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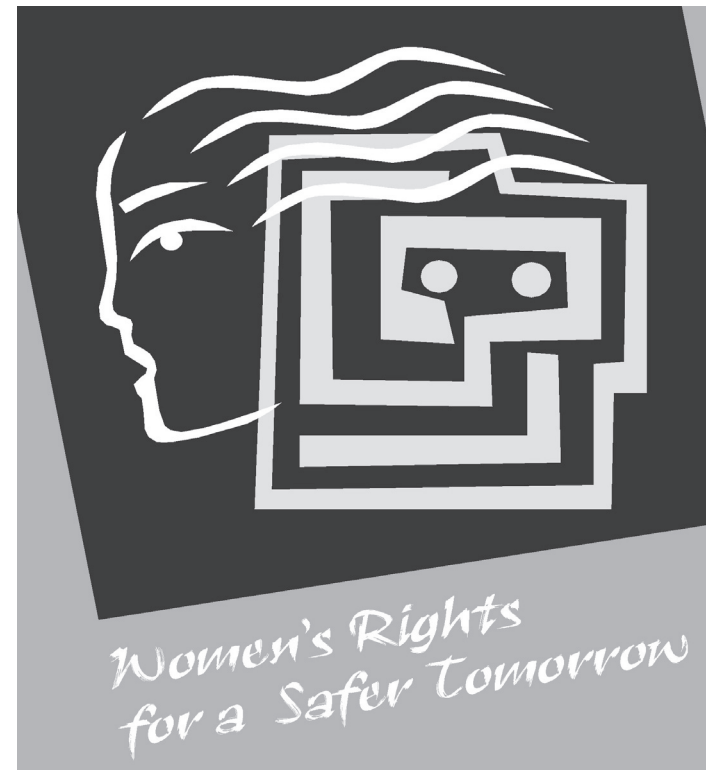
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Editor's Note

Public Legal Education, Medicine Hat College, works in co-operation with the Continuing Studies Department to deliver information on the law to the community. Public Legal Education receives funding and in-kind support from the Alberta Law Foundation and Medicine Hat College.

This handbook does not contain a complete statement of the law as it relates to abused women. The materials in the handbook are not intended as a substitute for legal advice. For that reason, and because laws are subject to change, an abused woman who needs advice about her particular situation should consult a lawyer.

We would like to thank all those individuals who played such an instrumental role in the production of the handbook. In particular, we would like to mention the contribution of the Alberta Law Foundation, The Medicine Hat Legal Profession, Medicine Hat College, Medicine Hat Police Association, Medicine Hat Women's Shelter, and Victim's Assistance.

We also wish to acknowledge the Alberta Law Foundation for their continued support in the production of this handbook and we thank the Give the Gift of Literacy, PLENA, the Department of Justice, and the City of Lethbridge for their contributions toward the original publication.

To order more copies of this handbook, please call Public Legal Education at Medicine Hat College at 529-3848.

To access this handbook on the internet, visit:
www.mhc.ab.ca/continuing-studies

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**Alberta LAW
FOUNDATION**

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HELPFUL WEBSITES

www.legalresourcecentre.ca

Alberta Council of Women's Shelters

www.acws.ca

Government of Alberta

www.gov.ab.ca

www.gov.ab.ca/directory

Dial-A-Law

www.acjnet.org/dialalaw/alta.html

Legal Aid

www.legalaid.ab.ca

Violetnet - Law & Abused Women

www.violetnet.org

Rosenet - Law & Abused Immigrant Women

www.rosenet-ca.org

Family Law Information

www.canada.justice.gc.ca

www.albertacourts.ab.ca/familylaw

www.collaborativelaw.ca

Native Counselling Services of Alberta

www.ncsa.ca

Introduction



This is a handbook for women who are being abused by their partner. The booklet will give women useful information about the law.

You may have many questions about your rights. You may have questions about money or emotional matters. Or you may want to know about your legal rights. There are places where

you can get answers.

It is not always easy to find out what the law says. It is hard to make a decision and take action without information. You may want to know:

- ◆ What can I do to make the abusive behaviour stop?
- ◆ How can I get him to stay away from me?
- ◆ Can he be charged with a crime?
- ◆ Will he be arrested?
- ◆ Will I have to go to court?
- ◆ Can I get my partner to leave the home?
- ◆ Will I be able to get a divorce?
- ◆ What about splitting our property?
- ◆ Will I be able to get custody of the children if I leave him?
- ◆ How will the police, the courts and the legal system treat an abused woman?

If you need information because you are being beaten or abused by your partner, please read this handbook. It will give you a basic idea about what the law says about your rights. If you need more information, talk to a lawyer.



Medicine Hat

304, 346 - 3 St. S.E., Medicine Hat, AB T1A 0G6

Tel: (403) 529-3553 Fax: (403) 529-3797

Peace River

Provincial Building, 9621 - 96 Ave.

Box 6, Bag 900, Peace River, AB T8S 1T4

Tel: (780) 624-6250 Fax: (780) 624-3353

Red Deer

#110 Millennium Centre

4909 - 49 St., Red Deer, AB T4N 1V1

Tel: (403) 340-5119 Fax: (403) 340-4873

St. Paul

4902 - 50 St., P.O. Box 121, St. Paul, AB T0A 3A0

Tel: (780) 645-6205 Fax: (780) 645-4222

Siksika Nation

P.O. Box 1609, Siksika Nation, AB T0J 3W0

Tel: (403) 734-5123 or 1-800-551-5724 Fax: (403) 734-5196

Wetaskiwin

Main Floor Provincial Building

5201 - 50 Ave., Wetaskiwin, AB T9A 0S7

Tel: (780) 361-1331 Fax: (780) 352-4700

Whitecourt

P.O. Box 1626

207, 5115 - 49th St., Whitecourt, AB T7S 1P4

Tel: (780) 778-7178 Fax: (780) 778-7150

www.legalaid.ab.ca

Dial-A-Law

1-800-332-1091 (*toll free*)

www.acjnet.org/dialalaw/alta.html

Calgary

#1800, 639 - 5th Ave. S.W., Calgary, AB T2P 0M9

Tel: (403) 297-2260 Fax: (403) 297-2232

Family Law: 4th Floor, 665 - 8th St. S.W., Calgary, AB T2P 3K7

Tel: (403) 297-6073 Fax: (403) 297-8292

Youth: #600, 444 - 5th Ave. S.W., Calgary, AB T2P 2T8

Tel: (403) 297-4400 Fax: (403) 297-4201

Edmonton

300, 10320 - 102 Ave., Edmonton, AB T5J 4A1

Tel: (780) 427-7575 Fax: (780) 427-5909

Family Law: #700, 10310 Jasper Ave., Edmonton, AB T5J 2W4

Tel: (780) 415-8800 Fax: (780) 427-1536

Youth: 600, 10310 Jasper Ave., Edmonton, AB T5J 2W4

Tel: (780) 422-8383 Fax: (780) 427-9367

Fort McMurray

717, 9915 Franklin Ave., Fort McMurray, AB T9H 2K4

Tel: (780) 743-7356 Fax: (780) 790-9442

Grande Prairie

1301 Prov. Building

10320 - 99 St., Grande Prairie, AB T8V 6J4

Tel: (780) 538-5470 Fax: (780) 538-2520

Lethbridge

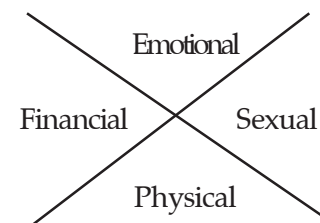
244, 200 - 4th Ave. S., Lethbridge, AB T1J 4C9

Tel: (403) 381-5194 Fax: (403) 382-4460

A. When Things Go Wrong At Home

Home is not always a safe place. For some women it is abusive and terrifying. Every year in Canada at least one woman in ten is abused by her partner.

Statistics show that twenty percent (20%) of all Canadian murders involve one spouse killing the other. Most of the victims are women. Fifty-two percent (52%) of all female murder victims are killed in a home setting. Forty percent (40%) of wife assaults begin when the woman is pregnant.



