

WHAT TO DO IF SOMEONE HAS SHARED OR THREATENED TO SHARE YOUR INTIMATE IMAGE?

INTRODUCTION

This tip sheet provides information for teens who have had their nude or sexual images (photos or videos) distributed without their consent.

a. Non-Consensual Distribution of Intimate Images

In Canada, it is illegal (a criminal offence) for a person to **knowingly publish, distribute, transmit, sell, make available or advertise an intimate image of a person where the person in that image did not give their consent**. This means, if someone deliberately posts or sends a nude or sexual photo of you without your consent- they can be charged with a crime.

This offence is also called **non-consensual distribution of intimate images** or **NCDII** for short.

Some examples could be:

- You sent a nude to a boyfriend on snapchat, he takes a screenshot and sends it to other people;
- An ex-boyfriend/girlfriend posts sexual photos/videos of you on Facebook or another popular social media website;
- A stranger you met online has access to intimate photos/videos of you and posts them on a pornographic website.

b. Extortion

What if your abuser has not yet posted your intimate image but is threatening to do so if you don't do what they want? If someone uses another person's intimate image to coerce them to do something, they could be charged with "extortion". [Extortion](#) is a crime and applies when someone tries to gain something using threats to make or to try to make another person do something. This means, even if your abuser has not posted or sent the photo to anyone but is threatening to do so if you don't do something this could be charged as the criminal offence of extortion.

NEXT STEPS

If you or someone you know has had a sexualized photo shared without consent, or someone is threatening to do so, the following steps may be helpful.

Step 1: Was there a violation of s. 162.1 (1) of the Criminal Code or s. 346 if not yet posted?

What does Canadian Criminal law say about an abuser publishing or sharing an intimate photo without your consent? Section 162.1 (1) of the Criminal Code states:

(1) Everyone who knowingly *publishes, distributes, transmits, sells, makes available or advertises an intimate image* of a person knowing that the person depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that person gave their consent to that conduct, is guilty

(a) of an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) of an offence punishable on summary conviction.

Let's break down what this means:

1. What is the act that the offender committed?

“Publishes, distributes, transmits, sells, makes available, or advertises” is a broad way of saying that the abuser has posted, shared, or sent the image to others. An example of “publish” includes posting the image on social media or a website; “transmits” (to send from one person to another) includes where an image was texted, emailed or sent via a messaging app to someone else.

2. The photo must be an “intimate image”.

What is an intimate image? An intimate image is defined in s 162.1 (2) of the Criminal Code:

(2) In this section, intimate image means a visual recording of a person made by any means including a photographic, film or video recording,

(a) in which the person is nude, is exposing his or her genital organs or anal region or her breasts OR is engaged in explicit sexual activity;

(b) in respect of which, at the time of the recording, there were circumstances that gave rise to a reasonable expectation of privacy; and

(c) in respect of which the person depicted retains a reasonable expectation of privacy at the time the offence is committed.

3. The person in the photo did not give their consent to the photo being shared.

Even if the person in the image consented to the video or photograph being taken, but did not consent to the image being distributed or shared, that means that consent for distribution has not been given.

4. The offender knowingly distributed the intimate image and was aware, or was reckless, as to whether the person in that image consented or not. If someone has distributed an intimate image of you without your consent, ***immediately notify them that they do not have your consent to publish or otherwise share the image and keep a copy of that communication.*** You can send a message like:

“I do not consent to you sending/sharing the image/video of me [add a description such as including the date sent or any other identifying factors]. I want you to delete it and I do not give you permission to share it.”

Take a [screenshot](#) of that communication (see [Step 2](#) for further information on preserving digital evidence). This can be helpful as it can be evidence that the abuser knew that you did not consent to the image being distributed.

It may be helpful for you to know an example or case law of what could happen in this situation.

In *R v Haines-Matthews (2018) ABPC*, an 18-year-old accused took nude photographs of a 17-year-old victim and recorded them doing sexual acts. While the victim initially consented to the accused taking nude photographs of her, she did not consent to him distributing the images. The accused then posted the video recording and the nude photographs on Facebook and Instagram. The accused was charged with a violation of section 162.1 (1) of the Criminal Code and sentenced to 5 months imprisonment followed by a 12-month probation period.

What if the photo has not been posted or shared yet but the abuser is threatening to do so unless you do something?

