



CANADA'S CENTRE  
FOR DIGITAL AND  
MEDIA LITERACY



## LESSON PLAN

**Level:** Grades 11 and 12  
**Duration:** 1½ to 2 hours class time  
**About the Author:** Robert Porter, Sarah Keeshan, and Jane Bailey  
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# Technology Facilitated Violence: Criminal Case Law Lesson Plan



This lesson is part of *USE, UNDERSTAND & CREATE: A Digital Literacy Framework for Canadian Schools*:  
<http://mediasmarts.ca/teacher-resources/digital-literacy-framework>.

## Overview

This lesson plan explores the relationship between technology and the law by examining how the criminal law responds to technologically facilitated violence (TFV). Not only will it enhance students' understanding of the legal meaning of key terms such as "violence", it will also engage them in dialogue about the surrounding social and legal issues and the ways in which new and emerging technologies are affecting the relationship between the law and technology. Through the exploration of Canadian case studies, and subsequent discussion, students will develop their knowledge on legal implications of various forms of TFV such as harassing communications, criminal harassment, unauthorized use of computer systems, non-consensual disclosure of intimate images (sometimes referred to as "revenge porn"), and hate propaganda. Students will use materials from The eQuality Project's "Technology-Facilitated Violence: Criminal Case Law" database to research recent Canadian case law involving TFV, better understand the concept of "violence" and the wide range of acts that fall within TFV, as well as the available criminal legal resources and potential outcomes for those affected.

## Learning Outcomes

Students will:

- Become familiar with legal definitions of "violence" that extend beyond physical aggression;
- Develop a new understanding of the range of acts that can be categorized as TFV;
- Identify overall patterns, characteristics and/or contexts of TFV behaviours; and
- Research some of the relevant legal responses relating to various forms of TFV including: relevant provisions of the *Criminal Code of Canada* and case law relating to those provisions.

## Preparation and Materials

- Prepare to project the *Technology-facilitated Violence: Criminal Case Law* slideshow and have chart paper ready for the students.



- Photocopy the *Technology-facilitated Violence: Scenarios* handout
- Photocopy the *Technology-facilitated Violence: Criminal Case Law Summaries* handouts
- Photocopy the *Technology-facilitated Violence: Criminal Case Law Small Group Assignment Sheet*

## PROCEDURE

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### Technology-facilitated Violence: Criminal Case Law Slideshow

Begin by projecting slides one to eleven of the *Technology-facilitated Violence* slideshow. As you review the slides, the goal is for students to gain a better understanding of the relationship between law and technology, the meaning of violence, whether they think technology can be used to commit violence, and what sort of remedies they think should be available to targets of those kinds of acts. As you review the slides, ask students the questions below, but don't feel a need to reach consensus on any of these questions. Get students' thoughts and opinions and move on.

#### Slide 1

- Ask students how they would define "violence."

Probe for whether they think an act can only constitute "violence" if it involves physical aggression or whether they think emotional and psychological attacks would be included in their definition.

Tell the students that, in law, "violence" can be defined as including more than physical acts of aggression – consider, for example, this definition of "violence" taken from an international treaty.

#### Slide 2

- Does this definition of "violence" make sense to you? Why or why not?

Tell students that sometimes courts have to decide if an offence committed by someone was "violent". For example, a person under 18 who has been convicted of a criminal offence cannot be sentenced to a period of incarceration (as opposed, for example, to having to serve community service, etc.) unless the offence they have committed is a "violent" one. Part of deciding that question depends on whether it can be said that the person inflicted "bodily harm", which the Supreme Court of Canada has defined as follows:

"physical, sexual and psychological" acts resulting in or likely to result in "physical, sexual or psychological harm" to another including "threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life"

#### Slide 3

- What is the difference between "physical" and "psychological" injury? Can you think of examples of both?
- Does it make sense to you that both physical and psychological harm is considered bodily harm in law? Why or why not?

Tell students that they should keep these definitions of "violence" in mind as they watch the next video relating to tech-facilitated attacks.



#### Slide 4

Show the embedded video. (#PressPaws on Cyberviolence <https://www.youtube.com/watch?v=0NzXHk2rzuE>)

- Do you agree that technology can be used to commit acts of violence? Why or why not?
- If so, what kind of actions using technology would you consider to be violent?

#### Slide 5

- What kind of remedies or responses do you think those targeted by TFV have and/or need?
- Do you think that those targeted by TFV should have *legal* remedies available to them? If so, what kind of remedies (e.g. criminal, civil, etc.)?
- What kind of legal remedies do you think are actually available to those affected?

#### Slide 6

Introduce students to The eQuality Project's Technology-Facilitated Violence: Criminal Case Law Module (<http://www.equalityproject.ca/cyberviolence-criminal-case-law/>). Explain to them that the module has summaries of real Canadian criminal law cases relating to TFV and that it has three ways of accessing the content – as an “interested citizen” with no necessary legal expertise, as a “legal practitioner/researcher”, and as someone who would like a list of all content.

#### Slide 7

Show students that if they press on “interested citizen”, they get a list of behaviours that can be considered to be TFV.

Distribute the *TFV Scenarios* handout to the students and ask them the following questions:

- Do you consider the behaviours in these scenarios to be violent? Why or why not?
- Do you think that the behaviours in these scenarios *should* be subject to criminal law sanctions? Why or why not?

#### Slide 8

Show students that if they click on “legal practitioner/researcher” they get a list of criminal offences that might apply to different kinds of TFV (e.g. defamatory libel, criminal harassment, hate propaganda).

#### Slide 9

Show students that if they click on one of the offences – e.g. harassing communications – they get the related Criminal Code provision and a list of TFV cases where that charge has been laid.

Tell them that if they click on one of the case citations, they will get a summary of the case and a link to the actual court decision.

