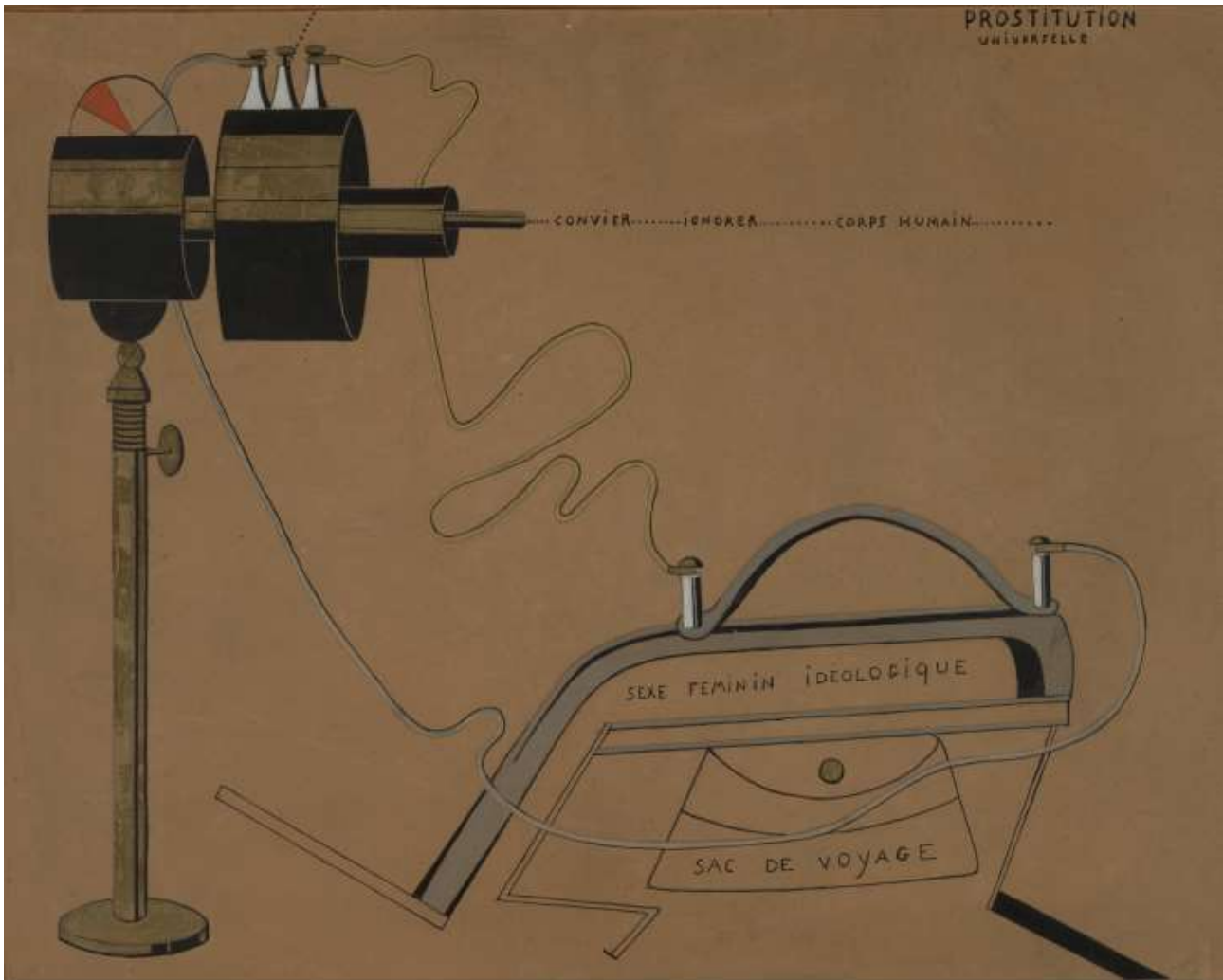

Figure 1: "Prostitution universelle", Francis Picabia (1916). Public Domain from Yale University Art Gallery

