

# Review of the Intimate Images and Cyber-protection Act

## Public and stakeholder consultation: What We Heard Report

### Why we are here

Government of Nova Scotia is reviewing the effectiveness of the *Intimate Images and Cyber-protection Act* (“IICPA” or “the Act”) in achieving its purpose. To do so, stakeholder and public input was needed. As part of this work, Evoke Consulting was engaged to design and deliver a public consultation to connect with stakeholders across the province. We designed the consultation using a trauma-informed approach due to the sensitive nature of the cyberbullying and non-consensual sharing of intimate images. The process was inclusive by design, prioritizing participation of diverse stakeholders and those with direct experiences related to the Act.

### What we did

The consultation was launched in January 2022. Feedback was collected through the facilitation of 19 interactive consultation sessions, held virtually, in accordance with public health guidelines. Sessions took place via Zoom, Microsoft Teams, or phone, based on the needs of participants. Existing Department of Justice materials were reviewed and researched to learn from staff experiences. An online survey was accessible to the public to voice their perspectives from January 6-28, 2022.

### Who we consulted

Over 460 people, representing the diverse population of Nova Scotia, were engaged during the consultation process. We conducted 11 small group sessions with a total of 59 participants as well as 8 individual conversations. We offered an online public survey and received 399 individual survey responses. The consultation engaged with stakeholders across the province including Indigenous, African Nova Scotian, and Acadian/francophone community members. We also heard from law enforcement, youth, educators, and persons with disabilities. Participants in individual conversations included victims of cyberbullying

and/or non-consensual sharing of intimate images, legal experts, and academic professionals.

## How we distilled complexity

Following data collection, we reviewed what we heard to complete sensemaking; zooming out to consider context and zooming in to synthesize and analyze the data and determine patterns and themes while checking for gaps and biases. Once completed, data was distilled into insights and opportunities related to the *Act* and this report was produced.

## Survey Results

### What we asked

Five questions were presented to survey participants.

1. What is your personal experience with cyberbullying and/or intimate image sharing without consent? Please select all categories that apply to you.
  - I am a victim/I have been cyberbullied or have had intimate images of me shared without my consent
  - I am the parent/guardian of a victim of cyberbullying or intimate image sharing without their consent
  - I am a family member/friend/partner of a victim of cyberbullying or intimate image sharing without their consent
  - I am a professional (working in education, law enforcement, health or legal services, or other community-based organization) who has supported a victim of cyberbullying or intimate image sharing without their consent
  - I have no direct experience with cyberbullying or intimate image sharing without consent
  - Other (optional, open text)
  - Prefer not to say

Use the scale provided to tell us how much you agree/disagree with the following three statements. (1 – strongly disagree; 2 – disagree; 3 – unsure; 4 – agree; 5 – strongly agree)

2. This law helps to discourage and prevent cyberbullying and intimate image sharing without consent.
3. This law upholds and protects the fundamental freedoms of thought, belief, opinion, and expression, including freedom of the press and other media of communication.
4. This law helps Nova Scotians respond to non-consensual sharing of intimate images and cyberbullying.
5. What suggestions do you have for how the Government of Nova Scotia can best support people who have a personal relationship to non-consensual intimate image sharing and/or cyberbullying?

## Who responded

Participants were able to select multiple personal experience categories. We received and analyzed 399 unique completed responses. The total number of respondents by personal experience categories was 136 professionals, 122 with no direct experience, 86 victims, 53 family members/friends/partners, 30 parents/guardians, 25 who preferred not to say, and 15 who identified as other. Due to the ability for survey respondents to select multiple experience categories, the above total does not equal 399.

Note: Qualitative survey responses were analyzed in combination with session data.

## How well the *I/CPA* is meeting its purposes

Survey respondents were asked to share their perspective on how well the *Act* is meeting its goals, see below charts for results.



## Themes and insights

Overall themes emerged and are provided here to summarize different viewpoints and help us better understand what is happening. These themes provide evidence and additional detail to inform insights and present our findings in a way that is centered around those who have interacted with the *Act*. One doesn't mean all; the perspectives shared may not reflect the viewpoints of every participant. We considered what was heard and treated these insights as a snapshot in time.