Break-Out Sessions:

Break the class up into small groups and distribute to each group one of the case law summaries contained in the *Technology-facilitated Violence: Criminal Case Law Summaries* handout choosing from cases relating to different laws



that can be used to address TFV.

### Slide 10

Instruct all members of each group to prepare answers to the following questions:

- What kinds of behaviours are present?
- What role does technology play in this case?
- What *Criminal Code* provision was applied?
- How do the behaviours from this case relate to the criminal charge?
- What is the relationship between technology and the law in this case?
- What was the outcome in the case? (e.g. acquittal, conviction, sentencing)
- Were you surprised by the outcome in the case?

Have students compare their answers with other members of their group and select a spokesperson to present a brief summary of the group's answers to these questions to the rest of the class.

### Group Discussion/Presentation:

- Have each group provide a brief summary of the answers to the questions relating to their selected case.
- Collective or group brainstorming using chart paper/screen/chalk board on what they discovered, and what they were surprised by with respect to the relationship between technology and Canadian law, based on the cases the groups looked at.

### Questions for the class as a whole:

- Once all of the cases have been discussed, use them to lead a whole-class discussion on the original questions from the beginning of the lesson. The class should revisit their earlier discussion.
- Based on what you've seen in The eQuality Project Module, and heard from your classmates/other groups, have your thoughts about TFV changed? (i.e.: has your definition changed? Does this change your relationship with technology?) Why or why not?
- Would you be more willing to intervene in a situation where someone is being targeted by TFV? Why or why not?
- Do you think that there are enough social and legal protections against TFV in Canada? If not, what more do you think should be done?

## Technology-facilitated Violence: Scenarios

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Read the following scenarios and answer the questions that follow. Be prepared to discuss your answers with the class.



### Scenario 1

19-year-old Mel found an article online about a prominent political leader. Mel reposted the article on Twitter but added the following caption: “Good get her out of here before I bomb her.” The political leader found out about the post when another person drew it to her attention.

### Scenario 2

16-year-old Alicia borrowed her boyfriend’s phone and found nude pictures of his ex-girlfriend Meg on the phone. Alicia texted copies of two of the photos to her friend Jaden, who then posted them on Facebook with the caption “For a good time call Meg” and included Meg’s actual phone number. A friend of Meg’s pointed out the posting to her. Meg reported the images to Facebook and they were taken down, but she received several phone calls from strangers asking for dates before the images were removed.

### Scenario 3

42-year-old Ellis owns OTown Restaurant. Several weeks ago, an OTown customer named Zenia posted a very bad review of the restaurant on TripAdvisor. After doing some investigatory work, Ellis was able to find Zenia’s full name and address, as well as a photo of her. Ellis created a fake Twitter account in Zenia’s name and posted racist commentary. Zenia became aware of the fake account when a client of hers called her a white supremacist and cancelled a contract with her.

### Questions

- Do you think that the behaviour in these scenarios is violent? Why or why not?
- Do you think that the behaviour in these scenarios *should* be subject to criminal law sanctions? Why or why not? If not criminal law, is there some other way you think these behaviours should be dealt with?



## Technology-facilitated Violence: Criminal Case Law Summaries

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### Harassing Communications

In [2017 BCPC 118](#), Ms. S testified that she met Mr. O online through mutual Facebook friends. She claimed she never had any personal contact with him, but Mr. O said they had met in the past when they were teens. On several occasions, Mr. O transferred money to Ms. S as a gift without her asking. After some time, Ms. S no longer wanted to communicate with Mr. O because she thought he was a “weirdo”, but he persisted in communicating with her after she asked him to leave her alone. He would initiate many Facebook messages in rapid succession, which Ms. S would not respond to. Ms. S tried blocking and deleting him on social media, but he continued to text her. His communication escalated to threats and vile language. She contacted the police, who contacted Mr. O to tell him that his communication was unwanted and that he should stop contacting Ms. S. This warning did not deter Mr. O, who kept communicating with Ms. S and her two daughters who were 17 and 20 .

Mr. O was found guilty of repeated harassing communication by means of telecommunication based on the Facebook messages. The sentence that he ultimately received does not appear to have been reported.

### Criminal Harassment

[2015 BCPC 203](#) involved the online abuse tactics of “doxing”<sup>1</sup> and “swatting.”<sup>2</sup> The offender, 17-year-old Mr. B plead guilty to 23 of 48 counts of criminal misconduct including nine counts of criminal harassment, eight counts of mischief, four counts of extortion, one count of uttering a threat, and one count of breaching a recognizance. Mr. B used a variety of tactics to harass, threaten, and harm his victims, many of whom were female video gamers he encountered online. For example, he remotely interfered with his victims’ internet service, made fraudulent 9-1-1 calls to victims’ homes, made fraudulent bomb, kidnapping and death threats to the police, and disclosed victims’ credit card information online.

Mr. B’s doxing efforts were sophisticated and involved corporate social engineering. In one instance, Mr. B posed as an Amazon employee and obtained a victim’s telephone number and address from Amazon’s technical support. He then phoned Rogers, pretending to be a Rogers employee, and used the victim’s phone number to request account information, including her address. He then dialed 9-1-1 and had an emergency dispatch team sent to her home to investigate a bomb threat.