Your abuser may have still committed a criminal offence. **Section 346 (1) of the Criminal Code** states the following:

S 346 (1) Every one commits **extortion** who, without reasonable justification or excuse and **with intent to obtain anything, by threats, accusations, menaces or violence induces or attempts to induce any person**, whether or not he is the person threatened, accused or menaced or to whom violence is **shown, to do anything or cause anything to be done.**

One type of extortion is referred to as “sextortion”- this is where a person attempts to get sexual images or materials from the victim or to get the victim to perform a sexual activity by threatening to share sexually explicit images of her if she does not provide the offender with what he wants. Canadian courts have recognized “sextortion” as a criminal offence under s. 346.

Here are examples of sextortion in court cases:

In *R v MacFarlane 2018 MBCA*, the Manitoba Court of Appeal emphasized that “sextortion is a form of sexual violence **even though** it occurs through the medium of the internet” (para. 19). The accused who was 19 at the time secretly recorded the 19-year-old victim undressing and showering while she was in the bathroom. He then sent emails through several fake email accounts where he demanded that she provide him sexual photos of herself or he would publish the secretly recorded photos on the internet. He was charged with extortion, distribution of intimate images without consent, and voyeurism and was sentenced to a total of 15 months.

In *R v Weeks 2018 BCPC*, the 18-year-old offender with no previous criminal record, was charged with three counts of extortion for threatening to distribute intimate images of his victims in order to obtain more revealing images and videos of his victims. While the BC Provincial Court considered his “young age and future prospects” in determining the sentence, he was sentenced to 18 months imprisonment for the extortion charges.

STEP 2: Preserve Evidence

While you may be tempted to immediately delete or remove your sexually explicit image that was distributed without your consent, it is important to preserve and document any evidence of the image before doing so. Once the content is removed, you may not be able to prove who posted it or that it was even posted. The evidence you preserve can be given to the police or Crown counsel to prove the elements of the crime in court. It is important to ensure that you have documented the evidence and done so in a way that the court does not doubt the accuracy or authenticity of the document.

Note: you may not know if you want to go to the police and that’s ok, but it is always recommended that you preserve evidence as soon as possible to keep all remedies available. You may need the evidence for other reasons other than court for instance for school or for your family and friends to prove that you were not the one who distributed your image and that you are the victim of criminal conduct.

Considerations

Take a [screenshot](#) of the image or screen recording of the post. Make sure you save the screenshot or [screen recording](#) in a safe place that is not accessible to the abuser.

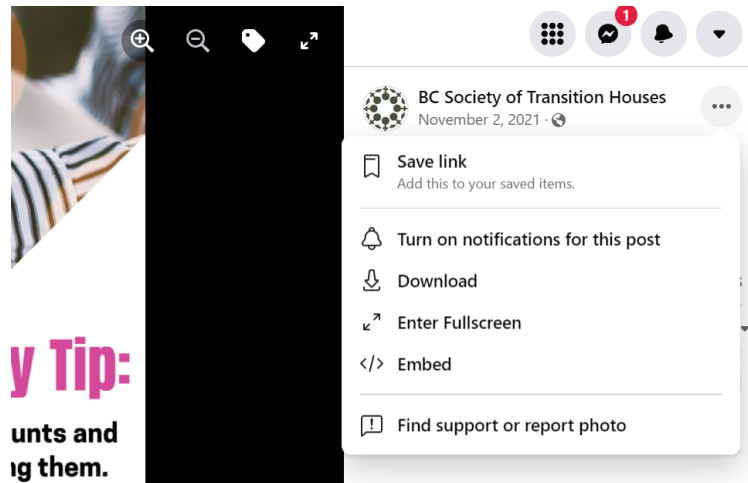
- Do not alter or try to cover up the photo. When documenting the photo, keep it in its original form.
- If posted on a social media platform: make sure that the image or message that contains the intimate image contains the username that posted the image and any comments. Take a screenshot of the account/profile that sent or posted the intimate image.
 - If sent via text message: take a screenshot of the text message and include a screenshot of their contact information to show the number associated with the name in your phone.
 - If you are capturing any messages, make sure you document the ENTIRE conversation, even if parts of it are not relevant. Some courts will not accept partial messages.
 - Make sure that there is a time stamp on all messages and posts
- Protect your evidence by making multiple copies and save them in secured digital locations organized by date and time. Print out the screenshots and keep them in a physical evidence binder. Make sure to print all pieces of evidence, including images of the webpage where the videos are posted, the profile or account of the poster, and any surrounding conversations.
- Document all the information you have regarding the incident. Document who the offenders are, your relationship with them, the duration of the relationship and abuse, the impact of the abuse on your life, and any actions you have taken.

For more resources with instructions on how to consider evidence, click [here](#).

