

Digital Youth: Power and Danger of Internet and Social Media Platforms

The focus of the workshop is shifting the trends in on-line culture through rights-based education. The workshop aims to create through rights-based education an online culture that is safe, accessible and user positive.

We are shifting online culture through rights-based education for youth. We strongly believe youth are vitally important in bringing about this shift. We aim to open up paths or avenues to dialogue with youth regarding their rights and responsibilities online, to carefully think about the appearance of violence and discrimination in online spaces, and to clarify/ straighten out myths about the laws that apply to their online lives.

What can go wrong while using Internet and social media (Media Mishaps)

Social media sites are developed as tools to communicate with others by sharing personal information, photos, videos, comments. Community sites with user-generated content should be used responsibly. As is the case with this site, links to websites and other resources operated by third parties are provided solely as a convenience to the user. Nothing on social media is private.¹ Generally, when using social media, it is a common assumption that all users are solely responsible for their content – including posts, comments, likes, shares, tweets, re-tweets, follows and favorites.² All comments and postings by a user are subject to public records laws and any comment, image, photograph or video posted by a user could be redistributed or copied.³ Keep in mind all content posted on social media is subject to lawful requests made by governmental and judicial authorities.⁴

Therefore, you are responsible not only for your posts but also for the posts and public comments made by others on your social media pages.⁵ There are legal consequences for online behaviours that cause harm to the image and reputation of others.⁶

Posting Pictures of People

Think carefully, before posting an online recognizable picture or video of anyone. Their permission is usually required before doing so.⁷ However, there are some exceptions to this rule. For example, if you take a picture of a crowd at a public event, like a hockey game, the

¹ *Rioux c Demers*, 2020 QCCQ 10829. *CH c Société de l'assurance automobile du Québec*, 2020 QCTAQ 02429.

² *Union des employées et employés de service, section locale 298, FTQ et CHSLD Vigi Dollard-des-Ormeaux (Carine Gallant)*, 2015 QCTA 1026.

³ *Bell Solutions techniques inc et Racine*, 2019 QCTAT 1453.

⁴ *CH c Société de l'assurance automobile du Québec*, 2020 QCTAQ 02429.

⁵ *Mukendi Wa Bukole c R*, 2019 QCCA 1192.

⁶ *Rioux c Demers*, 2020 QCCQ 10829.

⁷ *Chabot c Corporation Sun Media*, 2007 QCCQ 12899.

permission of each person is not needed.⁸ Permission is needed to share private information about other people. This includes information about their personal life and health, their private emails and phone calls. People can ask the websites involved (for example Twitter, Facebook, Instagram or YouTube) to have posts removed. Companies have different policies on this. If the information or image causes the person harm, a judge can force you to take down the post and even request that compensation be paid to the victim.⁹

Comments About People and Insults

If images or comments are posted about people that cause damage to their reputation or dignity, you can be sued to compensate for the harm caused.¹⁰

A harmful post might be a horrible insult, grossly distasteful remark, a hateful image or a suggestion about someone that is not true.¹¹ Insults based on characteristics such as a person's race, sex, disability, sexual orientation or religion are deemed discriminatory.¹² You can contact the Commission des droits de la personne et des droits de la jeunesse (Quebec's Human Rights Commission) to find out more about filing a complaint. The person responsible for making the comments might have to pay money to make up for harm caused. If found guilty may be held liable for damages.¹³

Complaining About Businesses

Businesses have a right to reputation. Some businesses have brought people to court in Quebec for posting negative or untrue comments about them on Facebook.¹⁴ Courts try to find a balance between free speech rights and the right to reputation. Depending on the case, a court might ask if the comments were

- based on true facts,
- made with good intentions (not just to hurt someone)
- reasonable and fairly presented, or
- in the public interest to share.¹⁵

In Quebec there are also laws that protect against abusive lawsuits.¹⁶

Posting Sexual Images and Sexting

⁸ *Aubry c Éditions Vice-Versa inc.*, [1998] 1 RCS 591 (CSC).