According to theorists describing digitalization, the digital era is accelerating and intensifying interventions in living bodies.[6] Things happens online that actually affect us as persons. We could use a well-known case as an example for these intensifying interventions. "The Drunken Pirate"-case of 2006, when, Stacy Snider, an American student who worked part-time as a teacher was accused of promoting underage drinking by Millersville University. The University also refused to issue her a teaching degree due to this accusation. The reason for their complaints were a photo on Snider's MySpace-page showing her drinking a beer dressed in a pirate uniform. The resulting legal conflict (as Snider sued the University to be able to be issued a degree) opened up a can full of questions regarding online privacy, making internet-focused academics like Viktor Mayer-Schönberg ask the question if we do want a future that is "forever unforgiving because it is unforgetting?"[7] As an archivist I denounce the possibility of the unforgetting Internet. We know that information has a

tendency to disappear over time whether it is digital or not. It will not last forever – this too will pass. But this does not make the problem of the spread of information a lesser problem during the time the compromising media actually is circulating. I believe that we can gain better insight of how this kind of information is created and distributed by using two concept widely used in Archival Science: Provenance ("where information is created") and Process ("how it flows through a network"). I will begin this article by describing these two terms.

Provenance and Process

Provenance is the context in which any entity carrying information (an analog photo, a runestone or a digital live-stream) is created. When describing such an entity using the term provenance it will help us answer such questions as who created the information and in what context. An ordinary example, in Archival Science, could be an official document from a government agency – they are often, in their text carrying specific metadata (creation date, name of agency, the executive who has signed the document) connected to provenance. From this metadata we, as researchers, could make decisions of where this piece of information actually were created. We know, from the document, during which time it was created, by which government agency, and the name of the signing executive. This gives us a possibility to do a fact check: has this government agency existed? Did it exist during the time that the document claims it was released? Were the named executive, who signed the document, actually in a position to sign such a document? What kind of claims can we make, knowing the content of the document and the provenance we can extract from its metadata? Our fact-check can be both internal (using other documents from the same government agency) and external (using documents created under other circumstances, published newspaper from the same time, and earlier historical research). Archivists does not use provenance just as a fact-checking tool – it is also used as a way to sort content – using provenance as the way to know in which archive a certain piece of information belong.[8] In this work I will focus on a limited part in the definition of provenance – who the creator is and in what context the compromising media has been created. Provenance is at the start of the process – and the description of process is the next focus of this article.

A process is a number of activities who together creates a pattern describing what happens/or are supposed to happen during the creation of value in a administrative setting related to a corporate or governmental organization. In this article I will move the concept of process from the administrative sphere to a social sphere. This requires some modifications to the concept of process. It is not plausible to describe the process of revenge porn as value-creating. I will instead use the term "Outcome" or "results of the process" to describe that something has changed because of the start of, and end of, the process. Something has changed – but not necessarily something that have added value to the social surroundings where it happened. The term "Outcome", as it is used in the

article, is neutral in relation to accumulated value. In Business Process Management a process is described as

> "it is about managing entire chains of events, activities, and decisions that ultimately add value to the organization, and its customers. These chains of events, activities, and decisions are called processes."[9]

It is the part about adding value to organization and customers that has to be removed from the theoretical foundation used in this article. Left are a "chain of events, activities and decisions." But it has to be elaborated further. One way to describe a process from an information perspective could be like this. Imagine an arrow upon which a number of hooks are hanging. The arrow points towards the end of the process; the outcome. The hooks are activities, things that need to be done for the process to move forward. I describe them as hooks because they can hold different objects. The most distinctive object, if our interest is information, are different forms of information-carrying objects, documents, photos and digital files of different sorts. In a digital system a typical example could be some form of log entry that is created through an activity. But all activities does not need to hold objects. Sometimes an activity doesn't create anything or leave any information to us after it has occurred.
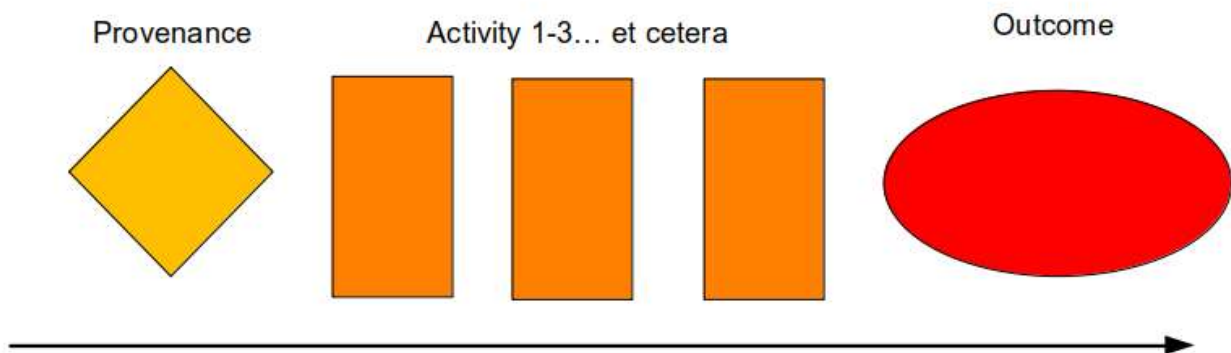