Nearly all of Mr. B’s 23 victims were young women. As the Court notes, “Male victims were usually only selected because they were related to [Mr. B’s] female victims or in some way attempted to intervene on behalf of [his] female victims.”<sup>3</sup> He threatened to release one girl’s credit card rating online unless she showed him her butt. The police told her to ignore his calls. He posted a false ad on Craigslist pretending to be another girl stating that she was looking for sex, along with her name and address. He claimed to have nude photos of another girl and threatened to post them online. He used bots to send over 200 texts to one girl. Mr. B’s pre-sentencing report makes note of his misogynistic attitudes and finds that his actions were primarily motivated by pleasure from his victim’s distress and prestige gained within an online peer group. Mr. B’s psychiatric report notes that his “victims are quite disproportionately female” and finds that “it is possible that he has focused his behaviours on females as a way of reacting to his childhood

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- 1 The Court defines “doxing” as “publishing on the internet identifiable personal information about an individual that has usually been obtained from social media sites and from hacking into private systems.” It notes that, depending on the information disclosed, victims of doxing may feel “distress, fear, embarrassment and shame” and may become the targets of identity theft, extortion, and fraud efforts: 2015 BCPC 203 at para 3.
  - 2 The Court defines “swatting” as “tricking an emergency service agency into dispatching an emergency response based on a false report of an ongoing critical incident.” The Court notes that swatting can lead to evacuations, bomb squad deployment, and other frightening assaults on a victim’s home: 2015 BCPC 203 at para 4.
  - 3 2015 BCPC 203 at para 43.

experiences with his mother.”<sup>4</sup> The latter report finds no clear evidence of a sexual motivation underpinning Mr. B’s crimes, but does state that “some of his humiliation of female victims involves a sexual component” — such as, for example, asking one of his victims to send him pictures of her feet and toes.<sup>5</sup> He continued to commit offences while on bail and under an internet prohibition.

The Court ultimately sentenced Mr. B to 16-months imprisonment followed by 8 months of community supervision. Noting that Mr. B posed a high risk for future internet-based offences, the Court also imposed a full technology ban, authorizing a police officer to enter his residence at any time and search for computers or other internet-enabled devices.

In [2014 BCPC 279](#), three 14-year-old boys pleaded guilty to criminal harassment after distributing nude photos of their underage female peers. The boys persistently asked girls for the photos and were originally charged with distributing child pornography. The girls did not intend on having the images distributed beyond the original recipient. All three boys were first-time offenders, all expressed remorse for their actions, and complied with their bail conditions that included a complete ban on owning internet connected mobile devices and restricted their internet use to only educational purposes.

Although no victim impact statements were filed, the Court determined that the girls were emotionally harmed by the disclosure of their images. The Court remarked that the original child pornography charges were unfortunate and stated that the evidence supported the charge of criminal harassment, particularly with regard to the boys’ persistent requests for intimate images.

The Court held that a conditional discharge was in the best interests of the offenders and was not contrary to the public interest. Accepting that “the distribution of such photos is a common practice among youth today in their attempts to learn of and struggle with their own sexuality,”<sup>6</sup> the Court also held that the boys must keep the peace and be of good behaviour for six months. The Court further ordered the boys to report to a youth worker; not possess a cell phone, iPhone, smart phone, or other electronic device capable of accessing the internet (or ensure that picture messaging, video message, and data transmission functions are disabled) during that time; attend counselling; apologize to the victims; and complete 20 hours of community work.

### Extortion and Sexual Offences

[2016 SKCA 93](#), relates to Mr. M, who was 17 years old when he began communicating with four different girls ages 12-14 over several social media sites and continued talking to them after his 18<sup>th</sup> birthday. He engaged in sexual conversations with them and convinced them to send him sexual videos and photos over social media and text, despite their initial resistance. Once he received the images from one of the girls, he threatened to distribute the images if she did not send him more. He would insult the girls if they refused to send more pictures. He organized the photos of the victims into file folders on his email account.

After an appeal, Mr. M was sentenced to three years incarceration for 11 convictions on child luring, child pornography, extortion, and sexual interference offenses related to four girls. Additional orders included a DNA order, registration as a sex offender, and prohibitions from possessing devices capable of accessing the internet (save cellphones).

4 2015 BCPC 203 at para 47.

5 2015 BCPC 203 at para 47.

6 2014 BCPC 279 at 30.



In [2018 MBCA 48](#), Mr. M appealed his sentence of 18 months' imprisonment and three years' probation after pleading guilty to voyeurism, the non-consensual distribution of intimate images, and extortion, along with conditions that he report intimate images to probation services and not possess devices that can access the internet without permission. The judge stated that this "sentence appeal illustrated the pernicious effects that the misuse of technology can have on personal privacy and sexual integrity."<sup>7</sup>

When Mr. M was 19, he surreptitiously filmed his sister's 17-year-old friend while she undressed and showered at their family home. He admitted to being aroused by "peeping tom" pornography and the feeling of being in control. Five years later, he tried to use the film to extort the woman in the film by threatening to disseminate images from the film online.

The court noted that Mr. M engaged in the following behaviour:

To carry out the sextortion, he created multiple email accounts under pseudonyms, he extracted several nude or semi-nude still images from the 2010 recording and he manipulated the image using software to hide their source.

Between July and October 2015, he sent emails from the fake accounts with the intimate images to the complainant and her sister. The emails were menacing. The emails said that cooperation with the demands was the only way to avoid internet publication.<sup>8</sup>

The complainant informed the police, but she did not know who had taken the images and who the extortionist was. The police had difficulties investigating the account because he had deleted the email accounts after using them to send the images. The police were eventually able to discover that the emails had come from Los Angeles.

She wrote back to one of the emails asking what the extortionist wanted and he requested an image of her in a bra, which she refused. Mr. M later contacted the victim claiming his email had been hacked and he had received a copy of the photos, offering to have his tech-savvy friends help her by using more sexualized images of her as bait to trap the extortionist. She thought this was suspicious and reported it to the police. Upon moving back to Winnipeg, the police searched Mr. M's computer and found the images. He confessed to taking the images and using them to extort her upon arrest.