Abuse can be financial, emotional, sexual, or physical.

"ABUSE IS WRONG"

Financial Abuse

A partner may insist on controlling all the household money to make you more dependent on him. He might make you beg for money. This is known as financial abuse.

Emotional Cruelty

Emotional cruelty is abuse too. Constant insults about the way you dress, talk, or look is emotional abuse. Sometimes, emotional abuse is even more serious. An abusive man may threaten to hurt or kill you or your children, members of your family, or pets. He may destroy property belonging to you or threaten to damage your belongings. He may isolate you from family and friends.

Sexual Abuse

Sexual abuse can happen in a marriage. He might force you to have sex when you don't want to. He might make you do things or say things you don't want to do. You can say "NO!".

Physical Abuse

"Wife battering" and "wife assault" is when physical assault, abuse or injury is involved. Physical abuse can involve pinching, slapping, pushing, punching, kicking, scalding or burning. Sometimes women are even stabbed or shot. Physical abuse is a crime.

This handbook will focus on the kinds of "abuse of women" that are criminal in nature.

What Are the Warning Signs?

You might blame yourself for the way your partner treats you. You may not even admit that your partner is abusing you. But, sometimes there are warning signs that abuse is happening.

If you can answer "yes" to some of these questions, you may be involved with an abusive partner:

- ◆ Does he put you down?
- ◆ Does he think he is always right?
- ◆ Does he decide what you are going to do, where and when you are going?
- ◆ Does he insist on controlling all of the money?
- ◆ Does he often try to tell you how to fix your hair or what clothes to wear?
- ◆ Does he criticize you all the time?
- ◆ Does he get upset when you spend money on your own?
- ◆ Does he say you are too fat, too skinny, ugly, or stupid?
- ◆ Does he call you names?

FAMILY COUNSELLING

Alberta Alcohol & Drug Abuse Commission
Call 310-000 (*toll free*) and ask for the number for your area.

Gambling Help Line
1-800-665-9676

Alberta Family and Social Services / Child Welfare
Call 310-000 (*toll free*) and ask for the number for your area.
1-800-638-0715 (*after hours*)

Child Abuse Hot Line
1-800-387-5437 (*24 hours, toll free*)

Children's Advocate
1-800-661-3446 (*toll free*)

Missing Children's Society
1-800-661-6160

Mental Health Crisis Line
1-888-255-3353

Office for the Prevention of Family Violence
Dial 310-0000 and ask for 422-5916 (*toll free*)

COURTS / POLICE

Court of Queen's Bench
Call 310-0000 (*toll free*) and ask for the number for your area.

Provincial Court
Call 310-0000 (*toll free*) and ask for the number for your area.

Police Services
911 (or look up the correct number in your phone book).

Victim Assistance
Call the police and ask them for the number.

FINANCIAL ASSISTANCE

Alberta & Family Social Services
Call 310-0000 (*toll free*) and ask for the number for your area.

H. Services for Victims

CHILD PROTECTION

Alberta Family & Social Services / Child Welfare
Call 310-000 (*toll free*) and ask for the number for your area.
1-800-638-0715 (*after hours*)

Child Abuse Hot Line - 24 Hour
1-800-387-KIDS (5437)

Children's Advocate
1-800-661-3446

Kid's Help Phone
1-800-668-6868

CRISIS RESPONSE LINES

Suicide/Samaritans Crisis Line
1-800-667-8089 24 Hour (*Toll Free*)

Kid's Help Phone
1-800-668-6868 (*Toll Free*)

Sexual Assault Crisis
1-800-552-8023 (*Toll Free*)

Crisis Management Help Line
1-800-779-5057 (*Toll Free*)

Child Welfare Crisis Line
1-800-638-0715 (*Toll Free*)

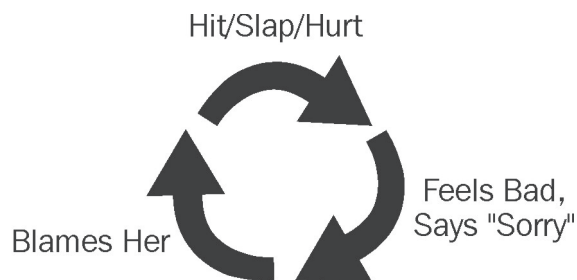
Aids & Sexually Transmitted Disease Information
1-800-772-2437 (*Toll Free*)

- ◆ Does he want you all to himself?
- ◆ Does he get upset when you do things with your friends that do not include him?
- ◆ Does he make you beg for money?
- ◆ Does he insult your work or the courses you take at school?
- ◆ Does he force you to have sex when you do not want to?
- ◆ Does he threaten to hit you?
- ◆ Does he hit or break things when he is angry?
- ◆ Does he ever slap or hit you?

No one has a right to abuse you!



B. The Cycle of Abuse



They almost always have an excuse.

People may not understand why you stay in the abusive situation. There are many reasons why. You may not want to admit to anyone that your partner is hurting you. The abuser may be someone you love. He may support the family or be the father of your children.

Certain situations may trigger the abuse. You may tend to blame yourself... "If only I had not burned the supper. If only I had not bought a dress with a short hemline. If only ..."

Why does he blame me?

The abuser may blame you too. He may think you caused his jealousy or anger. Abusers usually blame somebody else for their acts. Often they drink and blame their abuse on alcohol. They may feel pressured at work and think they can take it out on women. They may believe that women are not equal to men and that men have the right to discipline you. They almost always have an excuse for their actions.

Why does it happen again and again?

Sometimes he feels bad. He says he is sorry and you accept. You believe things will change. Life seems to get better. Tension builds. The next time it happens, the abuse seems worse. Frightened and angry, you leave. Again, he apologizes and you go back. Almost all abused women go back at least once.

TABER

**Taber & District Family Crisis
Intervention Society (Safe Haven)**

Box 4113, Taber, AB T1G 2C6

CRISIS: (403) 223-0483

BUS: (403) 223-0483

FAX: (403) 223-4889

E-MAIL: tabercrisis@hotmail.com

VEGREVILLE

Crisis Association of Vegreville

Box 1022, Vegreville, AB T9C 1S1

CRISIS: (780) 632-7070

BUS: (780) 632-2233

WHITECOURT

Wellspring Family Resource and Crisis Centre

5116 - 51 Avenue, Whitecourt, AB T7S 1A1

CRISIS: 1-800-467-4049 (toll-free) or (780)-778-6209

BUS: (403) 778-6209

FAX: (403) 778-2410

E-MAIL: wellsprg@telusplanet.net



ROCKY MOUNTAIN HOUSE

Mountain Rose Women's Shelter Association

Box 325, Rocky Mountain House, AB T4T 1A3

CRISIS: 1-888-456-5643 or (403) 845-4141

BUS: (403) 845-5339

FAX: (403) 845-2124

E-MAIL: mrws@telusplanet.net

ST. PAUL

Columbus House of Hope

P.O. Box 1237, St. Paul, AB T0A 3A0

CRISIS: 1-800-263-3045

BUS: (780) 645-5132

FAX: (780) 645-1966

E-MAIL: crisis84@telusplanet.net

SHERWOOD PARK

A Safe Place (Strathcona Shelter Society)

P.O. Box 3282, Sherwood Park, AB T8A 2T2

CRISIS: (780) 464-7233 or 1-877-252-7233 (toll-free)

TEL: (780) 464-7232

FAX: (403) 467-3511

E-MAIL: safeplce@telusplanet.net

STRATHMORE

Community Crisis Society

P.O. Box 2162, Strathmore, AB T1P 1K2

CRISIS: 1-877-934-6634

BUS: (403) 934-6643

FAX: (403) 934-6661

E-MAIL: ccs-reg5@telus.net

When he is not beating you, he may be very loving and caring. But each time you return the abuse may get worse. It happens more often. You may feel trapped and alone.

Am I the only woman going through this?