Figure 2: A process as it is described in this article, The Author (2022).

Cases and Questions

During early 2020 I used the Swedish legal right of public access to governmental information to access all court cases regarding intentional data breaches from 2017 to 2018 processed in all Swedish regional courts. The motivation to do this was a larger research project regarding data breach mostly connected to intentional breaches in the Health Care sector. But among the approximately ~100 cases of intentional data breach that were the result of my request, I found four cases of what is usually called Revenge-Porn; Accessing and publishing nude or semi-nude pictures

of a person with the motivation to shame them. The four cases had a relation to some kind of data breach – and there might be more cases hidden in the system if my request would have been more advanced. But having stumbled on these four cases they required an investigation. Connected to what I wanted to investigate were four questions. I am going to present these questions to you.

The first question is "How were these pictures created?". This questions aims towards the context in which the pictures were taken, who took them and for what reason. The question relates to the provenance of the picture. From the verdicts this is not always clear – but there are always possibilities to point out some possibilities of context. This will be more clear when we turn to the four different cases. The second question is "How where the pictures accessed by the culprit?" this could include explanations such as "they were sent to them", "they were accessed through some kind of theft" et cetera. This question relates to the process of revenge porn. As stated above the answer to this question will be a bit bent – we already know that these four questions are connected to some sort of data breach. The third question is stated as "How were the pictures handled by the culprit?" and opens up to a discussion regarding the spread of information in the digital era. This question also relates to the process of revenge porn. The fourth and last question is formulated as "What are the outcome of this process according to the verdict?". This includes both the actual verdict – the outcome for the culprit – but also the courts conclusion regarding the harm done in relation to the victim.

Knowing the answers to these four question we can create a process that describes what happened before the verdicts and also have a possibility to compare the four cases to each other. The cases will be referred to below and are named A, B, C and D in this article.[10] All my knowledge of the cases are based on the verdicts – of course their could be other information that would be possible to derive from the Police investigation, from media or from the persons involved – but in this article I have chosen to use only the verdicts due to lack of time and space. Another reason is that verdicts from the Swedish court system generally are open to access from the public – but the possibility to access other information could be limited. I have retrieved them through a request for information from the district courts where the verdicts have been passed. The persons mentioned in the verdicts will be named A1 (person 1 in case A) and so forth. Quite often are acts of one or more persons necessary to keep the process moving forward.

Case A
Case A is from 2017 and was processed at the Gävle District Court, north of Stockholm. The case is regarding a young man (A1) who suddenly was contacted by his friends (A2) who told him that there were pictures of his naked former girlfriend (A3) posted from his Snapchat account. Another former girlfriend (A4) with knowledge of A1:s Snapchat password and access to his smartphone were traced as the culprit through her IP-address but later acquitted in court. In total the pictures were seen by

around 10 persons through the Snapchat social media service. Using the concepts of provenance and process we could describe Case A in this fashion.