The court noted the significant impact the offence had on the victim, stating:

The events terrified her, exacerbated her anxiety disorder and took over her life. She lived in constant fear that the extortionist had more intimate images of her and was going to eventually hurt, rape or kill her. She struggled in university, was physically ill and could not sleep. She became disassociated and lost her self-esteem. The intensity of her emotions and fear became so unbearable that she contemplated suicide to free herself from the grip of the extortionist. While the accused's arrest brought some closure, she is haunted by the experience and is so fearful of surveillance that she routinely checks for hidden cameras in bathrooms. She is afraid of being physically harmed by the accused and men generally.<sup>9</sup>

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8 2018 MBCA 48 at para 1.

9 2018 MBCA 48 at paras 5-6.

10 2018 MBCA 48 at para 11.





The court also noted that:

It is also important to appreciate that sextortion is a form of sexual violence even though it occurs through the medium of the internet. As with physical abuse, a victim's freedom of choice over his or her sexual integrity is violated. The long-term psychological harm to a victim, as was seen here, closely resembles what happens in a case of physical sexual assault (see *R v Innes*, 2008 ABCA 129 at paras 7, 11; and *R v NG et al*, 2015 MBCA 81 at para 33). Finally, it is difficult to hold such offenders accountable because the crime is remotely committed and the nature of the internet provides predators with a degree of anonymity; in this case, it took the efforts of five different law-enforcement agencies in two countries over many months to solve the case.<sup>10</sup>

It also noted that the non-consensual distribution of intimate images and voyeurism are both sexual offences and privacy offences.

On appeal, the court allowed the for an adjustment of the sentences for voyeurism (reduced to 3 months) and extortion (reduced to 15 months), did not change the sentence for the non-consensual distribution of intimate images (6 months) and deleted the condition of probation that required him to report intimate images to his probation officer, but it did not change the combined length of imprisonment (18 months) nor remove his internet limitations.

### **Unauthorized Use of a Computer System, Luring, Extortion, etc.**

In [2014 ABCA 221](#), Mr. M, appealed his 11-year imprisonment sentence. He had pleaded guilty to 39 criminal charges against 21 victims between the ages of 11 and 16 which the court described as “cyberbullying and online sexual exploitation”.<sup>11</sup> Charges included multiple counts of internet luring, extortion, child pornography offences, fraud and unauthorized use of a computer with intent to commit mischief in relation to data. While committing his offences over roughly five years, Mr. M worked as a security guard.

Mr. M used Facebook and Nexopia (an social network mostly used by children and younger teens) to contact children and request nude photographs and sexual performances on webcam. He also communicated with children—the majority of whom were boys and girls between the ages of 11 and 16—using MSN Messenger and through text messages. If his victims refused to send him nude photographs, Mr. M would use information he had learned about the children in past conversations to hack into their email and social media accounts (for example, by asking questions related to common password reset security questions such as pet names and birthdays). On more than one occasion, Mr. M impersonated his child victims in order to solicit nude photographs from their friends. In other instances, after hijacking his victims’ online accounts, he told children they could only regain access to their accounts if they sent him nude photographs. When one child sent Mr. M photos of her in her underwear, he threatened to distribute the photos unless she sent him a fully nude photograph. Mr. M also distributed photos of a naked boy on Tinypic.com. He also manipulated photos to make it appear as though some of the children were naked in the photos.

At sentencing, the Court noted that Mr. M’s actions were deliberate, persistent, and aggressive. The offences were also sexually motivated, and the Court found that they were “calculated to intimidate, manipulate and psychologically and socially harm the vulnerable child and youthful victims.”<sup>12</sup> The only mitigating factors on sentencing were the facts that Mr. M pled guilty to all charges and had cooperated with police.

<sup>10</sup> 2018 MBCA 48 at para 19.

<sup>11</sup> 2014 ABCA 221 at para 2.

<sup>12</sup> 2013 ABPC 116 at para 34.



The Court noted that “[Mr. M’s] use of the internet, to commit his numerous sexually based criminal offences involving children and young adults, have elements of disturbing online sexual harassment - an adult criminally cyberbullying and cyberstalking, calculated to randomly choose youthful victims to emotionally harass, threaten, intimidate and manipulate in furtherance of his criminal objectives.” Mr. M was sentenced to 11 years imprisonment, along with several ancillary orders including prohibitions on possession of firearms and attending places where persons under 16 are present, an order to provide a DNA sample, and an order to comply with the Sexual Offender Information Registry Act. His appeal of this sentence was dismissed, with the court stating:

[...] We know better now than we did then. We have come to understand the full magnitude of the impact such crimes have on children and that some have even resorted to suicide to find relief from online tormentors. In fact, one of the victims here reported having thoughts of suicide to escape the appellant. This and the other victim impact statements provided in this case are poignant reminders of the trauma and suffering caused by these crimes.

Society cannot tolerate such offences and we are determined to do what we can to protect children from cyberbullying and exploitation. In cases such as that before us, we must resort to imprisonment, emphasizing the sentencing objectives of protection, punishment and deterrence.

### Non-Consensual Distribution of Intimate Images

In [2018 CanLII 25580 \(NLPC\)](#), Mr. G, a 25 year-old man, was sentenced to eight months’ incarceration and three years’ probation after pleading guilty to uttering threats, the non-consensual distribution of intimate images, assaulting a peace officer, and a breach of recognizance.

After the breakdown of his relationship with Ms. X, he threatened to kill her, sent her text messages threatening to kill himself and her, released a video of her having sex with another man to another friend, was intoxicated when on recognizance not to possess or consume alcohol, and resisted arrest.

In regard to the offences against his ex-girlfriend, the court noted that:

[the non-consensual distribution of intimate images...] provides men who are unable to accept the end of a relationship with a new and frightening manner of harming and humiliating their former female partners.