You may feel you are the only person in the world who is beaten or humiliated by your partner. You may be too afraid or too ashamed to even tell your friends or get help. You may be especially afraid if you have tried to leave before. Your fear gives him the power to control you.

What can I do?

You have three basic choices:

1. Accept the relationship and live with it.
2. Stay in the relationship and try to make changes.
3. Leave the relationship and get on with life.

CHOICE #1: ACCEPT THE RELATIONSHIP

You may stay in an abusive relationship. Out of love or fear, money concerns or other reasons, you give in to your partner. You learn to live with the abusive relationship.

What should I be prepared for?

Living with abuse is a dangerous choice. If you choose to stay, there are a few things that you should know:

- ◆ Ignoring his insults or hoping that things will get better some day does not work. Chances are, things will get worse.
- ◆ Many women living in abusive relationships end up being killed, committing suicide or killing their partner.
- ◆ If you stay in a abusive relationship, your children may suffer.
- ◆ If you stay, please remember: you never deserve to be beaten or abused.
- ◆ Most abuse is a crime. No one has the legal right to hurt you.

What about the children?

Children living in abusive situations may be emotionally or physically abused themselves. Children who see their father abuse their mother are often anxious and confused. They may even lose respect for their mother.

Boys often become aggressive while girls become withdrawn. Later on in life, girls may find themselves in abusive situations and boys may grow into abusive men.

What are my responsibilities?

- ◆ Your children may not be victims of abuse themselves, but you must keep them safe. If you do not take steps to protect your children from an abusive situation, the government (Child Protection Services) can take them from your custody and put them in protective care.

CHOICE #2: CHANGE THE RELATIONSHIP

You may decide to stay with your partner and try to make changes. Keep the following in mind.

Can I change him?

- ◆ Just because he keeps saying “sorry” and promising he will change, does not mean he will. When you go back to him he has no more reason to change. Some men make this promise just to keep their partners.

How will I know if he is ready to change?

- ◆ He must do *three things* before change is possible:
 - He must admit that the way he treats you is wrong.
 - He must decide that he needs help.
 - He must be willing to go for counselling for a long time to unlearn his behaviour.

Will I or my children need counselling?

- ◆ Yes. You will need to learn to live without abuse and how to respect yourself. Joining a support group with other women who have been abused may help you to find the strength to live your own life.

MEDICINE HAT

Phoenix Safe House

Box 2500, Medicine Hat, AB T1A 8G8
CRISIS: 1-800-661-7949 (toll-free) or 529-1091
BUS: (403) 527-8223 or 528-8149
FAX: (403) 526-0209 or 529-8934
E-MAIL: pshouse@shaw.ca

PEACE RIVER

Peace River Regional Women's Shelter Society

CRISIS: 1-877-624-3466 (toll-free)
BUS: (780) 624-3466
FAX: (780) 624-1469
E-MAIL: prrws@telusplanet.net

PINCHER CREEK

Pincher Creek Women's Emergency Shelter

Box 2092, Pincher Creek, AB T0K 1W0
CRISIS: 1-888-354-4868
BUS: (403) 627-2114
FAX: (403) 627-4808
E-MAIL: pcwesa@telusplanet.net

RED DEER

Central Alberta Women's Emergency Shelter

P.O. Box 561, Red Deer, AB T4N 5G1
CRISIS: 1-888-346-5643 (toll-free)
BUS: (403) 346-5643
FAX: (403) 341-3510
E-MAIL: cawes@telusplanet.net

LAC LA BICHE

Hope Haven Women's Shelter

P.O. Box 2168, Lac La Biche, AB T0A 2C0

CRISIS: (780) 623-3100

BUS: (780) 623-3104

FAX: (780) 623-2094

E-MAIL: hhaven@telusplanet.net

LETHBRIDGE

YWCA Harbour House (YWCA of Lethbridge & District)

604 - 8th Street S., Lethbridge, AB T1J 2K1

CRISIS: (403) 320-1881

BUS: (403) 329-0088

FAX: (403) 327-9112

E-MAIL: harbourhouse@ywca.lethbridge.org

Native Women's Transition Home Society

Box 1448 Lethbridge, AB T1K 4K2

CRISIS: (403) 329-6505

BUS: (403) 329-6141

FAX: (403) 329-0285

E-MAIL: nwths90@hotmail.com

LLOYDMINSTER

Lloydminster Interval Home

P.O. Box 1523, Lloydminster, AB S9V 1K5

CRISIS: (780) 875-0966

BUS: (780) 808-5282

FAX: (780) 875-0609

E-MAIL: lihsi@telusplanet.net

Your children will need help and counselling to see that abuse is the wrong way to solve problems.

What if nothing changes?

- ◆ Be prepared. Change will not happen overnight. It takes a long time. Remember, the situation might even become abusive again. You should be prepared for this possibility. Know your rights and plan an escape route.

"Plan an escape route"

CHOICE #3: LEAVE!

You have the right to live a life free of abuse. You can decide to be free of the abuse by getting out of the relationship and getting on with your life. When you do this, you will probably need legal advice.

The information in this handbook can help you to understand more about the law.

What steps can I take when I'm ready to leave?

If you are thinking about leaving your abusive partner, you should try to set up an escape plan.

- ◆ Make sure you have important documents set aside
- ◆ Save money in secret if you can
- ◆ Find a safe place to go: friends, shelter, family
- ◆ Keep extra keys and clothes with friends
- ◆ Secure transportation
- ◆ Work out a signal system with a friend
- ◆ Go when he is gone
- ◆ Don't tell him you are leaving
- ◆ Create an excuse to slip away

Should I take any papers or documents with me?

Even before you are ready to leave, try to collect and copy the following documents and keep them in a safe place.

- Alberta Health Care and Social Insurance Cards
- Driver's license and registration
- Credit cards and bank card
- Personal identification (including picture ID)
- Birth certificates
- Immunization card for the children
- Treaty Card (if applicable)
- Court orders about protection, children or child support
- Personal chequebook
- Last banking statement
- Mortgage papers

Should I plan to take any personal items with me?

When leaving an abusive situation you should try to take personal items such as:

- Prescribed medication
- Personal hygiene products
- Glasses/contact lenses
- Money (if possible)
- Clothing (night wear, underwear)
- Heirlooms, jewelry
- Photo albums (pictures that you want to keep)
- Craft, needle work, hobby work
- Children's items such as soothers/bottles, clothing, special blanket and/or toy

GRANDE PRAIRIE

Odyssey House
(Grande Prairie Women's Residence Association)
Box 1395 Grande Prairie, AB T8V 4Z2
CRISIS: (780) 532-2672
E-MAIL: admin@odysseyhouse.ca

HIGH LEVEL

Safe Home, A Project of the
Northwest & Alberta Resource Society
P.O. Box 396, High Level, AB T0H 1Z0
CRISIS: 1-888-926-0301 (toll-free) or (780)-926-3899
BUS: (780) 926-2277
FAX: (780) 926-3874
E-MAIL: safehome@telusplanet.net

HINTON

Yellowhead Emergency Shelter Society for Women
P.O. Box 6401, Hinton, AB T7V 1X7
CRISIS: 1-800-661-0937 (toll-free) or (780) 865-5133
BUS: (780) 865-4359
FAX: (780) 865-7151
E-MAIL: yeswomen@shaw.ca

HOBBEMA

Ermineskin Women's Shelter
Box 1830, Hobbema, AB T0C 1N0
CRISIS: (780) 585-4444
BUS: (780) 585-4470
FAX: (780) 585-3636
E-MAIL: ews@incentre.net

ENILDA

Sucker Creek Women's Emergency Shelter

P.O. Box 231, Enilda, AB T0G 0W0

CRISIS: (780) 523-4357

BUS: (780) 523-2929

FAX: (780) 523-4940

FAIRVIEW

Crossroads Resource Centre

P.O. Box 1194, Fairview, AB T0H 1L0

CRISIS: (780) 835-2120 or 1-877-835-2120 (toll-free)