⁹ *Rioux c Demers*, 2020 QCCQ 10829; *Mukendi Wa Bukole c R*, 2019 QCCA 1192.

¹⁰ *Rioux c Demers*, 2020 QCCQ 10829 .

¹¹ *Prud'homme v Prud'homme*, [2002] 4 SCR 663.

¹² *Jied c Éthier*, 2019 QCTDP 26 .

¹³ *Jied c Éthier*, 2019 QCTDP 26 .

¹⁴ *Union des employées et employés de service, section locale 298, FTQ et CHSLD Vigi Dollard-des-Ormeaux (Carine Gallant)*, 2015 QCTA 1026 .

¹⁵ *Bent v Platnick*, 2020 SCC 23 .

¹⁶ *Code de procédure civile*, RLRQ c C-25 01, art 51ff.

“Sexting” commonly refers to the sending of messages that are meant to be sexually exciting through text, email, or social media (Facebook, Instagram, Snapchat, etc.). “Sexting” can also include sending someone sexual pictures and/or videos. Sharing a sexual/intimate image of yourself or someone else can have a huge big impact. If a sexual picture/video is taken, shared or posted online without the permission of the person in the picture/video, it is against the Canadian criminal law.¹⁷ For youth under the age of 18, taking and sharing sexual images can also be against the law, even if the youth agrees to have the images shared with others or if the images are of yourself.¹⁸

What does “intimate image” mean or To what does “intimate image” refer?

According to Canadian criminal law, an “intimate image” is a picture or video created in private circumstances that shows a person:

- Who is naked or semi-naked; or
- Who is engaged in sexual activity¹⁹

Is “sexting” illegal?

Sexting between adults over 18 years old is legal when each person voluntarily agrees to participate and no intimate image is shared without the permission of the person in the picture/video.

However, regardless of age, it is against the criminal law for anyone to

- Show a picture of someone else, who is privately doing a sexual act, is naked or exposing an intimate body part, without their permission.²⁰
- Threaten to show intimate images of someone else to force them to do or not do something. This is called **extortion**.²¹
- Spying on someone or secretly taking their picture, when they are or are likely to be doing a sexual act, be naked or exposing an intimate body part, when they think they are in private. This is called **voyeurism**.²²

Sexting between youth under 18 years old is a more complicated issue. A picture or video of a youth under 18 years old who is naked or semi-naked, or engaging in a sex act is considered child

¹⁷ *R v John*, 2018 ONCA 702 .

¹⁸ *R v John*, 2018 ONCA 702 .

¹⁹ *Code criminel*, LRC, (1985) ch C-46, art 162.(2).

²⁰ *Code criminel*, LRC, (1985) ch C-46, art 162.1(1).

²¹ *Code criminel*, LRC, (1985) ch C-46, art 264(1) et (2)b).

²² *Code criminel*, LRC, (1985) ch C-46, art 346.

pornography.²³ It is illegal to view²⁴, keep²⁵, make²⁶, post or send²⁷ these types of pictures or videos. Plainly stated it is against the Criminal Code to:

- Take a picture/video of someone else who is under 18, showing sexual parts of their body that is intended to be sexually exciting, without their consent.²⁸
- To share any picture/video of a person who is under 18, showing sexual parts of their body that is intended to be sexually exciting.²⁹

But, there is an exception to this law for youth. The Supreme Court of Canada decided there are limited situations where youth can express themselves by creating and keeping intimate images of themselves. The law does not usually get involved in situations where³⁰:

- A youth under 18 years old creates a sexual/intimate picture, text or video alone and keeps it to themselves, for their own private use only.
- Youth under 18 years old create and keep a sexual/intimate picture or video of themselves IF
 - Each person voluntarily agrees to participate and be recorded;
 - There is no abuse of power or exploitation between the partners;
 - The sexual picture/ video shows only “lawful sexual activity”;
 - The intimate image was created by you and your partner together; AND
 - The intimate image stays PRIVATE between the people shown in the image.