Offences involving violence and intimidation of women by their former male partners are regularly heard in the Provincial Court of this Province. Such crimes have been the subject of many studies and consultations, but little has changed. Our legal system has failed to recognize the extent of the violence that women who end relationships with their former male partners face. It has failed to acknowledge the reality that this violence can be deadly.[1]

Ms. X’s victim impact statement said:

I am more timid in relationships. I am more sensitive to anger from others than I use [sic] to be before this, even my family and friends. I was mortified and upset when I learned of the video being sent. I was terrified of where else the video was sent and also what he was saying to people about the video. I’m concerned about what he is capable of if he would go as far as to send a video out of me. I’m concerned he would say things to my daughter and about what he would expose her to. I feel he is very manipulative. I changed the locks on my door for fear he may come to the house. I can’t believe I was in a relationship with someone who could treat me like that. I used to worry and get upset about how I could allow someone to do that to me. However, I know now it was not my fault and I never was that person. I finally have been able to move on and I am now happy.



I am concerned that if there was ever any contact he may harm me or our daughter.

The fact that the video had not been shared online, but only sent to a friend lessened the seriousness of the offence, however, the court noted that when images are shared the person who shares them loses control. Mr. M intended to intimidate and humiliate Ms. X and breached her privacy interests.

He was sentenced to eight months' imprisonment, and three years' probation with conditions including a no contact order with the victim, not being near places where the victim lives or works, Mr. G must attend counselling, to provide a DNA sample, a weapons ban for 10 years, a ban from posting anything about Ms. X online, and to surrender any intimate photographs or videos he has of Ms. X to the RCMP.

### Hate Propaganda

In [2017 BCSC 551](#), Mr. T, a 70-year-old man, was convicted of two counts of willfully promoting hatred. He had brought a constitutional challenge but the court dismissed that application in 2017 BCSC 259. Mr. T hosted a website with anti-Semitic content. He agreed to take down the website following the conviction but did not renounce his views or express remorse for publishing the content. The fact that Mr. T had no previous criminal conviction, had contributed to the community, including working with youth and running for political office, and was not a member of a white supremacist or other racist group was taken into consideration during sentencing as mitigating factors. Aggravating factors included the use of the internet to spread his views, which provides a wider audience, the considered and deliberate actions of Mr. T, and his lack of remorse for his action. He was sentenced to a six-month conditional sentence served in the community plus two years of probation, was ordered to remove his website permanently from the internet, and was prohibited from posting anything on the internet for the duration of the conditional sentence, and was prohibited from posting anything about Jewish people for the duration of his probation.

In [2017 ONCJ 565](#), a 17-year-old youth offender, Mr. G pleaded guilty to inciting hatred, mischief, uttering threats, possession of weapons dangerous to public peace and failing to comply with his youth sentence for spray painting hateful messages on six different places of worship, including the home of a female religious leader. His messages targeted Christians, Jewish, Muslim and Black people. When he was arrested, he was on probation for a previous weapons related offence and the police found several weapons in Mr. G's possession. Mr. G had gained his views by reading content on the internet, and used the internet to plan his attack, and identify and locate the targeted religious buildings. He also had a YouTube account and other social media accounts that contained hateful messages and symbolism. His attacks had a significant impact on both the individuals who attended those places of worship and the larger community. One person stated, "the graffiti brings back all the horror and trauma I lived through [during the



Holocaust].” Another wrote, “I felt anger, discomfort and a momentary loss of belonging to my own home. I was thinking how this message was damaging to the community sense of belonging and insulting to my religion.” At the time of his arrest Mr. G had a strong identification with white supremacy, including having visible tattoos with racist symbolism on his body, maintaining irrational racist beliefs, and having no desire to seek counselling or other supports. The court dismissed the Crown’s application to sentence Mr. G as an adult in part because of the progress he had made while in youth detention such as attending counselling and engaging in educational and work programs.

In the sentencing decision, [2017] OJ No 7024, the court stated Mr. G’s actions were “so counter to the shared values of this community that it creates fear and anger, not only in those targeted, but in the community as a whole. The actions were intended by [Mr. G], apparently, to get others to share in his hatred, but they achieved the opposite effect. It brought the community together in outrage.”[1] Mr. G was sentenced to one year custodial sentence, one month of which to be served under community supervision, and a two year probation order with ancillary orders including a curfew, an order to attend counselling, a forfeiture of the weapons and spray paint used in the offence, a firearms prohibition, a DNA order, no contact orders with certain individuals, prohibition from being near the buildings he defaced or other mosques or synagogues, a weapons prohibition, a prohibition from accessing the internet without consent to provide all devices and passwords to the police, a prohibition from accessing websites where the predominant theme is anti-Muslim, anti-Semitic, racist, or the promotion of white supremacy, and an order to write an essay on one Muslim, one Jewish and one Black Canadian. The judge in this case noted that Mr. G had gained his views solely from the internet and as such that the internet restrictions were necessary.

## Technology-Facilitated Violence: Criminal Case Law Small Group Assignment

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For this assignment, you will be using a summary from a case found in the eQuality Project's Cyberviolence: Criminal Case Law module to explore the legal responses to TFV in Canada, and to explore the relationship between technology and the law. Once divided into groups, each group member should read the case summary assigned to their group and prepare answers to the following questions:

- What kinds of behaviours are present?
- What role does technology play in this case?
- What *Criminal Code* provision was applied?
- How do the behaviours from this case relate to the criminal charge?
- What is the relationship between technology and the law in this case?
- What was the outcome in the case? (e.g. acquittal, conviction, sentencing)



*Technology-facilitated Violence: Criminal Case Law*

**How would you define “violence”?**

Ask students how they would define “violence.”