*"...you can't really examine the effectiveness of a law until you walk through the process with someone who has lived it." (Victim)*

Responses from participants during consultations highlighted several emergent themes related to attitudes and behaviours, awareness and education, barriers, desired outcomes, training and collaboration, and accessibility. These themes were distilled into five insights:

- 1) Changes associated with who and how people interact online are impacting instances of non-consensual intimate image sharing and cyberbullying
- 2) There are multiple barriers related to accessing, understanding, and using the *Act*
- 3) Acceptable and unacceptable behaviour can be better defined with consideration for desired outcomes of those impacted
- 4) Navigating complex government systems can result in increased risk to victims
- 5) The requirements placed on victims significantly impact their decision to proceed, persist, and seek support

We have outlined key components of those insights using the following structure:

- *What we heard and observed*- including feedback, examples, and quotes
- *Why it matters*- connecting experiences with impact
- *Opportunities*- questions for further consideration in relation to the *Act* and the review

## **1) Changes associated with who and how people interact online are impacting instances of non-consensual intimate image sharing and cyberbullying**

### **What we heard and observed**

There are compounding factors contributing to an increased prevalence and shift in these behaviours. Attitudes are contributing to an increasing frequency of sharing intimate images and cyberbullying within all age groups. These and related behaviours are becoming increasingly normalized for everyone. Educators, administrators, youth, and community organizations described learning about and/or experiencing social and peer pressure from friends or partners to send sexually explicit images to one another. Due to external factors, such as the COVID-19 pandemic, online learning, social media, gaming, and other digital platforms, interactions are increasingly happening online. Most young people have access to technology, a mobile device, the internet, and apps.

There are segments of the population who are more vulnerable than others including children and youth, seniors, and persons with disabilities. It is challenging for parents/guardians and teachers to keep up with the speed and volume of advancements in technology. This results in differing levels of knowledge about safety online and differing degrees of control on devices used by children and youth.

First account research provided these responses:

*“I felt very pressured and I was too uncomfortable to tell anyone” (Youth)*

*“I did an educational session with grade 3 students... all but two in the class had a cellphone, and that was a few years ago” (Law enforcement officer)*

*“Teachers are always trying to catch up, with what are the latest trends, tech, and social media platforms.” (Educator)*

### **Why it matters**

It can be challenging to change behaviors that stem from normalized attitudes. For children, youth, and adults it can require a great deal of courage to overcome external pressures.

Information in awareness campaigns may result in unintended consequences such as feelings of shame and intimidation. It is important to recognize that additional care and attention is needed to protect vulnerable Nova Scotians. The Department of Justice can improve how services are offered in relation to the continuous advancement of technology. Government has an opportunity to help parents, guardians, and teachers protect and educate youth about cyberbullying and non-consensual intimate image sharing.

## **Opportunities**

How might we ensure awareness and education campaigns are relatable and depict realistic situations? How might we equip parents, guardians, and teachers with the tools necessary to better protect youth who are interacting online? There is an opportunity to improve support for victims of cyberbullying and non-consensual sharing of intimate images with services that are inclusive to those who may be experiencing feelings of shame and judgement when faced with these issues. There is a need for spaces where victims can discuss situations related to non-consensual intimate image sharing or cyberbullying when they are feeling pressured.

First account research provided these responses:

*“What if we had a group of people going around to talk about their experiences. This is so much more impactful. As a parent or teacher, when you tell a kid, ‘Don't do this, don't do that,’ they don't really listen - they want to learn for themselves... they think it won't happen to them, or to anyone they know. I know my kid always listens more to things I say when they are coming from a place of experience.” (Professional)*

*“It needs to start at a younger age. Young kids have these devices; they are in their hands; they have access.” (Educator)*

## **2) There are multiple barriers related to accessing, understanding, and using the Act**

### **There is a lack of awareness of the Act**

#### **What we heard and observed**

Most consultation participants were unfamiliar with the *Act*. Some had experienced cyberbullying and non-consensual intimate image sharing and weren't aware of the available supports. Questions of where to go, who to call, and what to do next are being left unanswered.

## Why it matters

Representatives ranging from law enforcement to the public were largely unfamiliar with the *IICPA*, which creates a great deal of uncertainty for victims on how to access supports and services. This is resulting in feelings of confusion and wondering where to go for support, sometimes resulting in people not getting the support they need.

## Opportunities

How might we improve public awareness and understanding of the *IICPA* and how to seek support? What is a reasonable expectation of what Nova Scotians need to know about this law; not only those interacting with it, but all Nova Scotians?

First account research provided these responses:

*"[My suggestion is to focus on] making it more accessible... a lot of people don't know they [CyberScan] are available. I didn't know... I had no idea there was a law on this."* (Victim)

*"There was a lot of talk about the legislation when it first came into effect. People are less aware it exists [now], so people are making less use of it."* (Law enforcement officer)

*"The information has to be shared more widely as a lot of people are not sure of the law and exactly how it pertains to them."* (Professional)

## Definitions of cyberbullying and intimate images are currently not clear, inclusive, or meaningful to all

### What we heard and observed

Participants shared that an image containing personal or intimate aspects, other than of a sexual nature, could be considered an intimate image. Additionally, the term 'cyberbullying' did not resonate well with many adult participants. There are conflicting perspectives on whether cyberbullying and non-consensual intimate image sharing belong together in the same *Act*.