BUS: (780) 835-2129

FAX: (780) 835-2047

E-MAIL: crossrds@telusplanet.com

FORT CHIPEWYAN

Mikisew Cree First Nation (Paspew House)

Box 90, Fort Chipewyan, AB T0P 1B0

CRISIS: (780) 697-3323

BUS: (780) 697-3329

FAX: (780) 697-3608

E-MAIL: paspew@telusplanet.net

FORT McMURRAY

Unity House (Fort McMurray Family Crisis Society)

P.O. Box 6165, Fort McMurray, AB T9H 4W1

CRISIS: (780) 743-1190

BUS: (780) 743-4691

FAX: (780) 791-5560

GRANDE CACHE

Grande Cache Transition House

P.O. Box 1242, Grande Cache, AB T0E 0Y0

CRISIS: (780)-827-3344

BUS: (780) 827-3776 FAX: (780) 827-2204

E-MAIL: teahouse@telusplanet.net

"You have the right to live a life free of abuse"

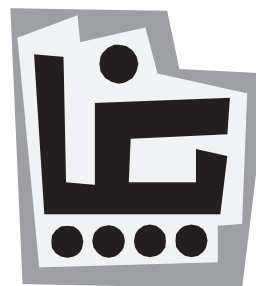
Her Story...

I got married when I was 20 years old. He was the perfect husband. He didn't start hurting me until I was pregnant. He called me "fat and disgusting". He said he was only joking. I knew he wasn't. I quit work when the baby was born. He told me I had to. He said I should be able to live on the baby allowance. I had to start sneaking his money.

I remember the first time he hit me. He was drunk. He said he was sorry the next day. I forgave him. He told me he would never hit me again. One night the baby was sick. The crying kept my husband awake. He said it was my fault the baby was crying. I should have taken better care of the baby. It happened again: he hit me!

This time I went to the hospital. Then I took the baby and moved in with Mom. He called to say he was sorry and came to pick us up.

He just hit me. It's happening again...



And then the day came
when the pain it took to hang on
was far greater
than the pain it took to let go...



C. In Times of Crisis

Leaving during a crisis is important for your survival. You should always get away from a dangerous situation. Here are some answers to questions you might have.

What can I do if my partner is hurting me?

You should make an escape plan (see page 12). Keep an extra set of car keys and put them in a safe place. Try to have some money put away for an emergency. Know the phone numbers of the police, taxi companies and women's shelters.

If your partner physically attacks you and you cannot get away or defend yourself, scream loudly, fall to the floor, curl yourself into a ball with your knees up and your head covered with your arms. Always think about your safety and that of your children.

Should I call the police?

Yes. If your partner beats you up, hurts you or threatens you, call the police. If you are in danger you may have to get away first and call the police from a neighbour's or friend's home. If you are in an urban area, phone "911". If there is no "911" number, phone the police directly. If you are in a rural area, phone the RCMP.

If you are hurt, get to a hospital immediately and tell them exactly what happened. Ask them to take colour photos of your injury so that you have evidence of the assault.

Should I report threats?

You should also call the police if your partner is threatening to throw you out of the house, beat you up, or kill you or your children. Threatening to hurt or kill somebody is a form of assault and it is against the law.

The law cannot solve family problems, but it does give some help when your partner is abusive. Until you report such abuse to the police, the law cannot help.

COLD LAKE

Dr. Margaret Savage Crisis Centre

P.O. Box 419, Cold Lake, AB T9M 1P1

CRISIS: (780) 594-3353 or (866) 594-0533

BUS: (780) 594-5095

FAX: (780) 594-7304

E-MAIL: crisis@telusplanet.net

DESMARAIS/WABASCA

Bigstone Cree Nation Women's Emergency Shelter

P.O. Box 900, Wabasca, AB T0G 2K0

CRISIS: (780) 891-3333

BUS: (780) 891-3905

FAX: (780) 891-3918

E-MAIL: bcn_jan_glad@yahoo.ca

EDMONTON

Edmonton Women's Shelter Ltd. (WIN House)

3825 - 118 Avenue, Edmonton, AB T5W 5E6

CRISIS: (780) 479-0058

BUS: (780) 471-6709

FAX: (780) 479-8252

E-MAIL: ewsed@telusplanet.net

WEB: www.winhouse.org

Lurana Shelter

P.O. Box 39030, Norwood P. O., Edmonton, AB, T5B 4T8

CRISIS: (780) 424-5875

BUS: (780) 429-2002

FAX: (780) 426-3237

E-MAIL: director@luranashelter.com

CALGARY, cont'd

Calgary Women's Emergency Shelter

P.O. Box 52051, Edmonton Trail N.E., Calgary, AB T2E 8K9

CRISIS: (403) 234-7233 / TTY CRISIS: (403) 262-2768

BUS: (403) 539-5124

FAX: (403) 237-7728

E-MAIL: maryanns@cwes.calgary.ab.ca

Kerby Centre - Seniors Shelter

1133 - 7th Avenue S.W., Calgary, AB T2P 1B2

CRISIS: (403) 705-3520

BUS: (403) 265-0661

FAX: (403) 705-3242

E-MAIL: shelter@kerbycentre.com

Sonshine Community Services

Box 34067, RPO Westbrook T3C 3W2

BUS: (403) 243-2002

FAX: (403) 287-2194

WEB: www.sonshine.ab.ca

YWCA of Calgary and Sheriff King Home

2003 - 16 Street S.E., Calgary, AB T2G 5B7

CRISIS: (403) 266-0707 (24-hour)

BUS: (403) 294-3660

FAX: (403) 262-1743

E-MAIL: sheriffk@ywcaofcalgary.com

CAMROSE

Brigantia Place

P.O. Box 1405, Camrose, AB T4V 1X3

CRISIS: (780) 672-1035 / program 672-1045

FAX: (780) 672-9885

E-MAIL: bpexec@cable-lynx.net

When should I call the police?

If you feel unsafe, threatened or if your partner hits you, you should call the police **as soon as possible**.

The longer you wait, the more difficult it is to investigate a crime. The sooner you report an assault or threat to the police, the easier it is for them to collect the evidence needed to prove a charge.

I have nowhere to go. How can I leave?

Getting away from abuse may be easier said than done. You may be afraid. You may have no money, no vehicle, and no one to turn to for support.

Help is available. A number of services and support agencies can help you. For more information about these, see **Section VII** of this handbook.

Where can I go?

When you do decide to leave, you will probably need help for awhile. You may need a safe place to sleep and eat, while you decide what to do. You and your children can go to a friend's place, to the home of a family member, or to a transition house or emergency shelter. Staff at the shelter can help you through a time of crisis.

Are shelters free?

Transition houses and emergency shelters are free of charge. Go there and stay for awhile to think about what you are going to do. If you can, try to take a few of your children's favorite toys and blankets. If possible, take some money and I.D. for yourself and the children and some of your own clothes and toiletries.

If you have to leave in a hurry, don't worry. Shelters have a temporary supply of clothes and articles like diapers, toothpaste and toys, that you and your children may need. Worry about who will feed the dog and other concerns once you get to safety. The staff at the transition house may be able to help you go back to your home to retrieve your

belongings when it is safe, for example, in the company of a police officer.

What if the shelter is full?

If the transition house is full and you have no where to stay contact the Family and Community Support Services. As an abused woman, you may be able to get help to pay for accommodation at a hotel and basic living expenses.

What about my children?

You are responsible for the safety of your children. You must take your children away from a clearly established situation of family abuse. If you do not, child protection officials have the right to take them away from you and put them in protective care.