Probe for whether they think an act can only constitute “violence” if it involves physical aggression or whether they think emotional and psychological attacks would be included in their definition.

Tell the students that, in law, “violence” can be defined as including more than physical acts of aggression – consider, for example, this definition of “violence” taken from an international treaty.

**Definition of “violence”, UN Declaration to End Violence Against Women, Art 1 and 2:**

**“physical, sexual and psychological” acts resulting in or likely to result in “physical, sexual or psychological harm” to another including “threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”**

- **Does this definition of “violence” make sense to you?**
- **Why or why not?**

Definition of “violence”, UN Declaration to End Violence Against Women, Art 1 and 2:  
“physical, sexual and psychological” acts resulting in or likely to result in “physical, sexual or psychological harm” to another including “threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”

- Does this definition of “violence” make sense to you? Why or why not?

Tell students that sometimes courts have to decide if an offence committed by someone was “violent”. For example, a person under 18 who has been convicted of a criminal offence cannot be sentenced to a period of incarceration (as opposed, for example, to having to serve community service, etc.) unless the offence they have committed is a “violent” one. Part of deciding that question depends on whether it can be said that the person inflicted “bodily harm”, which the Supreme Court of Canada has defined as follows:

Definition of “serious bodily harm”, Supreme Court of Canada’s 1991 decision in *R v McCraw*, [1991] 3 SCR 72 at para 22  
"serious bodily harm" means any hurt or injury, whether physical or psychological, that interferes in a substantial way with the integrity, health or well-being of a victim”

- What is the difference between “physical” and “psychological” injury? Can you think of examples of both?
- Does it make sense to you that both physical and psychological harm is considered bodily harm in law? Why or why not?

Definition of “serious bodily harm” from the Supreme Court of Canada’s 1991 decision in *R v McCraw*, [1991] 3 SCR 72 at para 22 "serious bodily harm" means any hurt or injury, **whether physical or psychological**, that interferes in a substantial way with the integrity, health or well-being of a victim”

- What is the difference between “physical” and “psychological” injury? Can you think of examples of both?
- Does it make sense to you that both physical and psychological harm is considered bodily harm in law? Why or why not?

Tell students that they should keep these definitions of “violence” in mind as they watch the next video relating to tech-facilitated attacks.



## #PressPaws on Cyberviolence

- Do you agree that technology can be used to commit acts of violence? Why or why not?
- If so, what kind of actions using technology would you consider to be violent?

Show the embedded video. (#PressPaws on Cyberviolence  
<https://www.youtube.com/watch?v=0NzXHk2rzuE>)

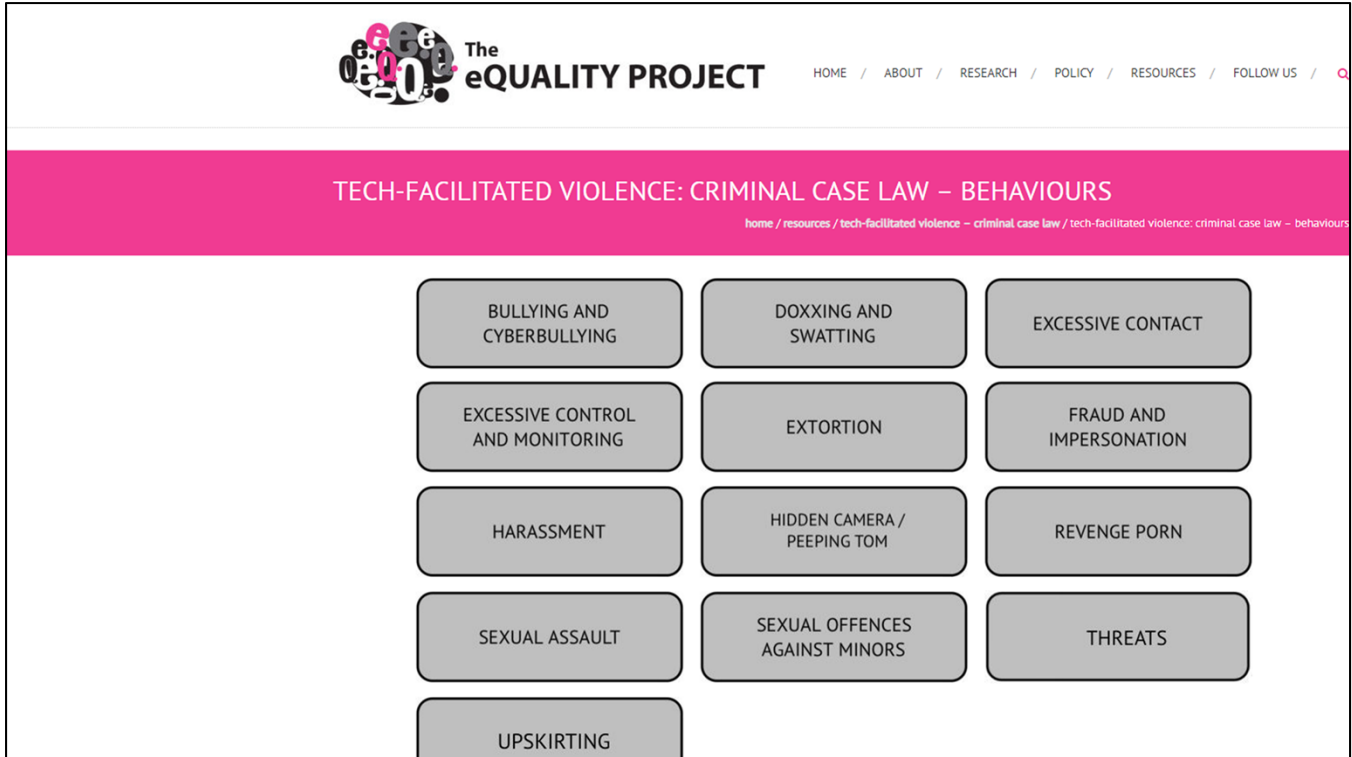
- Do you agree that technology can be used to commit acts of violence? Why or why not?
- If so, what kind of actions using technology would you consider to be violent?

