

CBA Law Series 2026

*Beyond the Bill:
Navigating Online Harms, Intimate Privacy &
Reputation in a Changing Legal Landscape*

Image-Based Abuse

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TABLE OF CONTENTS

01 **Image-Based Abuse**

Scope and Examples

02 **Current Laws & Remedies**

Legislation, Common Law, Where to Go

03 **Potential Forthcoming Laws**

Proposed Bills and Ongoing Developments

04 **Overarching Considerations**

Things to Keep in Mind and Watch Out For

01. IMAGE-BASED ABUSE

Scope and Examples

WHAT IS IMAGE-BASED ABUSE?

- Sharing or distributing someone's intimate photos or videos without their consent
- May also be referred to as non-consensual distribution of intimate images (NCDII), intimate image abuse, or image-based sexual abuse (IBSA)
- Involves real, doctored, or synthetic ('deepfakes', 'cheapfakes', or AI-generated) photos or videos that depict or purport to depict targeted person in a state of being nude or undressed, or engaged in sexual activity
- A form of technology-facilitated gender-based violence (TFGBV, or TFGV)
- Often perpetrated by those known to victimized person, such as their intimate partner, a former intimate partner or date, or classmates



01. IMAGE-BASED ABUSE

Scope and Examples

FORMS AND AVENUES OF IMAGE-BASED ABUSE

1. Images acquired illicitly through hacking into devices or cloud storage, then distributed
2. Victim is recorded or photographed without their knowledge, while engaging in consensual sexual activity; images are then shared with others and/or distributed online
3. Posted and shared on social media platforms
4. Uploaded to pornography websites
5. Shared with perpetrator's friends and/or acquaintances through day-to-day digital communications (e.g., texting, email, social media)
6. Sent to victim's social and/or professional circles (e.g., family, friends, coworkers)
7. Shared within large-scale messaging groups (e.g., 18,000-member Telegram group, up to 200,000 people per "group"), or other dedicated channels (e.g., Facebook groups for the purpose; shared folders to collect and share NCDII)
8. Integral component of 'sextortion'
9. Created in the course of and as part of sexual assault (perpetrator photographs or records victim during the sexual assault, and distributes images after, or the sexual assault is livestreamed to an audience in real-time)



01. IMAGE-BASED ABUSE

Scope and Examples

"Elon Musk's Grok AI floods X with sexualized photos of women and minors" (Reuters, 3 January 2026)

- "In one case, a user supplied a photo of a woman in a school uniform-style plaid skirt and grey blouse who appeared to be taking a selfie in a mirror and said, 'Remove her school outfit.'

(CW) "Add blood, forced smile': how Grok's nudification tool went viral" (Guardian, 11 January 2026)

- "By 8 January as many as 6,000 bikini demands were being made to the chatbot **every hour**"
- "[Men] began to **demand to see bruising on the bodies of the women**, and for blood to be added to the images. Requests to show women tied up and gagged were instantly granted. By Thursday, the chatbot was being asked to **add bullet holes to the face of Renee Nicole Good**"
- "Professional women who had posted mundane photographs of themselves on X in work settings or in airports noticed that fellow X users were demanding their **outfits be stripped down to transparent bikinis**."
- "[London broadcaster Narinder Kaur] had also noted a **racial element** to the abuse; men were generating images and videos of her **being deported, as well as images of her with her clothes removed**."



"This Canadian pharmacist is key figure behind world's most notorious deepfake porn site" (CBC, 7 May 2025)

- "MrDeepFakes [run by GTA pharmacist David Do] was the most popular site globally for deepfake porn, and **hosted tens of thousands of non-consensual and sometimes violent deepfake videos and images** of celebrities, politicians, social media influencers and **private citizens, including Canadians**."
- "The site had **more than 650,000 users, some of whom charged hundreds of dollars to create custom videos**. And the content — which ranges from graphic strangulation scenes involving an AI fake of actor Scarlett Johansson to group sex with actor Natalie Portman to masturbation videos of musician Michael Bublé — has gotten **more than two billion views** since the site's inception in 2018."