G. Emergency Shelters & Transition Homes

BANFF

YWCA of Banff

P.O. Box 520, Banff, AB T1L 1A6
TEL: (403) 762-3560 or (403) 762-3560
FAX: (403) 760-3234
E-MAIL: crc@ywcabanff.ab.ca

BLACK DIAMOND

Eagle Women's Emergency Shelter

Box 610, Black Diamond, AB T0L 0H0
CRISIS: (403) 933-3370
BUS: (403) 933-3370
FAX: (403) 933-3307
E-MAIL: rowanhouse@nucleus.com

BROOKS

Cantara Safe House

Box 1045, Brooks, AB T1R 1B8
CRISIS: (403) 793-2232
BUS: (403) 362-2766
FAX: (403) 793-8288
E-MAIL: bdwsss@shaw.ca

CALGARY

Awo Taan Native Women's Shelter

Box 6084, Stn. A., Calgary, AB T2H 2L3
CRISIS: (403) 531-1972
BUS: (403) 531-1970, ext. 202
FAX: (403) 531-1977
E-MAIL: awotaan@awotaan.org

What if my partner and I were not married?

If you and your partner were living together but were not married, you may be able to make an application in court for adult interdependent partner support, parenting time or guardianship of a child.

Contact legal aid or a private lawyer. You may also contact the Family Court Worker at Provincial Court who can give you free assistance in getting a court order.

Children are always entitled to support from their parents regardless of whether the parents are married or not.

What about splitting up our property?

If you are separating from or divorcing your spouse, you can apply to the court to have any of the property (the home, household goods, money, personal investments, pensions, automobiles, recreational vehicles, etc.) divided between you and your former partner.

How will the property be split up?

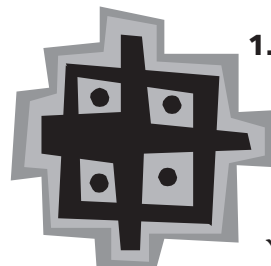
This may be done in two ways. The marital property may be sold and the proceeds divided evenly, or the spouse who possesses more of the marital property may make an equalization payment to the other spouse.

The court can divide marital property unequally, if a spouse can prove to the court that the division should be unequal. The fact your partner abused you is not a reason for the court to divide property unequally.

What happens if we were not legally married?

The legislation concerning division of marital property does not apply to unmarried couples. An unmarried woman would have to consider other legal remedies to get a share of the property that she and her boyfriend owned. Talk to your lawyer about your options in these circumstances.

D. Protecting Yourself: Legal Actions



1. EMERGENCY PROTECTION ORDERS

He's getting abusive again. I just want him out of the house until he calms down or sobers up. Can the police do something?

Yes, in some cases of abuse, the police can apply for an Emergency Protection Order (EPO). Police can get an EPO at any time of day or night (24 hours a day) with just a phone call to a judge or justice of the peace.

How can the Emergency Protection Order help me?

You can get an Emergency Protection Order very quickly and without laying any charges. This order can say that your abusive partner:

- ◆ must temporarily leave the home
- ◆ cannot contact other family members
- ◆ cannot come near their home, workplace or school

The order may also give police authority to help a family member remove personal belongings from the home or take away guns, knives and other weapons.

How long does the Emergency Protection Order last?

An EPO is a temporary solution only. It remains in place until it is reviewed at Court of Queen's Bench. A review must be scheduled within seven working days of granting the order. The time for the review will appear right on the Emergency Protection Order.

What happens at the review?

At the review, you will have to swear an affidavit (written evidence) under oath. A Court of Queen's Bench justice (judge) will then decide: to end the Emergency Protection Order; to hold a hearing; to confirm the order; or to make a new order.

Any protection order coming out of the review is called a Queen's Bench Protection Order. It can be in force for up to one full year and be extended a further one-year period.

As the victim, you will be represented at the review by a lawyer appointed as duty counsel by Legal Aid.

2. QUEEN'S BENCH PROTECTION ORDER

What does a Queen's Bench Protection order do?

A Queen's Bench Protection Order can contain the same things as an Emergency Protection Order, plus some additional requirements. A Queen's Bench Protection Order may prohibit your partner from contacting you, may require him to leave the family home and/or may assist with the removal personal belongings.

In addition, the order may:

- ◆ require your partner to pay back the financial losses you suffered as a direct result of the abuse
- ◆ allow you to temporarily possess certain personal property and prohibit either you or your partner from dealing with personal property
- ◆ require your partner to post a bond to make sure he complies with the terms of the order
- ◆ require your partner or other family members to receive counselling

How can I get a Queen's Bench Protection Order?

If you already have an Emergency Protection Order, then you can get a Queen's Bench Protection order after a review by a justice. If you do not have an Emergency Protection Order, you can apply for the Queen's Bench Protection Order at the Court of Queen's Bench. It is a good idea to have a lawyer to help you.

To find a lawyer, look in the listings in the yellow pages, call Legal Aid, or ask friends to recommend someone.

Because of the very specific requirements of the agreements, it usually is best to get a court order for spousal and child support. If you and your former partner agree, you can get a court order by consent, meaning that you and your partner agree on all of the terms of the order and the judge reviews it to make sure it is in the best interests of the children. If the judge agrees it meets the best interests of the children and the other legal requirement, he or she will sign it.

Will he have to pay support if I go on income assistance?

If you are applying for income assistance after separating from your partner, a financial worker from the Department of Family and Social Services will try to help the two of you reach an agreement about support. If an agreement cannot be reached, your financial worker will arrange for an application to be made for a court order for support payments. Ask your financial worker for more information about this.

What if my former partner does not make support payments?

If your former partner is not making support payments, you can register with the **Maintenance Enforcement Program** to collect the payments from your partner.

The Maintenance Enforcement Program is a government that enforces and collects child and spousal support for those who register with the program. The service is free.

Every court order has a clause about enforcing the support payments through this program with information on how to register for it.

The Maintenance Enforcement Program will only collect child and spousal support from court orders or properly prepared and filed agreements under the *Maintenance Enforcement Act*.

Contact the courts or the government of Alberta, Maintenance Enforcement Program, to register for this program.

provide for the basic needs of persons who are unable to do so themselves. Be sure to ask about other community agencies who can offer emergency and supportive services.

Will I get financial support from my former partner?

Parents have a duty to provide financial support for their children. If you have the children in your care the majority of the time, your former partner must pay you child support. You may be entitled to claim spousal support or adult interdependent spousal support (if you are not married), but you will be encouraged to become financially independent in a reasonable period of time.

Will I have to go to court to get support?

It may not be necessary to go to court. Former partners can come to their own agreements about who will pay child, spousal or adult interdependent partner supports and about the amount of the payments. Such an agreement should be set out in a contract.

For this type of contract, you and your former partner will need advice from an independent lawyer. You should then have the contract put into a consent court order.

If you are leaving the home because of abuse, it may not be possible to get such an agreement. In such a case, you may try mediation, collaborative law or you may have to go to court.

The agreements for child support must follow a very specific format and must be filed with the Court to be enforceable by the Maintenance Enforcement Program.

Agreements for spousal support may be enforced by the Maintenance Enforcement Program if they follow a very specific format required by the Maintenance Enforcement Act. You and your former partner will each need advice from an independent lawyer for this agreement to be legally binding.

How much will it cost?

There is no cost for reviewing an Emergency Protection Order, but if you have to get a Queen's Bench Protection Order on your own, some costs may be involved.

If you have concerns about the cost, be sure to discuss this with your lawyer. You may also be eligible for Legal Aid.

What kind of information will the court need?

The court needs to know why you require protection before they can limit your partner's freedom. You will have to fill out an Originating Notice and an affidavit and swear that its contents are true.

Try to have a record of when and how you or your children have been abused and whether the police were involved. You may also have medical or counselling records. Think about whether there are any witnesses, such as family and friends, who could give evidence.

Will my partner know about the protection order?

Yes. Your partner must be notified. The documents you fill out will be served on your partner so he knows when to go to court, what conditions you are asking for and the reasons why you are asking for the order. Your partner will also be able to make a statement and swear an affidavit.

If your partner does not show up in court, you have to take steps to make sure he is served with the order.

What if my partner breaks the terms of the order?

If your partner does not follow the order you should call the police. Breaking the terms of a court order is contempt of court and may be punished by a fine or imprisonment.

What about peace bonds and restraining orders?