- **What kind of remedies or responses do you think those targeted by TFV have and/or need?**
- **Do you think that those targeted by TFV should have legal remedies available to them? If so, what kind of remedies (e.g. criminal, civil, etc.)?**
- **What kind of legal remedies do you think are actually available to those affected?**

- What kind of remedies or responses do you think those targeted by TFV have and/or need?
- Do you think that those targeted by TFV should have *legal* remedies available to them? If so, what kind of remedies (e.g. criminal, civil, etc.)?
- What kind of legal remedies do you think are actually available to those affected?

The screenshot shows the website for The eQuality Project. At the top left is the logo, which consists of stylized letters 'e', 'Q', and 'P' in various colors, followed by the text 'The eQUALITY PROJECT'. To the right of the logo is a navigation menu with links: HOME / ABOUT / RESEARCH / POLICY / RESOURCES / FOLLOW US / and a search icon. Below the navigation is a pink banner with the text 'TECH-FACILITATED VIOLENCE – CRIMINAL CASE LAW' and a breadcrumb trail: 'home / resources / tech-facilitated violence – criminal case law'. The main content area has a paragraph: 'This module is designed to address the question of how criminal law can respond to technologically-facilitated violence. Prompted by the growing public awareness of issues such as cyberbullying, cyberstalking, online harassment, and their related – and sometimes deadly consequences – this module provides an in-depth and organized overview of existing case law from across Canada.' Below this paragraph are three rounded rectangular buttons: 'I AM AN INTERESTED CITIZEN', 'I AM A LEGAL PRACTITIONER/RESEARCHER', and 'I'D LIKE TO SEE ALL CONTENT'. At the bottom of the page is a dark grey footer with two columns. The left column is titled 'CONTACT' and lists: 'The eQuality Project', 'University of Ottawa, Brooks 410,', '100 Thomas More Private', 'Ottawa, ON K1N 6N5', and 'CANADA'. The right column is titled 'ABOUT' and lists: 'The eQuality Project is funded by the Social Sciences and Humanities Research Council of Canada.' Below this text are the logos for the Social Sciences and Humanities Research Council of Canada and the Government of Canada.

Introduce students to The eQuality Project’s Technology-Facilitated Violence: Criminal Case Law Module (<http://www.equalityproject.ca/cyberviolence-criminal-case-law/>). Explain to them that the module has summaries of real Canadian criminal law cases relating to TFV and that it has three ways of accessing the content – as an “interested citizen” with no necessary legal expertise, as a “legal practitioner/researcher”, and as someone who would like a list of all content.



Show students that if they press on “interested citizen”, they get a list of behaviours that can be considered to be TFV.

Distribute the TFV Scenarios handout to the students and ask them the following questions:

- Do you consider the behaviours in these scenarios to be violent? Why or why not?
- Do you think that the behaviours in these scenarios *should* be subject to criminal law sanctions? Why or why not?

The screenshot shows the website for The eQUALITY PROJECT. The header includes the logo and navigation links: HOME / ABOUT / RESEARCH / POLICY / RESOURCES / FOLLOW US / Q. The main heading is "TECH-FACILITATED VIOLENCE: CRIMINAL CASE LAW – CRIMINAL OFFENCES". Below this, there are two sub-sections: "OFFENCES AGAINST MINORS" and "OFFENCES AGAINST ADULTS". A grid of 12 buttons lists various offences:

OFFENCES AGAINST MINORS		
OFFENCES AGAINST ADULTS		
CHILD PORNOGRAPHY OFFENCES	CRIMES RELATED TO SEXUAL SERVICES	CRIMINAL HARASSMENT
DEFAMATORY LIBEL	EXTORTION	HARASSING COMMUNICATIONS
HATE PROPAGANDA	HUMAN TRAFFICKING	HUMAN TRAFFICKING, ADVERTISING SEXUAL SERVICES
IDENTITY FRAUD	INVITATION TO SEXUAL TOUCHING	INTIMIDATION

Show students that if they click on “legal practitioner/researcher” they get a list of criminal offences that might apply to different kinds of TFV (e.g. defamatory libel, criminal harassment, hate propaganda).

The screenshot shows the website for The eQUALITY PROJECT. The header includes the logo and navigation links: HOME / ABOUT / RESEARCH / POLICY / RESOURCES / FOLLOW US / Q. The main heading is "TECH-FACILITATED VIOLENCE – CRIMINAL CASE LAW – HARASSMENT". Below this is a breadcrumb trail: home / resources / tech-facilitated violence – criminal case law / tech-facilitated violence: criminal case law – behaviours / tech-facilitated violence – criminal case law – harassment. The main content area is titled "SELECTED CASE LAW" and contains a "TABLE OF CONTENTS:" section. Under "ALBERTA:", there is a list of case citations: 2002 ABPC 115, 2002 ABPC 137, 2003 ABCA 184, 2006 ABCA 168, 2006 ABCA 295, 2007 ABCA 38, 2008 ABCA 129, 2009 ABCA 328, 2012 ABCA 127, 2012 ABPC 299, and 2012 ABPC 338.

- Show students that if they click on one of the offences – e.g. harassing communications – they get the related Criminal Code provision and a list of TFV cases where that charge has been laid.
- Tell them that if they click on one of the case citations, they will get a summary of the case and a link to the actual court decision.