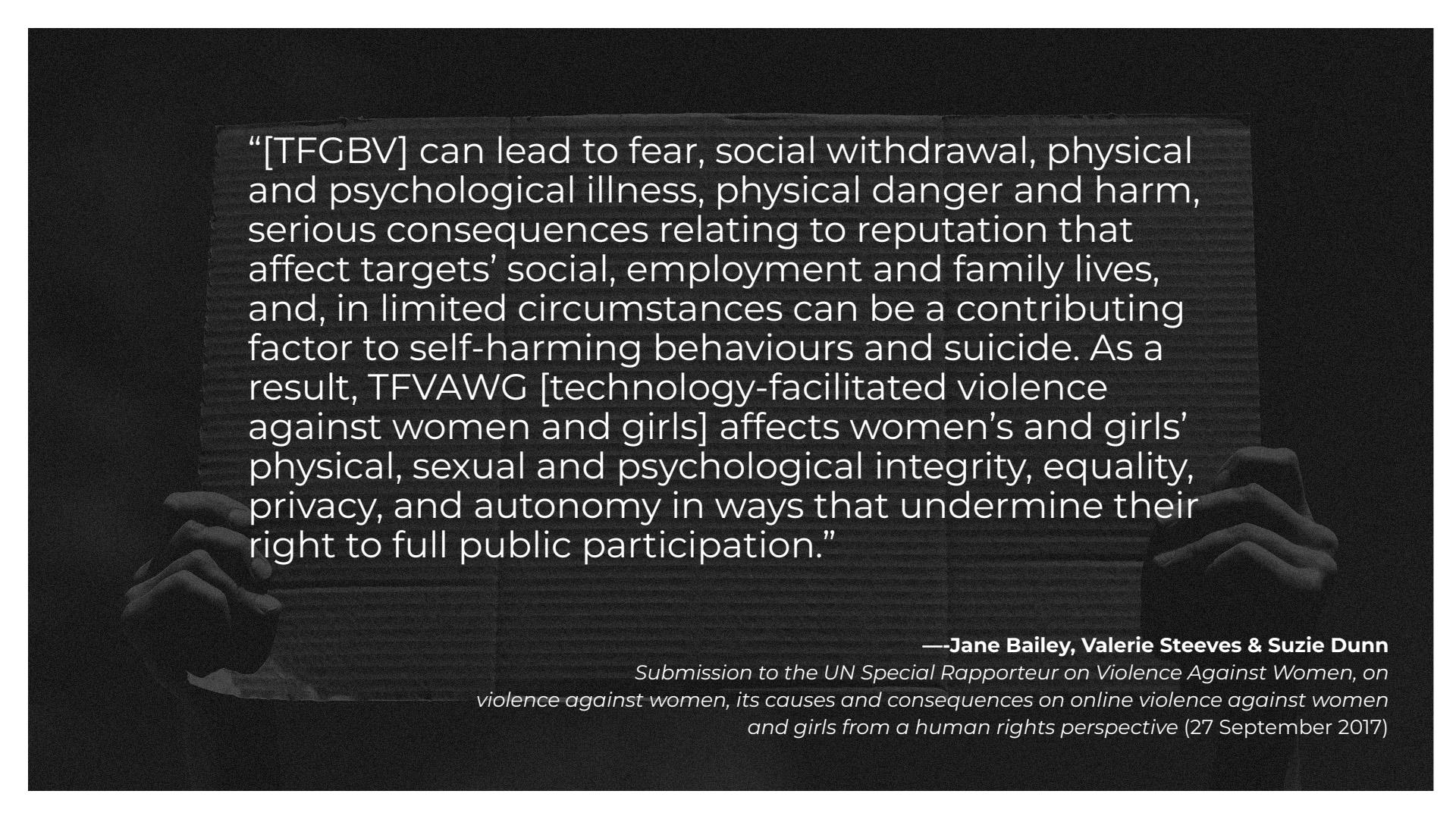
"Millions created deepfake nudes on Telegram as AI tools drive global wave of digital abuse" (Guardian, 29 January 2026)

- "While **there have long been Telegram channels dedicated to distributing non-consensual nude images of women**, the widespread availability of AI tools means **anyone can instantly become the subject of graphic sexual content viewable by millions**."
- "A report released on Tuesday by the Tech Transparency Project found that dozens of nudification apps are available in the Google Play Store and the Apple App store, and that collectively these have had **705[million] downloads**."
- "Last year, Meta shut down an Italian **Facebook group in which men shared intimate images of their partners and unsuspecting women**. Before it was removed the group ... **had approximately 32,000 members**."

"Inside the Telegram Groups Doxing Women for Their Facebook Posts" (Wired, 24 February 2025)

"Telegram: Where women's nudes are shared without consent" (BBC News, 16 February 2022)

"Police: At least 40 people watched teen's sexual assault on Facebook Live" (CNN, 22 March 2017)



“[TFGBV] can lead to fear, social withdrawal, physical and psychological illness, physical danger and harm, serious consequences relating to reputation that affect targets' social, employment and family lives, and, in limited circumstances can be a contributing factor to self-harming behaviours and suicide. As a result, TFVAWG [technology-facilitated violence against women and girls] affects women's and girls' physical, sexual and psychological integrity, equality, privacy, and autonomy in ways that undermine their right to full public participation.”