This exception in the law for youth only applies to taking and keeping intimate images for **private use**. It does not mean you can print, publish or share the pictures/video with others. This exception only applies when there is **consent** from both people shown in the image to the creation of the content.³¹

- If the photo or video depicts sexual or physical abuse or assault, you should tell a trusted adult right away like a family member, school counsellor, or the police. If you are not sure who you can talk to, you can contact [Kids Help](#) anytime.

I am worried there is a sexual picture/video of me online: What Can I Do?

.If a sexual/intimate picture or video of you is shared without your permission (consent), you have the right to ask for help. This is a crime. It is not your fault. **If this happens to you, the faster you can act or find help, the less time there is for the picture to be shared.** There are several things that you can try:

²³ *Code criminel*, LRC, (1985) ch C-46, art 162.

²⁴ *Code criminel*, LRC, (1985) ch C-46, art 163.1(4.1).

²⁵ *Code criminel*, LRC, (1985) ch C-46, art 163.1(4).

²⁶ *Code criminel*, LRC, (1985) ch C-46, art 163.1(2).

²⁷ *Code criminel*, LRC, (1985) ch C-46, art 163.1(3).

²⁸ *Code criminel*, LRC, (1985) ch C-46, art 163.1(2).

²⁹ *Code criminel*, LRC, (1985) ch C-46, art 163.1(3).

³⁰ *R c Barabash*, [2015] 2 RCS 522 (CSC) au para 16.

³¹ *R c Barabash*, [2015] 2 RCS 522 (CSC) au para 16.

- Consider telling an adult whom you trust. You might consider talking to your parents, another family member, or a teacher at school.
- If there isn't anyone that you trust to tell, there are several services that you can use where you can talk to someone over the phone, privately and without giving your name. For example, you can call the [Kids Help](#) (Text, phone, messenger and live chat). You can save their number in your cell NOW: Tel:1-800-668-6868
- If your image is being shared on social media, you can report the incident to the website and ask if there is anything they can do to take it down. For detailed instructions about how to ask a website or internet provider to take down an image, see the "Cyberbullying section"
- If your image is being shared by other students or at school, consider telling your teacher, principal, counsellor, social worker, or other school workers in the office about the incident. Chances are they will find out anyway and the quicker you can control the situation, the better the outcome will be.

Finding out that an intimate image of you is being shared without your consent is difficult and embarrassing. You may feel ashamed, overwhelmed or hopeless. It is important to keep in touch with people that you trust and who will support you. Remember that it is not your fault.

Harassment and Threats

Just like in real life, people can be sued or charged with a crime for harassing or threatening people online.³² Parents must intervene when their child is cyberbullying others or being cyberbullied.

Cyberbullying

Cyberbullying involves the use of communication technologies such as the Internet, social networking sites, websites, email, text messaging and instant messaging to repeatedly intimidate or harass others.³³

Cyberbullying includes:

- Sending mean or threatening emails or text/instant messages.³⁴
- Posting embarrassing photos of someone online.
- Creating a website to make fun of others.
- Pretending to be someone by using their name.³⁵
- Tricking someone into revealing personal or embarrassing information and sending it to others.

Cyberbullying affects victims in different ways than traditional bullying. It can follow a victim everywhere 24 hours a day, 7 days a week, from school, to the mall and all the way into the comfort of their home - usually safe from traditional forms of bullying.

³² *Code criminel*, LRC, (1985) ch C-46, art 264(1) et (2)b).

³³ *Code criminel*, LRC, (1985) ch C-46, art 264 et 423(1).

³⁴ *Code criminel*, LRC, (1985) ch C-46, art 264.1(1) et (2)b).

³⁵ *Code criminel*, LRC, (1985) ch C-46, art 403.