**Break-Out Sessions:**

Break the class up into small groups and distribute to each group one of the case law summaries contained in the *Technology-facilitated Violence: Criminal Case Law Summaries* handout – choosing from cases relating to different laws that can be used to address TFV.

- What kinds of behaviours are present?
- What role does technology play in this case?
- What *Criminal Code* provision was applied?
- How do the behaviours from this case relate to the criminal charge?
- What is the relationship between technology and the law in this case?
- What was the outcome in the case? (e.g. acquittal, conviction, sentencing)
- Were you surprised by the outcome in the case?

Instruct all members of each group to prepare answers to the following questions:

- What kinds of behaviours are present?
- What role does technology play in this case?
- What *Criminal Code* provision was applied?
- How do the behaviours from this case relate to the criminal charge?
- What is the relationship between technology and the law in this case?
- What was the outcome in the case? (e.g. acquittal, conviction, sentencing)
- Were you surprised by the outcome in the case?

Have students compare their answers with other members of their group and select a spokesperson to present a brief summary of the group's answers to these questions to the rest of the class.

*Technology-facilitated Violence: Criminal Case Law*

**How would you define “violence”?**



**Definition of “violence”, UN Declaration to End Violence Against Women, Art 1 and 2:**

**“physical, sexual and psychological” acts resulting in or likely to result in “physical, sexual or psychological harm” to another including “threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”**

- **Does this definition of “violence” make sense to you?**
- **Why or why not?**

Definition of “serious bodily harm”, Supreme Court of Canada’s 1991 decision in R v McCraw, [1991] 3 SCR 72 at para 22  
“serious bodily harm” means any hurt or injury, whether physical or psychological, that interferes in a substantial way with the integrity, health or well-being of a victim”

- What is the difference between “physical” and “psychological” injury? Can you think of examples of both?
- Does it make sense to you that both physical and psychological harm is considered bodily harm in law? Why or why not?

## #PressPaws on Cyberviolence

- Do you agree that technology can be used to commit acts of violence? Why or why not?
- If so, what kind of actions using technology would you consider to be violent?

- **What kind of remedies or responses do you think those targeted by TFV have and/or need?**
- **Do you think that those targeted by TFV should have legal remedies available to them? If so, what kind of remedies (e.g. criminal, civil, etc.)?**
- **What kind of legal remedies do you think are actually available to those affected?**

## TECH-FACILITATED VIOLENCE – CRIMINAL CASE LAW

[home](#) / [resources](#) / [tech-facilitated violence – criminal case law](#)

This module is designed to address the question of how criminal law can respond to technologically-facilitated violence. Prompted by the growing public awareness of issues such as cyberbullying, cyberstalking, online harassment, and their related – and sometimes deadly consequences – this module provides an in-depth and organized overview of existing case law from across Canada.

I AM AN INTERESTED  
CITIZEN

I AM A LEGAL  
PRACTITIONER/RESEARCHER

I'D LIKE TO SEE  
ALL CONTENT

### CONTACT

The eQuality Project  
University of Ottawa, Brooks 410,  
100 Thomas More Private  
Ottawa, ON K1N 6N5  
CANADA

### ABOUT

The eQuality Project is funded by the Social Sciences and Humanities Research Council of Canada.



Social Sciences and Humanities  
Research Council of Canada

Conseil de recherches en  
sciences humaines du Canada

Canada

## TECH-FACILITATED VIOLENCE: CRIMINAL CASE LAW – BEHAVIOURS

[home](#) / [resources](#) / [tech-facilitated violence – criminal case law](#) / tech-facilitated violence: criminal case law – behaviours

BULLYING AND  
CYBERBULLYING

DOXXING AND  
SWATTING

EXCESSIVE CONTACT

EXCESSIVE CONTROL  
AND MONITORING

EXTORTION

FRAUD AND  
IMPERSONATION

HARASSMENT

HIDDEN CAMERA /  
PEEPING TOM

REVENGE PORN

SEXUAL ASSAULT

SEXUAL OFFENCES  
AGAINST MINORS

THREATS

UPSKIRTING

## TECH-FACILITATED VIOLENCE: CRIMINAL CASE LAW – CRIMINAL OFFENCES

[home](#) / [resources](#) / [tech-facilitated violence – criminal case law](#) / [tech-facilitated violence: criminal case law – criminal offences](#)

### OFFENCES AGAINST MINORS

### OFFENCES AGAINST ADULTS

CHILD PORNOGRAPHY  
OFFENCES

CRIMES RELATED TO  
SEXUAL SERVICES

CRIMINAL HARASSMENT

DEFAMATORY LIBEL

EXTORTION

HARASSING  
COMMUNICATIONS

HATE PROPAGANDA

HUMAN TRAFFICKING

HUMAN TRAFFICKING,  
ADVERTISING SEXUAL  
SERVICES

IDENTITY FRAUD

INVITATION TO  
SEXUAL TOUCHING

INTIMIDATION

## TECH-FACILITATED VIOLENCE – CRIMINAL CASE LAW – HARASSMENT

[home](#) / [resources](#) / [tech-facilitated violence – criminal case law](#) / [tech-facilitated violence: criminal case law – behaviours](#) / [tech-facilitated violence – criminal case law – harassment](#)

### SELECTED CASE LAW

#### TABLE OF CONTENTS:

##### ALBERTA:

[2002 ABPC 115](#)

[2002 ABPC 137](#)

[2003 ABCA 184](#)

[2006 ABCA 168](#)

[2006 ABCA 295](#)

[2007 ABCA 38](#)

[2008 ABCA 129](#)

[2009 ABCA 328](#)

[2012 ABCA 127](#)

[2012 ABPC 299](#)

[2012 ABPC 338](#)

[2014 ABPC 177](#)



- What kinds of behaviours are present?
- What role does technology play in this case?
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