

September 22, 2025

Attn: Wendy Wall and Eliza McCallum

Civil Resolution Tribunal
PO Box 9239
STN PROV GOVT
Victoria, BC V8W 9J1

VIA EMAIL: communications@crtbc.ca

Dear Wendy Wall and Eliza McCallum:

Re: Submission on the Civil Resolution Tribunal's Draft Changes to the Standard Rules and Intimate Image Protection Order Rules

Thank you for inviting West Coast LEAF to participate in the Civil Resolution Tribunal's (the "CRT") consultation on its draft changes to the Standard Rules and the Intimate Image Protection Order ("IIPO") Rules. We appreciate the CRT's commitment to building its processes around the needs of the people who use them. Our submission will focus on the procedural needs of applicants under the *Intimate Images Protection Act* (the "IIPA"). We have reviewed and made recommendations about the Standard Rules and IIOP Rules as a whole, rather than just the draft changes.

West Coast LEAF's mandate is to use the law to create an equal and just society for all those who experience gender-based discrimination in B.C. We take an intersectional approach to our advocacy, meaning that we engage with the equality interests of women and gender-diverse people along overlapping axes of marginalization, including Indigeneity, race, immigration status, disability, age, gender identity, sexual orientation, and socioeconomic status.

West Coast LEAF's areas of focus include access to justice and gender-based violence. We have a long history of addressing the impacts of legal processes and evidentiary rules on the rights and interests of survivors of sexual violence.¹

Background

The *IIPA* was enacted in 2024 to provide civil remedies in relation to the non-consensual sharing or threatened sharing of intimate images. The *IIPA* provides the CRT with the authority to grant protection orders (i.e., orders that require a person, organization, or internet intermediary to delete, destroy, remove, and/or de-index an intimate image), monetary damages, and administrative penalties.

¹ See, for example, our interventions in *R v Kruk*, 2024 SCC 7; *R v Kirkpatrick*, 2022 SCC 33; and *R v J.J.*, 2022 SCC 28.

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The CRT is an online administrative tribunal that aims to provide fair, accessible, speedy, informal, and economical processes to resolve *IIPA* applications.² The *IIPO* Rules govern the processes that apply to applications for protection orders and administrative penalties, while the Standard Rules govern the processes that apply to applications for monetary damages. According to the background information on this consultation, the CRT wants the *IIPO* Rules and the Standard Rules to be “as clear and easy to use as possible.”

There is a gendered social context to both the *IIPA* and the CRT’s processes for resolving *IIPA* applications. The non-consensual sharing of intimate images is more than just a privacy violation.³ It is a type of gender-based violence (GBV) that disproportionately targets women, girls, and members of the 2SLGBTQ+ community, including where it is a tactic of intimate partner violence and coercive control.⁴ Its victims suffer an array of tangible and intangible harms. Beyond its social, psychological, and economic impacts, it also undermines victims’ rights to equality, dignity, bodily autonomy, and sexual integrity.⁵

What are the access to justice implications of the *IIPA*’s social context? First, it means that applicants and potential applicants under the *IIPA* are often dealing with gendered power dynamics, trauma, and ongoing risks to their safety and privacy. Second, it means that, like in the criminal legal system, there is the potential for myths and stereotypes about GBV to influence application processes and outcomes. The *IIPO* Rules and the Standard Rules should play an important role in addressing each of these concerns.

Based on our review of the *IIPO* Rules and the Standard Rules, we have identified several areas where the Rules do not adequately address the safety, privacy, equality and dignity interests of *IIPA* applicants and potential applicants. These gaps may impede victims from accessing the *IIPA*’s remedies, including where victims do not perceive a safe process and are discouraged from bringing an application at all. While it is possible that the CRT uses other strategies to protect applicants’ rights and interests, such as through its case management process, these strategies should be clarified in the rules so that potential applicants can review them before starting the application process.

We encourage the CRT to consider changes to the *IIPO* Rules and Standard Rules in six areas:

1. Ensuring clear, consistent, and purposive application processes under the *IIPA*.
2. Confirming that safety, privacy, equality and dignity considerations inform the application processes under the *IIPA*.

² Civil Resolution Tribunal, “About the CRT,” online: <https://civilresolutionbc.ca/about-the-crt/>.

³ Moira Aikenhead, “A ‘Reasonable’ Expectation of Sexual Privacy in the Digital Age” (2018) 41:2 Dal LJ 274 at 278-282.

⁴ *Ibid.*

⁵ *Ibid.*

3. Reviewing the rules around the collection and sharing of personal contact information.
4. Reviewing the rules around service.
5. Reviewing the rules around evidence.
6. Removing the cap on fee waivers under the Standard Rules.