STEP 3: Removal of the Intimate Image

FACEBOOK

1. Click on the photo or video you want to report.
2. Click on the “•••” icon next to the right side of the username.
3. This should open up a drop-down menu, click “find support or report photo.”
4. Select the option that best describes the issue and follow the on-screen instructions.



For further information on reporting an intimate photo on Facebook, click here:

<https://www.facebook.com/help/1380418588640631>

INSTAGRAM

1. Click ••• (IOS and Windows Phone) or ⋮ (Android) above or below the post.
2. Tap “Report”.
3. Tap “It’s inappropriate”.
4. Follow on the on-screen instructions.



SNAPCHAT

To report a Snapchat account:

1. Press and hold on a snapchatter's name.
2. Tap the ⚙️ icon.
3. Tap "Report".
4. Select the appropriate reporting option.
5. Submit your report.

To report a Story on Snapchat:

1. Press and hold the offending Snap.
2. Tap "Report Snap".

To report a Snap someone sent you:

1. Press and hold the offending Snap.
2. Tap "Report Snap".

REDDIT

If you have an account:

1. Click on the "comments" link under the post.
2. Click "report" under the title.
3. Type in "Involuntary Pornography" as the report reason.
4. Click "submit".
5. Send the URL of the comments page to contact@reddit.com with the subject "Involuntary Pornography Report".

If you do not have an account:

1. Click "comments" link under the post.
2. Send the URL of the comments page to contact@reddit.com with the subject "Involuntary Pornography Report".

GOOGLE

1. To remove non-consensual explicit or intimate personal images of Google click on the following link: <https://support.google.com/websearch/answer/6302812?hl=en#zippy=>
2. Click "Start removal request". You will then be directed to answer some questions. For "I want to remove", click "Nude or sexually explicit items" and answer the following questions. You will need to provide the URL(s) of the webpage(s) that show the content and upload screenshots of the content you wish to remove.

TIKTOK

1. Hold your finger on the offending video.
2. On the menu that pops up- click “report”.
3. Select “other” and provide Tiktok with details on why you want it removed (for instance, that it is a sexually explicit video of you shared without your consent, and that you are a minor).
4. You can also send an e-mail directly to TikTok at feedback@tiktok.com and detail the offending video and account.

If you need further assistance in removing an intimate image or video of yourself, you can contact:

Canadian Centre for Child Protection:

Phone: 1 (204) 560-2083

Toll-free: 1 (800) 532-9135

Online Form: <https://protectchildren.ca/en/help-with-image-removal/contact/>

Cybertip Program

Toll-free: 1-866-658-9022

Online Form: <https://www.cybertip.ca/en/report/report-form/>

STEP 4: Involving the Criminal Justice System

You have options. You can 1) report the criminal conduct to the police for them to investigate as a criminal case and/or 2) apply for a peace bond, which is a court order that requires the abuser to “keep the peace”, and if they violate the terms they can be charged with a crime of disobeying the order. Talking with a support worker or anti-violence worker or trusted adult is a good idea as they can help you consider all your options. There is a list of these resources at the end of this document.

Next Steps:

1. Before criminal proceedings begin, you can consider applying to the [Crime Victim Assistance Program](#). You can apply to the program as soon as a crime against you has taken place. Your abuser does not need to be arrested or charged with a crime in order for you to apply. The program may be able to help you with certain expenses and provide funds for support and counselling. The Crime Victim Assistance Program (CVAP) assists victims, immediate family members and some witnesses in coping with the effects of violent crime. It provides financial benefits to help offset financial losses and assist in recovery.
2. If you report the behaviour to the police that begins the criminal investigation. This is required if you want your abuser to be charged with a crime.
3. The officer will investigate your case. During an investigation, the officer may speak to other witnesses such as your family and friends.
 - If the officer refuses to investigate and takes no further action, talk to their supervisor to see what can be done. You can ask for the officer’s supervisor at the reception/front desk of the police station. If the supervisor also refuses to investigate further, you can consider “laying an information” if you think that your case should be investigated further (see page 10).
4. After investigating your case, the police will consider whether or not they think your abuser should be charged with a crime.
 - If the answer is yes, the police will recommend that Crown counsel charge your abuser with a crime. Crown counsel are lawyers who work for the government.
 - If the answer is no, the police will not recommend that Crown counsel charge your abuser with a crime.
 - This means that your case will not proceed any further. However, if you still believe that your abuser has committed a crime against you and should be charged with a crime, you should talk to the officer’s supervisor. If the supervisor

also refuses to move forward with your case, you can consider “laying an information” (see page 10).