Provenance: We don't know the full provenance of the pictures. They could have been taken by A1 or sent to him by A3.
Process Activity 1: The pictures were supposedly stolen by A4.
Process Activity 2: The pictures are distributed through the Snapchat social media service by A4 using A1:s Snapchat account.
Process Activity 3: The distribution is discovered by A2 who notifies A1 of the activity on his Snapchat account. He removes the pictures from the social media service
Outcome: The distribution is supposedly stopped. Later A4 is prosecuted but acquitted.

Case B
Case B is from 2017 and was processed at the Norrtälje District Court, north of Stockholm. The case is regarding a middle age man (B1) who stole compromising pictures of his ex-girlfriend (B2) from her computer. He then posted the pictures under his ex-girlfriends name on a website designated for erotic contacts. The crime was discovered when people started to contact B2. According to the investigating policeman it took him fifteen minutes to find B2:s Facebook page from the data provided on the sites were the nude pictures were posted.

Provenance: The pictures seems to have been taken by B2.
Process Activity 1: The pictures were stolen by B1
Process Activity 2: The pictures were distributed by B1 on a site designated for erotic contacts
Outcome: Distribution does not seem to stop. At least there is a great risk that the distribution could continue. B1 was convicted for data breach and slander.

Case C
Case B is from 2018 and was processed at the Solna District Court in Stockholm. This case is regarding a young man (C1) who gained access to a smart phone belonging to a girl he knew (C2). How he did this is not mentioned in the verdict. From the smart phone he transferred three pictures "of very private character" to his own smart phone using a chat program. Afterwards he erased the traces of the transfer. How these actions were discovered are not mentioned. In the verdict no distribution of the pictures are mentioned.

Provenance: Owned by C2, probably created by C2.
Process Activity 1: Pictures are stolen by C1.
Process Activity 2: The theft is discovered
Outcome: As it seems, no distribution of the pictures were performed.

Case D

Case D is from 2018 and was processed at the Örebro District Court in middle Sweden. It is regarding a stepmother (D1) who searched through her stepdaughters (D2) iPhone finding a video of private nature. Finding this video she logged in to her stepdaughters Facebook-account and posted it in her stepdaughters Facebook-feed. This was discovered when friends of the stepdaughter (D3) contacted her and wondered why she had posted this video in the feed. D2 then used another unit to log on to her account and remove the video. D1 was later convicted of data breach and slander.

Provenance: Owned by D2, probably created by D2.
Process Activity 1: Video is stolen by D1. Posted on D2:s Facebook-feed
Process Activity 2: D3 discovers the post, notifies D2.
Outcome: As it seems, no distribution of the video were performed. But it is impossible to know if someone downloaded the video. D1 was convicted of data breach and slander.

As it seems it is possible to reconstruct both provenance and process using the verdicts, although the verdicts cannot answer all questions they can still point us towards some answers and allow us to construct an outline related to provenance and process. There are some similarities, and some differences, between the four cases. I will discuss this in the conclusive remarks below.

Conclusive remarks

If it is possible to recreate the revenge-porn process from the verdicts I have used – but do these processes in themselves answer any questions about revenge-porn in general? And does the concept of Provenance help us as well in our understanding of how revenge-porn is created? I claim that they at least could be of some help to our understanding of revenge-porn.

Regarding provenance there are some insight that can be provided. In all of the four cases it seems like the pictures have been created with the photographed persons consent. This could give us the input that the creation is not the problem here from the victim's perspective – it is the distribution. We could consider the distribution (one of the activities in the process) as a movement from a realm where its existence is accepted (by the victim) to a realm where it is considered as a problem. The anthropologists Mary Douglas in her seminal work "Purity and Danger" presents the concept of "dirt as matter out of place". According to Douglas the placement of an object in many cases defines its character.[11] Blood inside the body is not a problem, blood on the floor is considered dirty and dangerous, as an example. In the cases of revenge-porn discussed in the article it seems to be the distribution – the "picture or video existing out of (the private) place" that is the problem that implies

that these cases became criminal cases in the first place. It is important to point out something here: this provenance might be because the four cases includes claims of data breach. They were stolen from someone (in all cases the person pictured in the compromising media). We don't know if this is a general quality of revenge-porn material. To know this we have to do further investigations of more verdicts and maybe include other kinds of research material.