Peace bonds and restraining orders are two other types of court orders you may use to keep your abusive partner away from you. They do not give you as many different terms as a Queen's Bench Protection Order but might work for you.

The police or your lawyer can give you advice on which type of order will work best for you.

What is the main difference between these orders?

A Restraining Order is granted by the Court of Queen's Bench, the same court that can grant a Queen's Bench Protection Order, divorce, custody, and child support. You normally will need a lawyer to help you get a Restraining Order.

A Peace Bond is granted by the criminal court, the court that deals with criminal offenses such as assault or harassment. Police officers can get a Peace Bond for you.

Which order will work best for me?

Either order will keep your partner away from you. Which order you choose will depend on your situation.

If you have left an abusive home with your children and are seeking a custody order, it would make sense to ask for a restraining order at the same time.

The Peace Bond can keep your partner away from you and your children, but cannot order some of the things about property that an Emergency Protection Order can.

The Restraining Order also keeps your partner away from you and your children, but does not give you all the terms that an Emergency Protection Order can.

Peace bonds and restraining orders are enforced by the police, just like an Emergency Protection Order.

The police or your lawyer can give you advice on which type of order will work best for you

How are peace bonds and restraining orders different from a Queen's Bench Protection Order?

A Queen's Bench Protection Order can have more conditions than other orders. Like peace bonds and restraining orders, the protection order prevents your partner from contacting you and requires him to leave the family home. But a protection order can also set other terms that may help you (see page 20).

What if I can't afford my own place?

If you are on income assistance or you cannot find affordable housing, you may qualify for government-subsidized housing. Staff at transition homes and shelters can help you contact the local Housing Authority.

Government-subsidized housing helps people on low incomes find affordable housing through various programs. Your application for subsidized housing will be assessed on a needs basis.

Do women in transition homes get priority for subsidized housing?

The Housing Authority in your city will assess the urgency of each request. Abused women may be given high priority on the waiting list for subsidized housing.

Available housing depends on the vacancy rate in your area. If no housing is available, contact the nearest Housing Authority to find out how long you might have to wait.

How will I support myself?

When you leave your home, try to take your money, documents and any valuables you own with you. If you require further money to support yourself or your children, you should be very careful about using any source of funds, including bank accounts, savings, investments, credit cards, lines of credit, etc. These are considered assets and debts of the relationship and you must fully account for the use of these, even if they are in your sole name.

If any income is normally mailed to you at your house, such as family allowance cheques, notify the sender that your address has changed. Arrange to pick up the cheques or have them sent to an address where they will be safe. If you are not employed, you may have to look for work and/or job training.

What if I do not have enough income to live on?

When you separate from your partner, you may have money problems. If you are unable to pay for your basic needs you should contact the local regional office of the Department of Social Services. This Department has the responsibility to

Can I get a divorce?

Divorce can occur in three situations: after separation for one year; in the case of adultery; or in the case of physical or emotional cruelty.

You can apply for a divorce even if you have not been separated for one year. Almost all people get a divorce on the basis of one-year separation. You do not actually have to live apart to be considered separated.

What is cruelty under the law?

It is difficult to describe all of the conduct that may be considered cruelty. Most forms of abuse would qualify. Something which is not a criminal offence may still be grounds for divorce.

Generally, if one spouse causes the other physical or emotional pain so that living together becomes unbearable, the other spouse may be able to end the marriage on the basis of cruelty. Grounds of emotional cruelty must be clearly proven and are hard to prove without the co-operation of the other spouse or a criminal conviction.

What if I cannot afford a lawyer?

An abused woman in financial need may be able to get legal aid. Contact Legal Aid to make an appointment (see listings on page 54-55).

If you are not eligible for legal aid, a lawyer will sometimes take his or her payment from the final property settlement if there is a separation or divorce involved.

Where will I live?

When you leave an abusive home, you will need to find short-term living arrangements. Transition homes and shelters for abused women and their children provide temporary solutions. Most emergency shelters expect your stay to be temporary. You should try to find other permanent place to live as soon as possible after you leave your partner.

3. RESTRAINING ORDERS

How can I get a restraining order?

You have to apply to the Court of Queen's Bench for a restraining order. You can also apply for a custody, spousal, or child support order at the same time.

You can apply on your own, but you may want to get help from a lawyer who practices family law. If you want to get the order on your own, call Victim's Assistance or the police for advice on how to do that.

How long does it take to get a restraining order?

It does not take long. An application can be made within 24 hours of you meeting with a lawyer.

What kind of evidence will the court need to grant a restraining order?

As with a Queen's Bench Protection Order, you need to show the court why you need protection. Evidence is needed in order for the court to restrict the freedom of another person.

What kinds of things can be put in the order?

The order should include whatever is necessary to keep you and your children safe. For example: The order should mention all the places in which you want to prohibit your abuser from contacting you, such as home, work, and anywhere you spend time on a regular basis. You may also want to state no contact by phone.

If the order is to prevent your abuser from seeing your children, it should prohibit him from being at their school or day care. Visitation rights should spell out time and/or place.

The order should state that the police "**shall**" make an arrest if the abuser does not follow the terms of the order. If the order only says "**may**" make an arrest, then police are not required to do so.

How long does a restraining order last?

Usually, an order will be made for six months to one year. If necessary, it can be renewed when it expires. In rare cases, a restraining order can last indefinitely.

Can a restraining order prevent his family and friends from harassing me?

You may request that the restraining order be issued against more than one person. The court needs clear evidence that this is necessary. You will need to show the court why other people should be prevented from contacting you or your children.

These other people normally must be given notice of your application for a restraining order and given an opportunity to respond. As well, They must be served with a copy of the restraining order.

What should I do with my copy of the order?

You should keep a copy with you at all times. If your abuser tries to contact you or see you, you will be able to show the police that the order has been violated. If the order includes provisions about your children, you should leave a copy with their school principal or daycare provider.

4. PEACE BONDS

What exactly is a peace bond?

A peace bond is an order made by a criminal court. It orders a person who has been harassing or abusing you to keep the peace and be of good behaviour.

A peace bond can order a person not to contact you or your family and to keep a certain distance from your home, school and workplace. A judge may also set extra conditions, such as prohibiting your abuser from carrying a weapon.

daycare and other places where you take your children so that others are aware of the situation.

Is there anything I can do to prevent him from taking the kids out of the country?

If you think he might try to take the children out of the country before a custody hearing, call your Passport Office (External Affairs) or border crossing and ask that the childrens' names be put on a *passport control list* so that they will not be issued a passport. If they already have a passport you may contact border crossings you think that he may try to cross with the children.

Will my partner get to see the children?

The court usually feels that it is best for children to have as much contact as possible with both parents. It is very rare for the court to deny a parent access altogether unless there is strong evidence that the parent has abused the child. Access can be supervised in cases where the court does not wish to deny access altogether.

What if he harasses me?

If you are concerned about your former partner harassing you when he picks up or drops off the children for visitation, you may be able to get a restraining order, an order where someone else picks up or drops off the children, or that the exchanges happen in a public place.

Your former partner may agree to an order not to harass, molest or otherwise interfere with you while he has his parenting time. If the court gives your former partner parenting time with the children, you cannot prevent him from seeing them.

If you fear for your safety or the safety of your children, you should talk to the Crown Prosecutor, police or your lawyer.

If you are the parent who does not have primary care, you still have a right to see your children unless the court has refused or limited visitation rights. You also have a right to get information about your children.

F. Making a New Life



If I leave, will I be deserting my partner? Will I lose the house and my kids?

No. Everyone, including a battered woman, has the right to leave a partner at any time. You do not have to wait until you are hurt.

If you leave your partner because of abuse, or for any other reason, you are not legally deserting him and you do not lose any rights to custody, division of property or support payments for you or your children.

Can I get primary care of the children?

If you and your partner cannot agree about parenting time and decisions regarding the children, you should discuss your options with a lawyer. Your best option may be: mediation, collaboration, law or court. An experienced family law lawyer will be able to help you make the best choice for you and your children.

What if I am unable to care for my children?

