

Non-Consensual Distribution of an Intimate Image

If you have shared an intimate/sexual picture or video with a person, or if you know that someone has such a picture/video of you, and that picture/video is being shared with others online or by phone (or you are worried this may occur), there are steps you can take to regain control over the situation. Canada now has a law to help deal with the **non-consensual distribution of an intimate image**. It is illegal for a person to distribute an “intimate image” of another person without that person’s consent.

So, if someone has a sexual/nude image of you that was created in private circumstances, and that person knowingly **posts it online or shares it** with someone else knowing that you would not consent to that (or being reckless about whether you would consent to it), the person could be charged. Given the serious nature of criminal charges, it is likely that for something to be done, it will need to be clear that the person in the image is you – for example, your face or some other identifying feature is showing.

*Note: The offence also includes **selling** the image, **advertising** it, or **making it available** (e.g. posting a link to the image).*

An “intimate image” is a visual recording of a person made by any means (e.g. picture or video) in which the person is nude or exposing his or her genitals, rear end or breasts, or is engaged in explicit sexual activity if:

- a) **at the time the recording is made**, there were circumstances that gave rise to a reasonable expectation of privacy (e.g. a picture taken by a person while in their bedroom); AND
- b) **at the time the recording is shared without consent**, the person who is in the recording still has a reasonable expectation of privacy. It is expected that if the person who is in the image had a reasonable expectation of privacy when the recording was made the person would retain the expectation of privacy, as long as s/he does not subsequently share the recording with others or post it online, etc.

STEPS YOU CAN TAKE:

1. If the image is already online you can take action to have it removed. Determine what service (e.g. YouTube®, Facebook®, Twitter®) the picture/video is displayed on and contact that service to request that they remove the picture/video. Let the provider know that you are a Canadian citizen who did not post the picture/video to their site, and did not give permission for the content to be posted and that you want it removed.
2. If you do not know whether your image is online or otherwise being shared, but are worried that it might happen, *or even if you know it is being shared and you want it to stop*, you might want to send a message to the person who has your picture/video saying something like:

“I do not consent to you having the picture/video of me [add description, such as “that I sent you on (DATE)], I want you to delete it and I do not give you permission to share it with anyone else.”

Sending a message like this is important because, once the person knows how you feel, they can no longer say they didn’t know your views. You can send a text or email, tell the person by phone or in person or have someone else communicate the message. The best way to send a message is in writing so you will have a copy of what was sent.

3. Whether you sent the person who has your image a message or not, if you are scared that an intimate image of you will be shared by someone, this law does allow you to apply to the court for something called a “prevention order”. Local courthouses have information about how to obtain a prevention order. If the judge is satisfied that your fear is reasonable, the order should be granted.