Regarding the activities – One of the activities in these verdicts are often (three out of four – to our knowledge) a distributive activity. The material is spread through social media or through pages dedicated for erotic contacts. Another typical activity is some kind of discovery – someone close to the pictured individual notifies the individual about the pictures being distributed through a certain platform. With better sources there might be possibilities to point out further activities and make this part, the distributive part of the process, contain more details. But still – if we want to use a process method to describe a series of events - we would need to keep the activities to a minimum. This, if we want to keep the possibility of comparison. Further research could be aimed at defining specific activities (distribution etc) to create possibilities of comparing different cases.

Regarding outcome: It seems that the most important part here is how fast the distribution is stopped. In most of the cases (A and D) the distribution is stopped almost immediately. In case B we don't know if it is stopped at all. From case B we can also understand that how well the pictures can be connected to the person depends on the metadata it is distributed with. This could be an interesting area of research for future investigations. It is important to know that distribution is a very slippery concept: it just needs one act of downloading to create the possibility for distribution to start again, theoretically even years later. But also – if no act of downloading (by humans or bots) is performed during the time media material is distributed – it might be possible that it could be wiped out from existence totally. This is one of the more exiting qualities of distribution of media through the internet. In case C distribution is not mentioned at all – but this doesn't mean that it didn't happened – or couldn't happen in the future. Another quality of digital material is that it is very easy to copy and store in multiple places, and that it is possible to hide that these copies have been made. There are also a great number of arenas where a picture could be distributed so it is hard to prove that no distribution happened or could happen in the future.

It is important to point out that the research done here does not claim to prove anything regarding revenge-porn in general. There are too few verdicts included to make it a possibility to claim anything in general about revenge-porn. The verdicts themselves, as a research material, are not in any way perfect for such research either. They are too shallow in their description of the cases. Further research could be done by obtaining the police reports that were presented for the courts. My ambition in this article is not to do any general claims regarding revenge-porn but rather to show how terms and methods from Archival Science can be used to gain further insight to the information

transfer that are a great part of what revenge-porn really is. A transfer of information that causes and/or are meant to cause, shame.

Figure 3: 'Feeling cute, might delete later' - "King Candaules of Lydia Showing his Wife to Gyges", Jacob Jordaens (1593-1678). National Museum of Sweden, Public Domain.

1   Dodge, Alexa (2021) "Trading Nudes Like Hockey Cards: Exploring the Diversity of 'Revenge Porn' Cases Responded to in Law', Social & Legal Studies, Vol 30(3).

2   McGlynn, Clare, Rackley, Erika & Houghton, Ruth (2017) "Beyond 'Revenge Porn': The Continuum of Image-based Sexual abuse", Feminist Legal Studies, 25-25:46.

3   McLuhan, Marshall (2005) "Understanding Media – The Extensions of Man", London: Routledge Classics, p. 279

4   Butler, Christopher (2010) "Modernism – A very short introduction", Oxford: Oxford University Press. p. 29

5   Trad. "Gisle Surssons Saga", Stockholm: Fabel Förlag, p. 21

6   Markley, Robert (1996) "Introduction: History, Theory, and Virtual Reality", in Markley, Robert *Virtual Realities and its Discontents*, Baltimore: Johns Hopkins University Press, p. 4

7   Mayer-Schönberger, Viktor (2011) "delete – The Virtue of Forgetting in the Digital Age", Princeton: Princeton University Press, p. 1ff

8   Douglas, Jennifer (2017) "Origins and Beyond: The Ongoing Evolution of Archival Ideas about Provenance" in MachNeil, Heater & Eastwood, Terry *Currents of Archival Thinking*, Santa Barbara: Libraries Unlimited, p. 26ff

9   Dumas, Marlon, La Rosa, Marcello, Mendling, Jan & Reijers, Hajo A (2017) "Fundamentals of Business Process Management", Berlin: Springer Verlag, p. 1

10   A – *Gävle District Court B 2510-17* , B – *Norrtälje District Court B 179-17* C – *Solna District Court B 6385-18* , D – *Örebro District Court B 887-18*

11   Douglas Mary (2001) "Purity and Danger – An analysis of concepts of pollution and taboo", London: Routledge, p. 36