—**Jane Bailey, Valerie Steeves & Suzie Dunn**

Submission to the UN Special Rapporteur on Violence Against Women, on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective (27 September 2017)

02. CURRENT LAWS & REMEDIES

Legislation, Common Law, Where to Go



NCDII-SPECIFIC LEGISLATION

Federal: *Criminal Code*

Section 162.1(1) — Offence

Everyone who **knowingly publishes, distributes, transmits, sells, makes available or advertises** an **intimate image** of a person **knowing** that the **person depicted in the image** **did not give their consent** to that conduct,

or being **reckless** as to whether or not that person gave their consent to that conduct, is guilty

- (a) of an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) of an offence punishable on summary conviction.

Section 162.1(2) — Definition of “Intimate Image”

[A] visual recording of a person made **by any means** including a **photographic, film or video recording** ,

- (a) in which the person is **nude** , is **exposing** his or her genital organs or anal region or her breasts **or is engaged in explicit sexual activity** ;
- (b) in respect of which, at the **time of the recording** , there were circumstances that gave rise to a **reasonable expectation of privacy** ; and
- (c) in respect of which the person depicted retains a **reasonable expectation of privacy** at the time the **offence is committed** .

02. CURRENT LAWS & REMEDIES

Legislation, Common Law, Where to Go

NCDII-SPECIFIC LEGISLATION

Provincial: Statutory Torts

- Alberta — *Protecting Victims of Non-consensual Distribution of Intimate Images Act*, RSA 2017, c P-26.9
- British Columbia — *Intimate Images Protection Act*, SBC 2023, c 11
- Manitoba — *The Non-Consensual Distribution of Intimate Images Act*, CCSM, c N93
- New Brunswick — *Intimate Images Unlawful Distribution Act*, SNB 2022, c1
- Newfoundland and Labrador — *Intimate Images Protection Act*, RSNL 2018, c I-22
- Nova Scotia — *Intimate Images and Cyber-protection Act*, SNS 2017, c 7
- Prince Edward Island — *Intimate Images Protection Act*, RSPEI 1988, c I-9.1
- Quebec — *Act to counter non-consensual sharing of intimate images*, p-9.0002
- Saskatchewan — *The Privacy Act*, RSS 1978, c P-24, s 7.3



02. CURRENT LAWS & REMEDIES

Legislation, Common Law, Where to Go

NCDII-SPECIFIC LEGISLATION

Provincial: Statutory Torts

Key Points

(n.b. Statutes are not identical across the board, so check law of applicable province to confirm distinctions.)

1. Generally establish NCDII as a **statutory tort actionable without proof of damages** .
2. Offence defined similarly to *Criminal Code* provision, turning on **knowledge** or **recklessness** with respect to lack of consent to distribute.
3. Provincial statutes **define "intimate image" similarly** to *Criminal Code* definition.
4. BC, NB, PEI, QC, SK:
 - a. include **whether or not image has been altered** to account for synthetic images (+MB: "fake intimate image")
 - b. also unlawful to **threaten** to distribute someone's intimate image without consent.
5. **Reverse onus** in NFLD and SK: **lack of consent presumed** unless defendant establishes **reasonable grounds to believe** they had **ongoing** consent for distribution. (Also in BC and NB, but for reasonable expectation of privacy)
6. More recent statutes informed by or adopt the *Uniform Non-Consensual Disclosure of Intimate Images Act* (2021); see "*Creating a Revenge Porn Tort for Canada*", Emily Laidlaw & Hilary Young, *Supreme Court Law Review*



02. CURRENT LAWS & REMEDIES

Legislation, Common Law, Where to Go

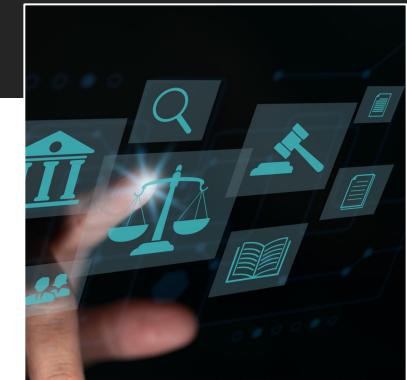
NCDII-SPECIFIC LEGISLATION

Provincial: Statutory Torts — Remedies

Courts may:

(n.b. Not all remedies available under all provincial statutes; check specific legislation.)