(1) Ensuring clear, consistent, and purposive application processes under the *IIPA*.

Where an applicant or potential applicant wants both a protection order and monetary damages, they must understand and engage with two sets of rules- and thus two different processes. This raises two concerns.

First, having two sets of rules apply to applications under the *IIPA* is not consistent with the CRT's goal of ensuring that the rules are "as clear and easy to use as possible." There are several areas where the Standard Rules and IOP Rules have similar but not identical wording, requiring applicants to carefully read them to identify where there may be procedural differences. Further, while the IOP Rules are more clearly written, there are areas where the Standard Rules provide more detailed information (such as the circumstances in which alternative service directions may be available under Rule 2.9). It is not always clear where the procedural differences lie or why they exist.

Second, while the IOP Rules were specifically designed to reflect the *IIPA*'s unique social context, the Standard Rules were not. This means that the Standard Rules lack the purposes and contextual considerations that may support more responsive processes under the IOP Rules. For example, only the IOP Rules state that they must be applied in a way that "recognizes the relationship between the participants, which may include power imbalances, domestic violence, or other forms of control or abuse." Rule 1.1 of the IOP Rules confirms that the CRT may interpret the IOP Rules differently than how it interprets the Standard Rules.

Recommendation: The CRT should consolidate the IOP Rules and Standard Rules to create one set of rules that applies to all applications under the *IIPA* and reflects the *IIPA*'s unique social context. In making this recommendation, we recognize that the consolidated rules will still need to differentiate between some of the processes that apply to different applications under the *IIPA*. If the rules are not consolidated, review the Standard Rules- as applied to applications under the *IIPA*- to ensure consistent wording with the IOP Rules where there are no procedural differences, remove unnecessary procedural differences, and integrate the IOP Rules' purposes and contextual considerations.

(2) Confirming that safety, privacy, equality and dignity considerations should inform the application processes under the *IIPA*.

Despite the *IIPA*'s gendered social context described above, neither the IOP Rules nor the Standard Rules confirm whether the rules must be applied in a way that upholds the safety, privacy, equality and dignity of people who have been harmed by the non-consensual sharing or threatened sharing of an intimate image. Such a purpose would ensure that CRT case managers and adjudicators are making procedural decisions that are consistent with these *Charter*-protected interests.

Recommendation: The CRT should amend the purposes of the Standard Rules and the IOP Rules (or any consolidated rules) to expressly require consideration of the safety, privacy, equality and dignity of applicants.

(3) Reviewing the rules around the collection and sharing of personal contact information.

Both the Standard Rules and IOP Rules require applicants to provide contact information to the CRT.⁶ While the Standard Rules describe the required contact information as including an email address, mailing address, and telephone number, the IOP Rules only state that parties must provide "contact information requested by the CRT, including an email address." The IOP Rules thus lack clarity around if and when other contact information will be required.

Neither the Standard Rules nor the IOP Rules confirm whether and when the CRT shares an applicant's contact information with the other participant(s). Further, if such information is shared with the other participant(s), neither the Standard Rules nor the IOP Rules confirm whether an applicant can request that their contact information remain confidential to the CRT because of a safety concern.

West Coast LEAF's primary safety concern relates to the sharing, if any, of an applicant's telephone number and mailing address. Some applicants, especially those who are self-represented, may not have (or recognize) alternatives to providing their personal telephone number and home address.

Recommendation: The CRT should clarify its approach to the collection and sharing of an applicant's contact information in *IIPA* applications. It should ensure that an applicant's contact information remains confidential to the CRT in cases where sharing that information poses a safety risk to the applicant.

⁶ Civil Resolution Tribunal, "DRAFT CRT Standard Rules" (August 2025) at Rule 1.8(1) ["Standard Rules"]; Civil Resolution Tribunal, "DRAFT CRT Intimate Image Protection Order Rules" (August 2025) at Rule 2.1(2) ["IIO Rules"].

(4) Reviewing the rules around service.

Both the Standard Rules and the IOP Rules state that there are certain circumstances where the applicant will be required to serve the respondent(s).⁷ Under the IOP Rules, these circumstances are:

- (a) The applicant does not give the CRT the information it requires to serve the respondent,
- (b) The respondent's mailing address is not in Canada,
- (c) The respondent is an individual who is under 19,
- (d) The respondent is an adult with impaired mental capacity,
- (e) The respondent is a deceased individual,
- (f) The CRT receives satisfactory information that the respondent did not receive a Notice of Application sent by the CRT by regular mail, or
- (g) The CRT cannot serve the respondent for any other reason.