Acts of cyberbullying may take various forms, such as denigration, isolation, insults, rumours or threats, and they may be committed against another person in a direct or indirect manner. Sometimes, the person targeted by cyberbullying may not know the identity of the person committing the act. For example:

- when students make fun of an overweight teacher in a widely shared online video, which can have severe consequences for the teacher's personal and professional life
- when a university student regularly receives text messages or emails that call the student a "loser," which causes the student to avoid others and increasingly skip school

An individual or a group can carry out cyber bullying and it is intended to harm the person being targeted. Cyber-bullying could be limited to posting rumours or gossip about a person on the internet bringing about hatred in other's minds; or it may go to the extent of personally identifying victims and publishing materials severely defaming and humiliating them. If you are involved in cyberbullying, you could be sued in a civil or criminal action and could serve up to 10 years in prison for criminal harassment if found guilty³⁶. Even if you do not intend to frighten someone, you can be charged with harassment if the person feels harassed.

Cyberbullying and the Law

Cyberbullying can be a traumatic experience, and some forms of bullying can even be considered illegal. These include:

Criminal Harassment

Repeated tormenting online, with texts, phone calls, and/or emails causing the other person to fear for their safety³⁷

Child pornography

Sharing intimate photos and videos of minors (under the age of 18)³⁸

Uttering Threats and Extortion

Threatening to share someone's personal information to others if they don't do what you want them to do³⁹

Assault

Threats or acts of non-consensual force, violence, bodily harm, or destruction of personal property⁴⁰

Identity Theft/Fraud

Creating a fake online profile to ruin someone's reputation⁴¹

Defamatory Libel

Spreading rumors about someone⁴²

³⁶ *Code criminel*, LRC, (1985) ch C-46, art 264(3)a).

³⁷ *Code criminel*, LRC, (1985) ch C-46, art 264.

³⁸ *Code criminel*, LRC, (1985) ch C-46, art 163.1.

³⁹ *Code criminel*, LRC, (1985) ch C-46, art 346.

⁴⁰ *Code criminel*, LRC, (1985) ch C-46, art 264.1.

⁴¹ *Code criminel*, LRC, (1985) ch C-46, art 402.2.

⁴² *Code criminel*, LRC, (1985) ch C-46, art 298.

For all of these criminal offences, it is important to notify your local police detachment or report it to CYBERTIP.CA. Based on the available information, police will decide if an investigation is warranted and whether charges may be laid.

What can I do if I am a victim of cyberbullying?

- Keep track of the bullying (save a screenshot of the online message).
- Tell a trusted adult. If you do not trust anyone or need to speak with someone urgently, contact the confidential and toll-free Kids Help Phone.
- Report the bullying to school administrators.
- Report criminal offences, such as threats, assaults and sexual exploitation to the local police detachment.
- Report unwanted text messages to your telephone service provider.
- Report online bullying to the social media site and block the person responsible.
 - Facebook
 - YouTube - Safety Centre
 - Twitter
 - Instagram – block a user or report something
 - [Tumblr – how to "ignore" \(block\) someone](http://Tumblr – how to)
 - KiK - Safety Centre
 - Snapchat
 - WhatsApp
 - Skype
 - Google - Safety Centre
 - Yahoo - Safety Guide
 - LinkedIn

Various resources are available that can help victims take back control of the situation, speak out, or put an end to the cyberbullying. For example:

- CyberTip.ca
- NeedHelpNow.ca
- [Cyberbullying \(SPVM\)](http://Cyberbullying (SPVM))

What can I do if I know someone who is bullied?

- If you feel it's safe to do so, tell the bully to stop.
- Find friends/students/youth or an adult who can help stop it.
- Befriend the person being bullied and lead them away from the situation.
- Report it to a teacher or school staff.
- Fill out an [anonymous letter](#) and drop it off to a teacher or any adult you trust.

I recently downloaded a film that included child pornography images. What should I do?

This is the information you need if you decide to alert the police:

- Name of the downloaded file

- User name (it appears in the user column)
- Person's IP address (if available)

I was surfing the net and I ended up on a child pornography site. What do I do?