1. Provide declaratory or injunctive relief regarding distribution or threat to distribute
2. Order respondent to make the distributed intimate image(s) inaccessible, including destroying all copies in their possession; removing from all digital platforms and "any other electronic form of application, software, database and communication method"; and de-indexing from search engines
3. Order an Internet intermediary to remove, delete, and/or destroy the image, and de-index from search engines
4. Order a person to provide any information necessary to advance removal, deletion, destruction, or de-indexing
5. Order the respondent to pay damages to the applicant (from nominal up to punitive; see e.g. 2-track system in BC)
6. Order defendant to account to the plaintiff for any profits resulting from the NCDII
7. Issue an order for a publication ban on name of a party
8. Enjoin the respondent from distributing or continuing to distribute the intimate image
9. Make any other order the court considers just and reasonable in the circumstances



02. CURRENT LAWS & REMEDIES

Legislation, Common Law, Where to Go

PRIVACY LEGISLATION

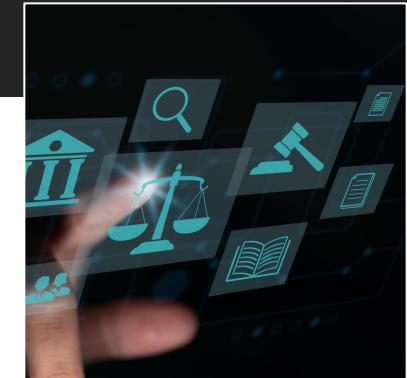
Federal: *Personal Information Protection and Electronic Documents Act* (PIPEDA)

- federal privacy legislation regulating private sector use of personal information
- prohibits businesses from collecting, using, or disclosing personal information without consent (s 6.1), or for any purpose other than what "a reasonable person would consider appropriate in the circumstances" (s 3).

Investigation into Aylo (formerly MindGeek)'s Compliance with PIPEDA

(Office of the Privacy Commissioner of Canada, [PIPEDA Findings #2024-001](#))

- Aylo/MindGeek "owns, operates and provides services to many of the world's most popular pornographic websites, including Pornhub and Youporn".
- Complainant discovered that her former partner had uploaded an intimate video of her to one of Aylo's platforms, without her knowledge or consent.
- Aylo operated on a "third-party consent" system, permitting users uploading intimate videos to "attest" that they had obtained consent from all individuals depicted, even if the user themselves was not depicted.
- "[A]pproximately 70% of audited uploaders failed to provide the proof of consent that they had committed to obtain. In other circumstances, MindGeek did not even verify whether the uploader could provide such consent documents."
- Third-party consent "does not constitute reasonable efforts to ensure that meaningful consent has been obtained [...] This consent model could only result in devastating consequences for thousands of individuals whose intimate images were shared online without their knowledge and consent."
- Privacy Commissioner found that Aylo contravened section 6.1 of PIPEDA (valid consent), as well as Principles 4.1 (accountability), 4.3 (requiring knowledge and consent), 4.10 and 4.10.2 (failure to be responsive to complainant or have accessible and simple procedures to address privacy issues, such as immediate removal of intimate images), of Schedule 1 to PIPEDA.



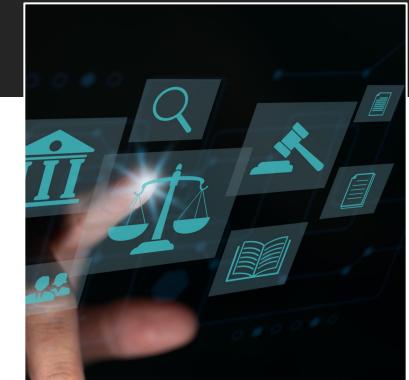
Procedural Context

Aylo unsuccessfully litigated to bar this report from being made public, delaying its release by nearly a year.

Aylo refused to implement the Commissioner's recommendations to bring its operations into compliance with PIPEDA. The Commissioner has applied to the Federal Court for enforcement, and the case is currently ongoing.