- If Crown counsel agrees with the police’s recommendation, they will charge your abuser with the crime.
 - This does not mean that your abuser is automatically guilty of the crime. Your abuser will appear in court where it will be decided if they are guilty or not. Your abuser will have a chance to defend themselves. If your abuser is found guilty of committing the crime, they will receive a punishment; the punishment will depend on the circumstances of the case.
- If Crown counsel does not agree with the police’s recommendation, they will not charge your abuser with a crime.
 - This means that your case will not proceed any further.
 - If you disagree with the Crown’s decision, you should ask them to tell you why they are not proceeding with your case. The law requires them to tell you the reason behind their decision.
 - Crown counsel will not proceed with a case if they think there isn’t enough evidence. You can ask the Crown to tell you what evidence is missing. If you discover new evidence, you should bring it to the attention of the Crown. Crown counsel will generally move forward with a case if they think there is enough evidence to prove that a crime has been committed.

Laying an Information

Normally, if you think a crime has been committed against you, you must report it to the police in order to start formal criminal law proceedings. However, sometimes the police may not think your case is serious enough to recommend charging. If this happens to you, you may still be able to move your case forward by “laying an information”. This is a process where you provide information about a crime to a court instead of the police. The process of “laying an information” is set out below.

1. Make sure you know which criminal offence has been committed.

2. If you think that a crime has been committed, go to a courthouse that has a court registry. A list of courthouses can be found [here](#) (only staffed courthouses have a court registry).
3. Tell the court registry that you would like to “lay an information”.
4. There will be someone at the courthouse who you will give information to about the crime that has been committed.
 - The information you give will be passed along to a judge or justice of the peace.
 - The information will also be passed along to government lawyers (also called Crown counsel).
5. There will be a process hearing at court. This means you will have to attend court and speak to a judge. During the process hearing you will have to present the court with evidence showing that your abuser committed the crime you say they committed.
 - You should bring all the evidence that you have collected.
 - Crown counsel will also be present in court and may ask you questions about your evidence.
6. If the judge is satisfied with your evidence, they will order your abuser to attend court at a later date.

Peace Bond:

A peace bond is a court order made by a judge to protect you from a person that you think might harm you. A peace bond can order a person to do the following:

- Require the individual not to contact or limits contact with you, your family, relatives and friends;
- Prevent the individual from going to your home or workplace or certain places that you frequent;
- Prohibit the person who has your intimate image from sharing or posting the image with anyone else.

The person identified in the peace bond is required to follow the conditions of the order once it is issued and served. If the person fails to follow any of the conditions, call the police immediately. The police may charge them with a criminal offence for breaching the conditions of the order and they may be arrested.

To get a peace bond, you call the police and ask for one or you can go to the court yourself and ask for one. You do not need a lawyer and there is no fee. When asking for a peace bond, request that a condition be added that prohibits the abuser from sharing or posting the intimate image they have of you.

[This tip sheet on peace bonds](#) has more information on how you can obtain a peace bond.

Additional Resources

Additional Resources for collecting evidence of dating violence from BCSTH's [Preserving Digital Evidence Toolkit](#) are below:

- [Preserving Evidence for Civil Court Using Video Recording IOS and Android 2020](#) – PDF ONLY
- [BCSTH's Apple IOS Video Screen Recording Tutorial](#) – VIDEO
- [How to Save and Print Screen Shots for Evidence Preservation](#) – PDF ONLY
- [How to Preserve Videos as Evidence](#)
- [How to Preserve an Audio Recording as Evidence](#)
- [How to Save a Website Page as a PDF or HTML](#)
- [How to Preserve Emails as Evidence](#)
- [How to Back Up and Store Evidence of Technology-Facilitated Violence](#)
- [Documentation Tips for Women Experiencing Technology-Facilitated Violence](#)
- [Sample Technology-Facilitated Violence Log](#)

If you or someone you know thinks they are experiencing the NCDII or sextortion, talk with a trusted adult or seek help from one of the organizations listed below.

You are not alone and there are confidential safe support services available for you.

- [PEACE Program for Children and Youth](#) is counselling program for children and youth experiencing violence.
- [Kid Help Phone](#) crisis line is available 24/7 by call or text.
- [KUU-US Crisis Line Society](#) is a crisis phone line for Indigenous Youth.
- [VictimLink BC](#) is a referral and information service for victims of crime.
- [Society for Children and Youth BC's Child and Youth Legal Centre](#) provides legal support for children and youth.

Spark Teen Digital Dating Violence Project

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