A. Write down the exact address and send it to [Cybertip](#). If you know about a child who is in immediate danger or risk, call 911.

I suspect that some users in a chat room are involved in youth prostitution. How should I report this?

Try to get as much information as you can to relay to your local police department:

- Nicknames
- Email addresses
- Comments
- Details about their user profile

Can I make threats online?

No, you should not threaten others online. It is an offence to threaten someone online⁴³. Canada has anti-stalking laws and online threats are considered to be a type of stalking⁴⁴. You would suffer the same consequences for online stalking as you would if you were threatening someone in person.

Does freedom of speech give me the right to post discriminatory comments online?

No, freedom of speech does not give you the right to post racist comments online. The law protects all individuals regardless of their colour, race, religion, ethnic origin or sexual orientation⁴⁵. For this reason, there are a number of laws in place to ensure equality. The Criminal Code prohibits hate speech⁴⁶. If you're found guilty of promoting genocide, you could be imprisoned for up to five years⁴⁷. Genocide is the destruction of any section of the public distinguished by color, race, religion, ethnic origin or sexual orientation⁴⁸. The Criminal Code prohibits you from inciting hatred against any identifiable group⁴⁹. Any person who does not respect this provision may be fine or imprisoned⁵⁰. The Quebec Charter of Human Rights and Freedoms also prohibits discrimination based on race, color, sex, pregnancy, sexual orientation, civil status, age except as provided by law, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap⁵¹. The Human Right Act also prohibits the posting of hateful or contemptuous messages on the Internet. It is important to know that although everyone has freedom of speech, this right is

⁴³ *Code criminel*, LRC, (1985) ch C-46, art 264.1.

⁴⁴ *Code criminel*, LRC, (1985) ch C-46, art 264(2)b).

⁴⁵ *Charte canadienne des droits et libertés*, Loi de 1982 sur le Canada, Annexe B, 1982 (R-U), ch11, art 15(1).

⁴⁶ *Code criminel*, LRC, (1985) ch C-46, art 319(1) et (2).

⁴⁷ *Code criminel*, LRC, (1985) ch C-46, art 318(1).

⁴⁸ *Code criminel*, LRC, (1985) ch C-46, art 318(4).

⁴⁹ *Code criminel*, LRC, (1985) ch C-46, art 318(1) et (2).

⁵⁰ *Code criminel*, LRC, (1985) ch C-46, art 318(1).

⁵¹ *Charte des droits et libertés de la personne*, RLRQ c C-12, art 10(1).

limited. Aside from hate speech, other limitations to freedom of speech include slander⁵², public nuisance⁵³ and obscenity⁵⁴. Basically, your freedom ends where another person's rights begin.

What is hacking?

Hacking is when you illegally access computers and track users remotely without their permission. A professional hacker can use a person's IP address to find out what they've been doing on their computer; they can find out information about purchases made online, credit card information, banking information, websites visited, emails sent, downloaded content etc. If you sit at someone's computer and guess their password so as to gain access to their computer, you are hacking.

What can happen if I get caught hacking?

Depending on the nature of the offence you could be charged with unauthorized use of a computer⁵⁵, interception of private communication⁵⁶, identity theft⁵⁷ or identity fraud⁵⁸. Then your computer could be seized, or you may be fined, or serve jail time.

Can I get in trouble for watching porn online?

Yes, you may only watch pornographic movies if you are above the legal age limit. It is prohibited for minors to watch porn. Each province in Canada has laws to ensure all movies are rated⁵⁹. You may only watch these movies if you are your parents and after your parents have given their permission. All pornographic materials are rated 18 years and over. Minors may not rent or buy tickets to see these movies even with permission from their parents.⁶⁰

Is it legal to download music or movies on the Internet?

No, Under Canada's Copyright Act, it is illegal to download or share music or movies from the Internet is illegal under Canada's Copyright Act. If you are found guilty you face a fine or jail.