If you have been in the hospital or unable to care for the children for other reasons, you can explain this to the court. You should find a family law lawyer who can explain the law to you. Even if you do agree about the custody arrangements, make sure to write it out in a formal separation agreement.

What if I am afraid that he will kidnap the children?

If you think your partner might want to take the children away and you don't have a custody or parenting time order, you should *apply immediately for a court order*. Contact the Provincial Court or the Court of Queen's Bench in your area. Carry a certified copy of your order with you at all times. As well, leave a copy with officials at the school or

How do I get a peace bond?

To get a peace bond, go to the police and tell them why you are worried about your safety. The police will give you a file number. Then go to the criminal court to make an appointment with the judge. The police or clerks at the court might be able to help you with the paperwork.

How long does it take to get a peace bond?

Depending on the court schedule in your area, it may take two to thirteen (2-13) weeks for your court appearance to be booked. Your partner will get a notice to appear in court.

What if I need a peace bond right away?

If your partner agrees to a peace bond or if the court decides there are reasonable grounds for your fear, a peace bond can be issued immediately. If your partner does not agree, the judge may order a hearing at a later date. In that case, you will have to appear in court to give evidence.

Will my partner be notified that I am applying for a peace bond?

Normally, the court requires people to be present when it is making an order that affects them. Your partner will be served with a summons to attend court. If he does not show up, the court can issue a warrant for his arrest or order a peace bond without him. If your abuser does show up, he may dispute your claims.

What kind of evidence does the court need?

You will have to show that you believe this person will cause injury to you or your children or damage your property. The court needs evidence as to why you fear for your safety.

As with a restraining order, try to have a record of when and how you and your children have been abused and whether the police were involved. You may also have medical or counselling records. Think about whether there are witnesses (family, friends, etc.) who could give evidence.

How long does a peace bond last?

A peace bond lasts for no longer than 12 months. You should keep your copy of the order with you at all times and inform others about it (employers, security officers, your children's teachers, etc.) so they can help keep you safe.

His family and friends have been harassing me. Can a peace bond keep them away from me?

Yes, a peace bond can be applied to others, but you must show the court that these people are threatening your safety. In obtaining a peace bond, the same procedures apply to these other people as for your partner.

Keep in mind that harassment is a criminal offense, even when there is no court order.

5. GENERAL CONCERNS

What if my partner keeps harassing me or calling me after the order or peace bond has been issued?

Call the police and tell them if any condition is broken. Breaking a peace bond is a criminal offense for which the offender can be arrested and charged. If you do not ask the police to take action, the order is useless.

Remember that harassment is a criminal offense even if no order is in place. If someone is harassing you by repeatedly visiting, calling or writing to you or doing something that threatens you or your family, that is harassment. You should report this kind of behaviour to the police.

Will my partner have a criminal record if I get a peace bond, protection order, or restraining order?

As long as your partner co-operates with the peace bond and its conditions, he will not have a criminal record. But if he is convicted for breaking a peace bond he will have a criminal record.

- ▶ pain and suffering
- ▶ emotional anguish caused by the crime
- ▶ counselling relating to the crime

Please be aware that compensation may be available in the form of counseling for the you and your family.

Can I get compensation for damage to my personal belongings or property?

Sometimes the court will order an offender to pay restitution. In that case, the offender would be required to compensate you for damage to property, etc.

If you want restitution in a criminal case, you should talk to the Crown Prosecutor in the case. If the restitution order is made in a criminal case, you will not have to pay for legal proceedings. This will save you the expense of taking civil action later.

What if restitution is not ordered?

Usually, you have to sue the offender in a civil action in order to get compensation for damage to property. You will probably need to hire a lawyer. If you win the case, you may be awarded an amount of money as damages. Nobody goes to jail. Be aware that you will have to collect the damages (money) from your former partner. That might take a long time.

If the amount of damages is less than \$25,000.00, you sue in the Provincial Court which is relatively quick and inexpensive. If the amount of damages is more than \$25,000.00, then you will sue in the Court of Queen's Bench, which is a more expensive and complicated process.

Talk about victim impact statements with a Victim Services Advocate and the Crown Prosecutor.

What should I include in my victim impact statement?

If you have reason to believe that your partner will harm you again make sure to say so in your victim impact statement. Or, if you wish your partner to receive mandatory counselling, you should say so. Your statement is filed with the court, the Crown Prosecutor and the defense lawyer. The judge will give it consideration in sentencing the offender.

If the police do not lay a charge, what can I do?

If the police have not been able to gather enough evidence against the accused, in consultation with the Crown Prosecutor, they may decide not to lay a charge.

However, you do have the right to lay a charge yourself. You can do this by going to a provincial court judge and giving your information in writing and under oath. You should contact a lawyer to discuss such an action, which is called a *private prosecution*. Where the action is justified, the Crown may allow the private prosecution to go ahead or it may take charge of the prosecution itself.

Can I get compensation for injuries I suffered when my partner assaulted me?

The Victims of Crime Financial Benefits Program helps people who are victims of abusive crimes. Compensation may also be available through the Protection Against Family Violence Act. You can also sue the offender in civil court. Ask the police or Legal Aid for more information.

What kinds of things may be compensated?

Monetary compensation may be available for:

- ◆ non-insured medical injuries
- ◆ replacing false teeth or eyeglasses
- ◆ loss of earnings
- ◆ loss of support for children or other dependents

Am I allowed to see my partner after I get a protection order, peace bond or restraining order?

If you want to see the person after an order has been issued, talk to the police or the Crown Prosecutor first. Ask that the order be changed to allow the person to respond if you contact him.

Do not ask the person to see you unless the order has been changed or has run out. Otherwise you yourself will have broken the agreement and your abuser may be able to apply to the court to have the order lifted. You could also be charged by the police or found in breach of a court order.

Do these court orders work?

Court orders can be useful, but they are not a perfect solution. Court orders may discourage your partner from further threats or assaults. If your partner breaks the order or tries to hurt you, your children or your property, the police can arrest him.

What are the problems with these orders?

Your partner may break the order even though that will give him a criminal record. He may ignore the order altogether or may even try to harm you while you are waiting to get a court order. Some other disadvantages include:

- ◆ If you are still living together, a protection order, peace bond or restraining order is not appropriate. It would be hard to *prove fear of personal injury* in such a case.
- ◆ It *can take weeks or months* to get a peace bond.
- ◆ These solutions are *only temporary*. Once the order expires, you must have new evidence to get another one.

Will it cost me anything to get a protection order, restraining order or a peace bond?

No, *there are no charges* for obtaining a peace bond or restraining order, as long as you obtain the order on your own. If you do decide to hire a private lawyer, the cost will depend on the lawyer's hourly fee. If money is a problem, ask about Legal Aid Assistance.

How can I get a protection order, restraining order or peace bond on my own?

Contact Victim's Assistance or the police in your area and they will let you know what you need to do.

I'm not sure my children and I will be safe even after I get an order. What else can I do?

There are some steps you can take to keep yourself safe:

- ◆ stay away from empty, quiet or dark public places
- ◆ carry an emergency number and cell phone with you
- ◆ ask the police if they have any personalized alarm systems
- ◆ if you feel you are being followed, go to a safe place like a store or a restaurant

What about the house? How long can I stay there?

If you are legally married or living together in a common-law relationship, and if you are seeking financial support for yourself or your child, you may be able to stay in the house or apartment where you lived with your partner.

If you have filed for divorce or a claim under the Family Law Act, your lawyer can file an application in court requesting that you be given an **order for exclusive possession** of the home. This kind of hearing is held before the Court of Queen's Bench, Family Division.

In rare cases, an order for support can require that payments be made to cover the mortgage and cost of repairs to the marital home and that household goods remain in the home.

How will the court decide whether to give me exclusive possession?

