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Know Your Rights: Nonconsensual Pornography ("Revenge Porn")

What Is "Nonconsensual Pornography"?

"Nonconsensual pornography" is when a sexually graphic image of you is shared without your consent. It's also commonly called "revenge porn."

These images can include:

- Images taken during the course of an intimate relationship (including images you took of yourself and shared with the intent to keep them private);
- Hidden recordings;
- Images stolen from electronic devices (phones, computers, tablets, etc.);
- Recordings of sexual assaults;
- Etc.

Is It Illegal?

Yes. Sharing or publicizing intimate images without your consent is against both civil and criminal law.

Washington law states that it is a crime for a person age 18 or older to knowingly disclose an intimate image of you when:

1. The image was obtained under circumstances in which a reasonable person would know or understand that the image was to remain private;
2. The person knows or should have known that you did not consent to the disclosure; **and**
3. The person knows or reasonably should know that disclosure would harm you.

This person could also be violating civil laws related to invasion of privacy, economic harm, etc. See "What is the punishment?" for more information.

For situation involving minors, see the next Q&As; "What if I am under 18?" and "What if the perpetrator is under 18?"

There are exceptions in certain situations involving family members, i.e. a parent sharing images of his/her child in a bathtub.

What If I Am Under 18?

If you are under 18, depending on the circumstances, the perpetrator may also be charged with crimes related to child pornography.

What If the Perpetrator Is Under 18?

The law treats perpetrators under the age of 18 a little differently. The first and second thing you need to prove are the same as listed above (under “Is it illegal?”), but the third thing has an important difference:

1. The image was obtained under circumstances in which a reasonable person would know or understand that the image was to remain private;
2. The person knows or should have known that you did not consent to the disclosure; and
3. The person knows ~~or reasonably should know~~ that disclosure would harm you.

In other words, you must show that the under-18 perpetrator intended to harm you. It is not enough to say that s/he *should* have known it would harm you.

What Is the Punishment?

In the criminal case, the first time someone is convicted of nonconsensual pornography it is considered a gross misdemeanor. If the person does it again it will be a felony charge, punishable by up to five years in prison and up to \$10,000 in fines. In some situations the person can also be charged with voyeurism in the first degree, which is also a felony. If you are under 18, depending on the circumstances, the perpetrator may also be charged with crimes related to child pornography.

In a civil case, examples include claims of emotional distress, invasion of privacy, recovery for economic damages, lost earnings, and attorney’s fees. The perpetrator could be ordered to pay for the emotional and economic damages. How much money that is will depend on the facts of your case. The court can also order the perpetrator to stop, which can be a helpful order to have.

What If I Was the One Who Took the Picture or Video?

If sexually explicit images of you are shared or publicized without your consent, it is a crime, even if you were the one who took the picture or video.

How Do I Report This to the Police? Will They Do Anything?

File reports of nonconsensual pornography and/or voyeurism by calling or visiting the office of the police or sheriff where the crime occurred. The case will be investigated and, if it is found that a crime was indeed committed, referred to the county prosecutor. This can be tricky because it may be hard to know for sure where the perpetrator was when s/he shared the image. This is one reason why it is a good idea to work with a lawyer. The Cyber Civil Rights Project may be able to help you. See Resources.

What If the Person Posted the Images from Another State or Country?

In this situation it is a good idea to work with a lawyer. See “Where can I go for help?” later in this publication.

What If I Am an Undocumented Immigrant?

Undocumented immigrants are supposed get the same help from law enforcement and the legal system as citizens and documented immigrants. However, it is advisable to first work with lawyer or an advocate on a safety plan, including whether or not it is a good idea to contact law enforcement in your area. See “Where can I go for help?” below, as well as the resource list in our publication *Information for Stalking Victims in Washington State*, listed under Resources at the end of this publication.

How Do I Get the Images off the Internet?

Most internet platforms (social media, search engines, etc.) do not allow sexually explicit images to be posted. Contact the platforms where the images have been posted and report the images for violating the terms of service. Before contacting the companies, take screen shots of all images as they appear on all platforms as evidence for your legal case.

You can also hire a service to remove the images and monitor for any additional images. Some services offer discounts to victims of revenge porn, and will offer free services for underage victims.

Who Else Can I Sue?

Washington’s law exempts certain third parties from liability, such as internet service providers. That said, some victims of nonconsensual pornography have sued the companies that provided the online platforms where the images were posted. To find out more about how to file a civil law suit, see the publication *A Survivor’s Guide to Filing a Civil Lawsuit* in the Resources section. And talk to a lawyer.

Where Can I Go for Help?

The law firm K&L Gates offers the Cyber Civil Rights Legal Project, which provides free legal services to victims of nonconsensual pornography. The Cyber Civil Rights Legal Project works with the Cyber Civil Rights Initiative, which is another advocacy group for victims of nonconsensual pornography. The Cyber Civil Rights Initiative also provides contact information for attorneys offering free services to victims. See Resources below.

Resources

- **Related publications by Legal Voice:**
Online: www.legalvoice.org/tools-violence

- *How to Find a Lawyer and Other Legal Resources in Washington State*
- *Information for Stalking Victims in Washington State*
- *Leave From Work for Survivors of Domestic Violence, Sexual Assault, or Stalking*
(in English and Chinese)

- **Cyber Civil Rights Legal Project**
Online: www.cyberrightsproject.com

- **Cyber Civil Rights Initiative**
Online: www.cybercivilrights.org

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of April 2018.

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