What is "invasion of privacy?"

Invasion of privacy refers to the act of intruding into the personal affairs of another person, without their consent or knowledge and without reasonable cause⁶¹. A person whose privacy has been invaded can sue you. Everyone has a legal right to expect that certain aspects of their life, belongings, and thoughts remain private as long as the expectations of privacy are reasonable. For example, no one can reasonably expect to have a right to privacy in a busy shopping mall, a park or on your twitter wall. However, it is reasonable to expect a level of privacy in one's apartment, on one's computer or email account. So, if someone reads your

⁵² *Code criminel*, LRC, (1985) ch C-46, art 298(1).

⁵³ *Code criminel*, LRC, (1985) ch C-46, art 180(1).

⁵⁴ *Code criminel*, LRC, (1985) ch C-46, art 163(1).

⁵⁵ *Code criminel*, LRC, (1985) ch C-46, art 342.1.

⁵⁶ *Code criminel*, LRC, (1985) ch C-46, art 184.

⁵⁷ *Code criminel*, LRC, (1985) ch C-46, art 402.2(1).

⁵⁸ *Code criminel*, LRC, (1985) ch C-46, art 403.

⁵⁹ *Loi sur le cinéma*, RLRQ C-181, art 81.

⁶⁰ *Loi sur le cinéma*, RLRQ C-181, art 86.2 para 4.

⁶¹ *Jones v Tsige*, 2012 ONCA aux paras 54-56.

emails without your permission they have invaded your privacy. However, if they read your Instagram or blog then your expectation of privacy has not been violated.

What is 'file sharing' and is it legal?

File sharing means distributing or providing access to digitally stored information, such as computer programs, multimedia (audio, images and video), documents, or e-books. There are different types of file sharing, some are legal and others are illegal. It is legal to share information and files between your peers, as long as the content you intend to share is not protected by copyright laws. As previously mentioned, it is illegal to share information protected by copyright laws. Content protected by copyright laws includes: movies, songs, computer software and television shows. In some cases, the creators of movies, songs or software will allow you to download their copyrighted material for free, in which case file sharing is legal. You are entitled by law to make backup copies of copyrighted materials that you purchased legally.

Can I post pictures of someone on Instagram, Twitter and Facebook without their permission?

You can post pictures of someone on these sites, but you must respect their wishes. If you refuse to remove their photos, you could be charged with an invasion of privacy.

Can the police arrest me for something they saw on Instagram, Twitter and Facebook?

Yes, if the information involves you in a crime

Can the police look at my cell phone records?

A controversial December 2014 Supreme Court of Canada ruling allows police to search some information on your cellphone without a warrant when making an arrest.⁶²

Basically, there are only certain circumstances where police are authorized to conduct a cell phone search without a warrant, such as during an arrest. This is so that police can ensure public safety and collect evidence related to the arrest.

However, there are limitations on warrantless searches of cell phone data:

- The police must have a legal reason for your arrest. This means you have committed a criminal act or the police reasonably believe that you committed a criminal act.
- The search must happen promptly at your arrest, and the police must have a "reasonable basis" for searching your phone relevant to your arrest. This is to help them locate additional suspects, or search for information that the police need to conduct their investigation at the time of your arrest.⁶³
- The police can only search your phone for information they are looking for.
- The police must take detailed notes of what they searched and what they found.⁶⁴
- What the police cannot do is routinely browse your phone. Also, if you are not under arrest and a police officer does not have a warrant, they do not have the right to search or see information on your phone. In this circumstance, you have the right to say no to any search.

⁶² *R c Fearon*, 2014 CSC 77 .

⁶³ *R c Fearon*, 2014 CSC 77 au para 46.

⁶⁴ *R c Fearon*, 2014 CSC 77 , sect 82.

If you are lawfully arrested, a police officer can search your phone. The search however has to be directly related to the circumstances of your arrest and the police must keep detailed records of the search. This search has to be limited.