

IMAGE-BASED ABUSE

What is image-based abuse?

Image-based abuse is where intimate images or videos are recorded, shared or threatened to be recorded or shared without a person's consent. It may include:

- When an image is initially made or shared with consent and is then subsequently threatened or actually shared without consent. For example, after a relationship has gone sour or a person's accounts are hacked to improperly obtain the images.
- When an image is initially made or shared without consent. For example, using hidden cameras or when a victim is unconscious or assaulted.
- When a person's image is doctored to create a false intimate image.

What are the most important things to tell your client?

- Take and save screenshots of any evidence.
- Report to Police and seek an AVO.
- Get early legal advice.

Why not call it "revenge porn"?

"Revenge porn" is a misnomer, categorising the victim's actions as pornography which may be offensive and inaccurate. It encourages victim blaming by suggesting the victim provoked the behaviour.

Is this a criminal offence?

Yes, the most relevant offences are under the *Crimes Act 1900* (NSW):

- Intentionally **recording** an intimate image of another person without consent (s 91P).
- Intentionally **distributing** an intimate image of another person without consent (s 91Q).
- **Threatening** to record and/or distribute an intimate image without consent (s 91R).

It may also amount to an offence of stalk/intimidate with intent to cause fear (*Crimes (Domestic and Personal Violence) Act 2007* (NSW), s 13) or using a carriage service to menace, harass or cause offence (*Criminal Code 1995* (Cth), s474.17).

What other remedies may be available?

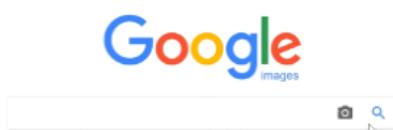
- **AVO:** The Police or your client may be able to apply for an AVO for their protection.
- **Victims Support:** A person who has experienced image-based abuse may be eligible for Victims Support. Refer clients to the Victims Access Line on **1800 633 063**.
- **Breach of confidence:** In some Australian States, victims of image-based abuse have been awarded damages for emotional stress when their ex-partner shared their images after the breakdown of a relationship. The law in NSW is uncertain. If your client's images were shared after separating and the alleged perpetrator has money to make civil action worthwhile, consider referring the client to Legal Aid NSW's Human Rights Group on **9219 5790**.

What can your client do if the image has been shared without consent?

1. Take screenshots of the image on the webpage, email or platform where they saw it. Include the URL of any website. Forward the screenshots or link to a trusted email address, friend or cloud storage account.
2. Report to Police. Clients should take screenshots and any evidence with them. If a client is unsatisfied with the Police response, they can ask to speak with a Domestic Violence Liaison Officer (DVLO) or Shift Sergeant.
3. Get an AVO. Clients may be able to get an AVO through Police. If Police decline, a grant of Legal Aid may be available for a private application. While the mandatory orders should prohibit further sharing, an extra order (order 11) can be drafted to make sharing the image a clear breach of the AVO. For example:

“The defendant must not directly or indirectly, publish, share or threaten to publish or share intimate images or videos of the protected person.”

4. Make a report on the E-Safety Commissioner’s website at www.esafety.gov.au/image-based-abuse. The Commissioner can investigate, assist with takedowns and work with Police and social media platforms. If the client has a copy of the image, the E-Safety Commissioner can confidentially send it to Facebook who take a fingerprint of the image to prevent it ever being uploaded to Facebook, Messenger or Instagram.
5. Check if the image is available online. Google the client’s name and personal details to see what information is available about them online and if their details are linked to the images.
 - Set up a Google Alert (www.google.com/alerts) of the client’s name, address, email and telephone number to notify your client if their information is made available on Google.
 - If your client has a copy of the image, use Google Image Search to see if it is online. Click the camera button next to the search bar and upload the image to search online.



6. Some clients want to take action themselves to have images taken down. This can be stressful and may put them at risk of further harm or extortion. They should first seek legal advice.

Learn more about online safety at www.esafety.gov.au/image-based-abuse

For free legal advice about technology-facilitated stalking or abuse, refer clients to Legal Aid NSW’s **Domestic Violence Unit** on **(02) 9219 6300**