The court will consider such things as:

- ◆ the best interests of the children
- ◆ any abuse committed against you or the children
- ◆ financial position of each partner
- ◆ other written agreements between you and your partner
- ◆ the availability and affordability of other accommodation

There are special requirements for child witnesses. Where the child is less than 14 years old, the court must determine that the child understands the difference between truth and lies. If the child does not understand, he or she will not be called as a witness.

Will somebody help me prepare for court?

If you have questions about the *evidence you will give* in a criminal trial, the Crown Prosecutor handling your case will talk to you.

If you have questions about *going to court*, a victim assistance co-ordinator from Alberta Justice can help you. Some city police forces also provide special victim-witness services.

What kind of help can I get from a Victim Services Advocate?

The victim assistance advocate can answer your questions about what will happen in court. The advocate will meet with you even if you just want to talk to somebody about some of your worries.

The advocate also provides other important services. For example, you can get information about financial benefits, referrals to other services, making a victim impact statement, the status of your case and so on.

What happens if he is found guilty?

If your partner is found guilty, he will be sentenced. The sentence he receives will depend on the charge and whether he has a previous criminal record. He may be sent to jail or he may be released on probation on the condition that he have no contact with you. The sentence may include mandatory offender treatment and counselling, if available.

Will I have a say in what sentence the judge gives my partner?

In a criminal trial, a victim should make a **victim impact statement**. This is a form which allows the victim to explain in her own words how the crime has affected her. Mothers sometimes fill out a form on behalf of their children who have also been victims.

What should I know about going to court?

The prosecutor will tell you about services to help you through the court proceedings. If you fail to appear as a witness, a warrant may be issued for your arrest. If you refuse to give evidence, you may be found in contempt of court. If you lie in court, you may be arrested and charged with a crime.

Do I have to testify?

If your testimony is relevant to the charge before the court, the court will call you as a witness. You **may not** give evidence in writing. As the victim, *you may be the most important witness* that the Crown has to prove the case against the accused.

According to the Canada Evidence Act, a wife is required to give evidence against her husband for crimes against her person.

What if I refuse to testify?

If you refuse to testify, you may be found in contempt of court. This is a very serious matter. It could mean that you could be jailed and the accused could walk away free.

Most forms of abuse against women are a criminal offence and must be dealt with seriously. If you do not co-operate with the court, the offender may not be convicted.

What if somebody threatens to hurt me if I testify?

Threatening a witness is a *serious criminal offence*. It is just as serious to try to bribe a witness into changing his or her story. If somebody threatens you or tries to bribe you, call the police or tell the Crown Prosecutor right away. If you feel you are in real danger of bodily harm, call the police.

Will my children have to testify?

Your children would only be called as witnesses if they were eye-witnesses and there was no other way to prove the offence. As well, if the children themselves were victims of abuse and/or sexual assault, they might be required to testify.

- ▶ existing support orders
- ▶ the likelihood of your damaging or depleting the home and its contents

What does 'exclusive possession' mean?

Exclusive possession is not common. When the court decides to give one person exclusive possession it does not mean that he or she has outright ownership of the home.

The order for exclusive possession is good for as long as the court directs, but sometimes eventually the house may have to be sold and the proceeds divided, unless the court orders otherwise.

Does exclusive possession protect me from my abusive partner?

No. It only protects you while you are in the home. In order to be protected at other times, you need to apply for a protection order, peace bond, or restraining order.



E. Arrest, Charge & Trial



He just beat me up again. What should I do?

Call the police and charge your partner with assault. The police can help protect you with an Emergency Protection Order (see page 19).

If I call the police because my partner beats me, will they take it seriously?

If your partner threatens you or physically harms you, that is assault. It does not matter where the assault takes place or who the people are. *Assault is against the law.* The police must lay charges wherever assault occurs and evidence is available to support the charge.

What if people don't listen to me?

Everyone in the legal system has been instructed to take assaults between partners and family members as seriously as assaults between strangers. If you feel the police or the courts are not listening to you, *do not give up*. You may find help through victim services or women's shelters.

What if my partner will not let the police in?

When the police arrive they will ask for permission to enter the house. If permission to enter is not granted, the officer will explain that he or she must make sure there is no serious problem inside.

If the officer believes, on reasonable grounds, that it is in the public interest to enter your home to prevent an offence, then the officer may enter the house by force. Reasonable grounds may include hearing cries for help or seeing a weapon.

It is up to you to let the police know that you are in trouble.

I am afraid about my safety if the police let him out of jail. What should I do?

If your partner is arrested and you are afraid for your safety, or if you think he might try to leave the province, tell the police. If the court has reason to believe he might commit another offence or flee, they may set conditions on his release, such as bail. Be ready to use your safety plan (see p. 12-13).

What is a no contact order?

The court may make a no contact order telling the accused to stay away from you. If the accused bothers you in any way or tries to contact you, call the police. He has violated a court order and the police will arrest him. The court may then change the conditions of release.

What if I do not want the police to lay a charge?

Abused women often have doubts about laying charges or about going ahead with court proceedings. Although the prosecutor will listen to your reasons, you will not have the final say. If there is enough evidence, if the offence was serious, or if it appears that you have changed your mind out of fear, the prosecutor may start or continue with proceedings against your wishes.

In some cases, there may be a very good reason for the matter not to proceed. However, you will be asked to give the police a written statement explaining your reasons or appear in court and make an oral statement for the record.

Will I have to go to court?

If your partner pleads guilty to a charge, like assault, there is usually no need for the victim or witnesses to be present in court. If your partner pleads *not guilty*, then there will be a court trial to determine guilt.

As the victim, you will be served with a subpoena from the court requiring you to attend as a Crown witness. If you receive a subpoena and the accused pressures you to stop proceedings, you can explain that you do not have a choice in the matter. It is out of your control.

or her consent. The Criminal Code lists various types of assault, including:

- ▶ assault
- ▶ assault with a weapon
- ▶ assault causing bodily harm
- ▶ aggravated assault
- ▶ sexual assault
- ▶ uttering threats
- ▶ criminal harassment

Might he be charged with sexual assault?

If the assault involved circumstances which were sexual in nature, the police might charge your partner with sexual assault.

What happens after charges are laid?

Before going ahead with a prosecution, the police will talk to the Crown Prosecutor. He or she will review the evidence to see if it is sufficient to support a charge. If so, a Crown Prosecutor will be in charge of the case. At that point, the matter is out of your hands.

What are the penalties?

The penalties for assault and sexual assault depend on how serious the assault was, the kind of assault, and whether the offender has previously been convicted of assault. In some cases the police might even charge a person with attempted murder.

How long can the police keep somebody in jail?

If your partner is accused of assaulting you and he is arrested, he may be kept in jail until a first court appearance. This usually takes place within hours.

After the first appearance, the court decides if your partner will be kept in jail. He will be let out unless the court believes there are very good reasons to keep him in jail. The police do not have to tell you when he is being released, but you can get this information from the police or Victim's Assistance.

Can the police get a warrant to let them in?

Yes, they can. The police can apply by phone for a warrant to "Warrant Permitting Entry." This warrant allows the police to enter your home to investigate the situation, help the victim and possibly remove family members from the home.

What will the police want to know?

The police will ask you for a statement which they will write down and have you read and sign. This statement is the record of your complaint.

They will want to know exactly what happened. Tell them:

- ▶ if you have been injured and how
- ▶ if it has happened before
- ▶ if any weapons were used
- ▶ the names and addresses of any witnesses

Will the police arrest my partner?

The police will assess the situation before they arrest or release your partner. They will arrest and charge him if they have reasonable and probable grounds to believe that an assault has taken place or will take place.

Will I have to press charges?

If your partner was harming you physically or threatening to do so, he was *committing a crime*. It is up to the police to press charges if they have witnessed a crime, or have reasonable and probable grounds to believe that a crime has taken place.

Tell the police you want *them* to press charges. The police will consider all the evidence they gather before they charge someone with a criminal offence.

What sort of charges might be laid?

There is no such charge as wife battering. If the police charge your partner, they may choose from a number of offences listed in the Criminal Code.

Your partner might be charged with *assault*. That is the intentional use of force against another person without his

