

Recording and Distributing Intimate Images

Quick Facts

1 What is an 'intimate image'?

An intimate image is an image of a person's private parts, or an image of a person engaged in a private act, taken in circumstances where a person would reasonably expect to be given privacy. Images that have been edited (or "photoshopped") to look like an intimate image are also intimate images. For example, photoshopping a person's face onto a nude image may still be classified as an intimate image. It is a crime to record, distribute (or threaten to record or distribute) intimate images without consent.

2 What do 'private parts' and 'engaged in a private Act' mean?

'Private parts' mean a person's genital or anal area or breasts, regardless of whether the area is bare or covered by underwear. 'Engaged in a private act', among other actions, can include when a person is undressed or undressing, is using the toilet/shower/bath or is participating in any activity of a sexual nature that is not ordinarily done in public.

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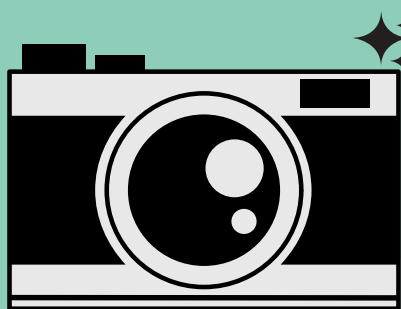
3 What are the intimate image offences?

There are three main offences relating to intimate images:

- 1. Recording** an intimate image without consent of the person depicted. Examples of this include 'upskirting', setting up a hidden camera, and recording sexual activity without obtaining consent from those participants.
- 2. Distributing** an intimate image without the consent of the person depicted. This offence covers behaviour such as the sharing of intimate images that you have in your possession by messaging, uploading or emailing them to other people, without attaining consent from the person depicted in the image to share the image.
- 3. Threatening** to record or distribute intimate images without consent. This offence covers behaviour such as threatening to post intimate images to social media without the consent of the person depicted.

4 When is the recording/distribution of intimate images consensual?

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The recording or distribution of intimate offences is consensual when a person **freely and voluntarily** agrees to the recording or distribution of the intimate image. If a person consents to record or distribute a particular intimate image it does not mean they consent to other intimate images being recorded or distributed. Consent must be given on every occasion.

5 When is the recording/distribution of an intimate image automatically non-consensual?

There are some circumstances where the recording or distribution of an intimate image is automatically **not** consensual. This includes when the person:

- is under the age of 16 years,
- is unconscious or asleep,
- does not have the capacity to consent (e.g. due to cognitive incapacity);
- gave their consent due to threats of force or terror, or
- is unlawfully detained.

The list above does not limit the circumstances where a person has not consented to the recording/distribution of an intimate image. Consent must be given freely and voluntarily for it to be valid.



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What are the penalties?

The maximum penalty for recording, distributing or threatening to record or distribute intimate images without consent is an \$11,000 fine and/or 3 years imprisonment.

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Someone is sharing an intimate image of me without my consent. What can I do?

There are a few things you can do immediately:

1. If it's safe, **ask the person** who has recorded or shared the images to delete them and remove them from any platforms where they have been uploaded.

2. Collect evidence including the URL of websites where the images have been uploaded, usernames/account details of the uploader, dates and times that the images were posted, and screenshots of any of the above.

3. Report

- If you find intimate images of you shared on **social media**, you can report them to these platforms. Information on how to send a report to different social media companies can be found [here](#).
- Report to the **eSafety Commissioner** who has a specific image-based abuse scheme that can both recognise the hurt done to the victim and also help get the intimate images removed from online platforms. In some situations, they can assist in taking legal action against the person who has distributed the intimate images. You can submit a report to them [here](#).
- Report to **ReportCyber**, which is a way of reporting cybercrimes to the police from home on your computer. It is important to note that not all reports will be investigated by law enforcement when reported this way. You can also make reports anonymously.

Where can I get more information and help?

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[Youth Law Australia](#)
[eSafety Commissioner](#)
[TechSafety](#)
[StopNCII.org](#)

Lifeline Australia: 13 11 14
 1800RESPECT: 1800 737 732
 Kids Helpline: 1800 55 1800
 QLife: 1800 184 527



Western Sydney University Justice Clinic

For further details on the WSU Justice Clinic, please visit the [website](#).

If you are a WSU student, you may like to contact the [WSU Student Legal Service](#) at studentlegalservices@westernsydney.edu.au for more guidance.