## Why it matters

The public may feel that their situation is not validated unless they see themselves in the definition of cyberbullying and intimate image sharing. Some victims may not realize that the *IICPA* could benefit them.

## Opportunities

How might we introduce more plain language into the *Act*? Revisit the definitions of cyberbullying and intimate image? Revise language used to make the *Act* more gender neutral? Differentiate the relevant civil and criminal laws connected with non-consensual sharing of intimate images and cyberbullying? Widen the scope of what is considered an intimate image while protecting the fundamental freedoms of everyone?

First account research provided these responses:

*“Does intimate have to be a body part? I've heard of people who have photos of someone without their hijab, or other covering, and threatening to share them... If your hair is exposed, it is very intimate.” (Youth)*

*“If it [the Act] wasn't framed as bullying, more people may use it.” (Academic)*

*“Maybe there is a stereotype around this term [i.e., bullying] as being more related to what kid's experience.” (University staff)*

*“Use non-gendered terms in the writing of the law. Using her in place of their breasts is harmful and: their, is more accurate.” (Public)*

## Education initiatives must appropriately meet the needs of all

### What we heard and observed

Some tactics intended to educate, discourage, and prevent these behaviours are not effective. There was a suggestion to meet the needs of different communities with targeted awareness campaigns. Efforts to educate are already in development or underway in some communities and present an opportunity for collaboration. There is a need to educate many segments of the population including parents, vulnerable populations, school-aged children, law enforcement, and community-based agencies. Ultimately it is important to recognize that different audiences require different approaches to learning.

### Why it matters

Nova Scotians need to understand the parameters of the *I/CPA* so that they can interact with it when needed.

## Opportunities

How might we promote more discussion in relation to safety online more broadly and create targeted educational and awareness campaigns? Create more impactful education? Prevent and deter these behaviours through collaboration with education stakeholders? Facilitate partnerships with those already working on education campaigns?

First account research provided these responses:

*“Education programs in schools starting from an early age. Don't just talk about digital fingerprints and sharing images of oneself but also what can happen (criminally) if they share images of other people. Make sure they know the possible consequences and FOLLOW THROUGH with charges.” (Professional)*

*“Unfortunately, this is not something a law can change. This has to do with education and adults being responsible for educating youth in their care about the harms and benefits of technology. The concept of bullying has changed drastically in the last 10-15 years because of technology and education is key in preventing this.” (Victim)*

*“Online safety videos were scary; their message was that it is this horrible thing. It would be good instead to teach kids about grooming, that it's normal to feel this way, to do it [share intimate images] with kids your own age.” (Youth)*

### **3) Acceptable and unacceptable behaviour can be better defined with consideration for desired outcomes of those impacted**

#### **What we heard and observed**

The majority of participants felt that the *Act* strikes a good balance between protecting their freedoms and protecting citizens from cyberbullying and non-consensual intimate image sharing. Still, many people described the *Act* as lacking teeth. The most frequently mentioned desired outcomes were related to requests for intimate images to be removed from websites or for the harmful actions to stop.

#### **Why it matters**

Although people may work hard to find a resolution, a lack of significant consequences may fail to deter potential offenders and may deter victims from taking legal action.

## Opportunities

How might we communicate consequences through awareness campaigns. Align consequences and interactions related to the *IICPA* with desired outcomes from those engaging the *Act*? Better support victims in achieving their desired outcome?

First account research provided these responses:

*“It should not be difficult or costly to get protection from non-consensual image sharing and cyber bullying. There should be stiff penalties especially when it involves a victim who is a minor as there can be long term psychological and emotional damage.” (Public)*

*“[Regarding the redraft], my sense is that they probably did get it right. I know some in the media suggest that it may have went too far the other way, but my educated guess is that it has achieved that balance.” (Legal practitioner)*

*“I believe that the new protection act must have the teeth to deter people and especially youth from committing these acts. Far too often the youth get away with these crimes with little to no punishment. Maybe even holding some form of parents responsible for their children's actions.” (Public)*

## 4) Navigating complex government systems can result in increased risk to victims

### What we heard and observed

Due to varying degrees of unfamiliarity with the *Act*, some agencies and organizations have referred victims to another agency. Participants shared that the requirements for legal action do not reflect the nuances of cyberbullying and non-consensual intimate image sharing. Victims shared that they are navigating multiple challenges in their lives in addition to experiences of cyberbullying and/or non-consensual sharing of intimate images. Participants shared that components of the *Act* may overlap with the *Criminal Code of Canada* and that multiple government departments, courts, and organizations may be involved in a single case due to the complexity of circumstances.

### Why it matters

Victims can feel re-victimized by having to retell their stories, which creates further harm and can result in disengagement from the process. Victims who are experiencing unsafe situations may struggle to navigate complex government systems. In instances where victims go to law enforcement and the evidence is less clear, there is less clarity on how to proceed

with the Act. Victims may fall through the cracks and not be able to achieve their desired outcome.