The Standard Rules require the applicant to serve the respondent in similar circumstances.⁸

The CRT thus expects applicants to serve respondents in cases where service is more challenging and complex. While this may be a costs-saving measure, it is also a procedural barrier that could impede applicants and potential applicants from proceeding with the application process. The CRT will often be in a better position than lay applicants to effect service in difficult circumstances.

Shifting the burden of service onto applicants also raises privacy and safety concerns, especially where applicants are self-represented. Some applicants may use their personal cell phone or email account to send the application materials. Others may deliver the application materials to the respondent in person. In cases where the respondent evades service, delivering the application materials in person is the only service option that neither requires the respondent's signature nor acknowledgement of receipt.

While the applicant can request alternative service directions from the CRT,⁹ neither set of rules describes the possible directions. Further, the IOP Rules do not describe the circumstances in which such directions may be available. The Standard Rules, on the other hand, state: "The CRT will not consider a Request for Directions on Service until an applicant has attempted to serve the [application materials] on a respondent by each of the approved service methods under these rules, or an applicant has explained why they cannot use an approved method." It is not clear in either case whether the CRT will consider privacy and safety concerns when deciding if, when, and how to issue alternative service directions.

⁷ IOP Rules at Rule 5.2(1)(b), Rule 5(3)(1).

⁸ Standard Rules at Rule 2.2(3), Rule 2.3.

⁹ Standard Rules at Rule 2.9; IOP Rules at Rule 5.9(2).

Recommendation: The CRT should serve respondents unless an applicant tells the CRT they want to serve the respondent themselves.

(5) Reviewing the rules around evidence

The legal system has a long history of admitting evidence into legal processes that perpetuates myths and stereotypes about sexual violence and/or serves to humiliate and revictimize the survivor. This has had the effect of denying survivors the equal protection of the law and discouraging them from pursuing legal remedies.

There is the potential for such mischief in *IIPA* cases, such as where the respondent submits sexual history evidence, private records about the applicant, or other intimate images to challenge the applicant's credibility or reasonable expectation of privacy. However, neither the Standard Rules nor the IOP Rules contain limits on the admission and use of evidence that could perpetuate myths and stereotypes and/or serve to humiliate and revictimize the survivor.¹⁰

Beyond preventing the misuse of evidence by respondents, the CRT should consider whether an applicant must provide an unredacted copy of the intimate image in question to prove their case. Providing applicants with evidentiary alternatives (at least in certain circumstances) could alleviate an important privacy concern and access to justice barrier.

While the CRT's case management process may help to manage the admission and use of evidence, the Standard Rules and IOP Rules should play an important role in confirming and clarifying the CRT's approach to evidence.

Recommendations: The CRT should review and update the evidentiary rules in the Standard Rules and IOP Rules to:

- (a) Clarify if and when an applicant can provide a description of an intimate image in lieu of the image itself. This option should be available- at a minimum- when the existence and nature of the image is not in dispute.
- (b) Clarify if and when an applicant can provide a redacted version of an intimate image in lieu of an unredacted image. Confirm that an applicant can use AI tools to apply redactions to intimate images.
- (c) Create specialized rules around the admission and use of intimate images of minors. These rules should reflect the unique ethical and child protection considerations that attach to such images.
- (d) Create rules that restrict the submission and use of sexual history evidence, private records about the applicant, and intimate images of the applicant other than those that are the subject matter of the application. The respondent should be required

¹⁰ Standard Rules at Part 9; IOP Rules at Part 10.

to seek permission or direction from the CRT before submitting and relying on such evidence. The applicant should have the opportunity to respond to the respondent's request before there is a decision.

(6) Fee waivers

While the CRT does not charge fees for applications under the *IIPA* for protection orders or administrative penalties, it does charge fees for applications under the *IIPA* for damages.¹¹ Rule 1.6 of the Standard Rules sets out the process for requests for a fee waiver and limits persons- including applicants under the *IIPA*- from receiving more than three fee waivers per year.

Given the interests at stake in *IIPA* applications— and the reality that many applicants will be vulnerable women, girls, and members of the 2SLGBTQ+ community— a cap on fee waivers is not justified in this context. The Tribunal can address any policy concerns, such as in relation to frivolous applications, through applying the fee waiver considerations under Rule 1.6(3).

Recommendation: Remove the cap on application fee waivers for applications for damages under the *IIPA*.

(7) Conclusion

We recognize the CRT's long-standing efforts to ensure that its processes are fair, accessible, speedy, informal, and economical. Our recommendations will help to advance these goals by accounting for the *IIPA*'s social context and upholding the safety, privacy, equality, and dignity of applicants.

Sincerely,



Idaresit Thompson
Staff Lawyer at West Coast LEAF

¹¹ Civil Resolution Tribunal, "Fees", online: <https://civilresolutionbc.ca/resources/fees/>.