02. CURRENT LAWS & REMEDIES

Legislation, Common Law, Where to Go



COMMON LAW & CIVIL LITIGATION

Source: "More than 'Revenge Porn': Civil Remedies for the Nonconsensual Distribution of Intimate Images",
Suzie Dunn & Alessia Petricone-Westwood, presented at the 38th Annual Civil Litigation Conference
(County of Carleton Law Association, 2018)

Applicable Common Law Torts

- Appropriation of likeness
- Breach of confidence
- Breach of fiduciary duty
- Defamation
- Extortion or Intimidation
- Harassment
- Intentional infliction of mental suffering
- Intrusion upon seclusion
- Public disclosure of private facts

Other Possible Sources of Recourse

- Copyright Act (federal)
- Class Action (*Doucet v. The Royal Winnipeg Ballet*, 2022 ONSC 976 — settled)
- Consider how to address potential claims of breach of contract for being victim of NCDII

02. CURRENT LAWS & REMEDIES

Legislation, Common Law, Where to Go

WHERE TO GO FOR HELP

- British Columbia: [BC Civil Resolution Tribunal](#)
- Nova Scotia: [CyberScan](#)
- [Cybertip.ca](#)
- [NeedHelpNow.ca](#)
- Tech Safety Canada Toolkit:
[What to Do If Someone Has Shared or Threatened to Share Your Intimate Image](#)



03. POTENTIAL FORTHCOMING LAWS

Proposed Bills and Ongoing Developments



PROPOSED BILLS

Bill C-16: *Protecting Victims Act*

- introduced December 9, 2025; passed Second Reading, currently in committee
- would amend the criminal NCDII offence to apply to deepfakes
- would criminalize threatening to distribute intimate images, including deepfakes, without consent
- would not address much of the non-consensual sexualized deepfakes proliferating via X / Grok

Return of Bill C-63? *Online Harms Act*

- Covered seven categories of online content, including "intimate content communicated without consent" (defined similarly to existing NCDII provisions and includes deepfakes), and "content that sexually victimizes a child or revictimizes a survivor"
- Imposed "duty to make content inaccessible" (24-hour takedown requirement) on these two categories
- Federal government has signalled recently that they intend to re-introduce legislation addressing online harms, including intimate image abuse, whether through updated privacy legislation, a new online harms bill (but which will not replicate C-63), or AI regulation, or a combination of the above

RELATED ONGOING DEVELOPMENTS

- "Privacy Commissioner of Canada expands investigation into social media platform X following reports of AI-generated sexualized deepfake images" (News Release, 15 January 2026)
- *Privacy Commissioner of Canada v. 9219-1568 Québec Inc. et al* (collectively, "Aylo"), Fed. Ct. File No. T-702-25
- House of Commons Standing Committee on Access to Information, Privacy and Ethics (ETHI): *Study on Challenges Posed by Artificial Intelligence and its Regulation* (broad/general scope; ongoing)

04. OVERARCHING CONSIDERATIONS

Things to Keep in Mind and Watch Out For

Four “Traps” to Avoid When Working on NCDII or Supporting Someone Subjected to NCDII

1. **Zeroing in on Legal Responses:** Researchers have shown that those impacted by NCDII generally prioritize expeditious takedown above all, and that receiving empathetic support, that reassures and does not shame them, is often more impactful and desired than formal legal action. (See e.g., "[Deleting Digital Harms: A Review of Nova Scotia's Cyberscan Unit](#)", Alexa Dodge, August 2021)
2. **Telling Victims to Shrink Online Presence:** Advice to those targeted by NCDII to shut down social media accounts, stay offline, and turn off devices, may be well-intentioned, but in the long run is regressive and implicitly blames the victim. This aids perpetrators in their goals of punishing, silencing and driving women (and sexual and gender minorities) out of the public sphere and democratic participation in addition to hindering their professional growth or political influence, removing their ability to exercise freedom of expression on an equal basis as those who are not disproportionately targeted by NCDII.
3. **Not Being Discerning about “Protecting the Children”:** Technology law and regulation has a long history of seeing law enforcement and reactionary forces using the rhetoric of “protecting children [and sometimes women]” to usher in human rights-violating laws, including the human rights of women and children, relying on the importance of the ostensible cause to disarm or mute criticism. At the same time, laws that focus exclusively on children, such as proposed social media bans for minors, can be used as an excuse to delay or defer the difficult work of providing still needed protection to adults from technology-facilitated abuse.
4. **Forgetting It Begins at Home, with Family/Friends/Teammates, and at the Office:** Patriarchy, sexism, and misogyny are popular, and culturally, professionally, and sociopolitically ingrained at every level of society. The blame cannot rest entirely on technology, the Internet, or AI. Unless every one of us truly reckons with “everyday sexism” or “mundane misogyny” in our own lives, with impacts on those around us and rippling out further, the law can only ever go so far in addressing intimate image abuse or other forms of TFGBV, as we will always be in immersed in a culture and societal institutions that ultimately encourage and protect such abuse.

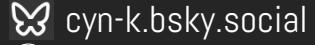


THANK YOU

Questions / Comments?



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