## Opportunities

How might we lessen the burden on the victim? More effectively deal with legal grey area and increase general awareness of all options across the system? Identify the most common entry points to engage with CyberScan? Equip CyberScan staff with more information to share and leverage? Create a mechanism by which different programs and services can coordinate to minimize impact to victims?

First account research provided these responses:

*"If a victim has to show up in my office, the system has failed." (Lawyer)*

*"Civil court, family court, and criminal court are all in silos. The judge looking at my child custody case are completely unaware of the criminal charges going on; I had to have the resources to bring them forward in a court document." (Victim)*

*"They said I could get a peace bond but there wasn't enough of them using my name in each individual post so they couldn't really do anything with it. I felt supported [by CyberScan], but nothing really resulted or felt actionable." (Victim)*

*"What surprised me is that no one seemed to know what to do." (Victim)*

*"CyberScan kept referring me back to the police... maybe because [my situation was] more serious... I was receiving death threats." (Victim)*

*"Police need to be better trained on how to respond to cyberbullying. I have been told to basically ignore the harassing posts on YouTube and Facebook to the best of my ability. I was told there is nothing I can do because the poster has not broken any laws." (Victim)*

## 5) The requirements placed on victims significantly impact their decision to proceed, persist, and seek support

### What we heard and observed

This type of experience can have a disproportionate impact on vulnerable people. Currently, when seeking help, the public's only option is to call and disclose personal information, which can be a deterrent to seeking action. Sometimes, because people are fearful of repercussions, they may want to simply learn more information before initiating a process.

Overwhelmingly, people thought the related fees were prohibitive and viewed it as a financial barrier and a deterrent to proceeding.

Almost all victims reported feeling helpless in their efforts to be taken seriously. Many felt like they had to be convincing and persuasive just to be heard. Victims reported feelings of shame and fear of consequences and repercussions, such as job and reputation loss. Additionally, they shared fears of escalation if they said or did anything about the situation. These fears ranged from parents worried about getting a child in trouble to increased risk of life-threatening situations.

## Why it matters

People may not be receiving the help they need from services available, due to financial barriers and psychological distress. Most importantly, feelings of safety must be ensured to protect all Nova Scotians who interact with the Act.

## Opportunities

How might we make it safer for people to initiate action? Ensure CyberScan staff are trained in trauma-informed practices and communication skills? Modernize access by offering more pathways for support? More clearly start with messages like ‘we believe you’ and convey ‘we’ll look after you here’? Provide a way for victims to anonymously ask questions and learn about options?

First account research provided these responses:

*“There is a filing fee... this is another barrier. I know they tried to remedy it by having a low-income threshold, but it isn't enough. A \$200 fee is a lot.” (University staff)*

*“If you're a minor, taking and sharing a [intimate] photo is illegal. I wouldn't want to do anything about it because I wouldn't want to get into trouble.” (Youth)*

*“I'm a victim... I don't want to pay a fee... to have intimate images taken down.” (Victim)*

*“It sits on the grey line of, ‘it's kind of your fault’ so it was hard to find someone that would be open about this. I felt like I kept getting pushed off. I come from a place of privilege, so I was able to pay for therapy. When my therapist validated that this is happening to me, that it is real... I cried.” (Victim)*

*“It is now 2022, the only way to report online abuses is through a phone call? The CyberScan website only lists 2 phone numbers to contact. No email, no SMS, no real-time chat. Not even an online form to fill out. No options for people using TTY devices or other assistive devices” (Family member/friend/partner)*

## There are many potential routes to initiating action and seeking support

### What we heard and observed

Due to low awareness of the *Act*, people do not know what to do when they find themselves interacting with it. There is not a well-defined, well-known path for someone to take and for this reason, we see a splintering of potential initiation paths. Some tell their parents, a friend, a guidance counselor, someone at a community organization, the police, RCMP, or CyberScan, while others research options.

### Why it matters

Victims may not know where to turn and could be at further risk of harm, especially those involved in multiple government systems. CyberScan resources are not being utilized to their fullest.

### Opportunities

How might we streamline entry points to access the *Act*? Communicate the primary resources for those who interact with the *Act* so that they might be able to enter in a place where they have the shortest path to resolution? Make the central routes to inquiry and resolution better known? Leverage community-based partnerships to communicate access points for resolution?

First account research provided these responses:

*“So few people actually want to pursue the legal route.” (Victim)*

*“We usually always go the criminal route... but it is really about the victim and what they want to do.” (Law enforcement officer)*

## Conclusion

This consultation deepened the understanding of the public and stakeholders' lived experiences related to the *IICPA*, uncovered stakeholder observations and challenges, and identified opportunities to improve the delivery of the *Act*. These consultation insights and opportunities were shared with the Department of Justice to inform the review of the *IICPA*.