

# Gathering Evidence of Abuse

It is important to document and gather information about your experiences in case you must go to court.

You may need evidence that you have experienced domestic violence if you are:

- applying to Legal Aid or a legal clinic for legal help
- getting help from Resolution and Court Administration Services
- applying for a protection order, peace bond or restraining order
- applying to court for a parenting order, child support, spousal or partner support, an order dividing property, or divorce
- pressing criminal charges against your abusive spouse or partner
- dealing with child welfare officials

Gathering evidence of abuse is difficult. But doing so can greatly increase your chances of success in court.

## Tips for Gathering Evidence of Abuse

### Learn about abuse

Abuse is when someone harms another. The harm can be physical, sexual, psychological, financial, neglect and more. It can be one instance or a pattern over time.

*You should NOT rely on this booklet for legal advice. It provides general information on Alberta law only.*



For more information about abuse, see the **What Is Abuse?** info sheet at: [www.willownet.ca](http://www.willownet.ca)

*Keep your diary in a safe place so that your partner or spouse will not find it.*

### **Keep a diary**

Note details of the abuse you have experienced and are experiencing. You may need these notes to help you write an affidavit – a written statement of evidence – for the court.

Some things to include:

- date, time and location of the abuse
- name and contact information of any witnesses (who may need to swear an affidavit or testify for you in court)
- what led up to the abuse
- what happened afterwards
- any physical injuries to you or your children

### **Document your injuries**

If you or your children suffer any physical injuries from the violence, take photographs or videos. Injuries may include bruises, scratches, etc. If you go to the doctor, a medical clinic or the hospital, ask for copies of the medical records documenting your injuries and treatment. If you called 911, you can order transcripts and recordings of the call.

### **Note the impact on children**

Make notes about the impact of incidents of abuse on your children. Were the children present? Was the abuse directed at the children? What was the children's behaviour after the abuse?

Talk to your children's teachers or school counsellors. If they see the impact of the abuse on the children, ask them for a written statement and if they are willing to be a witness in court. If your children have made statements to child and family services staff, you may be able to get these statements and use them as evidence in court.

### **Gather evidence from others**

Ask neutral third parties, like doctors and counselors, for information supporting your experience. Courts will often give more weight to the observations and reports of third parties who do not have a personal relationship with you.

### **Gather evidence of past abuse**

Try to gather evidence showing the history of abuse in your relationship. Keep e-mails, text messages, voicemails or letters from the person causing harm. Request copies of police reports if the police have been to your home. Note the person's previous criminal charges and convictions for domestic violence, assault, harassment or other abusive behaviour.

If the person causing harm has a history of abuse in other relationships, try to gather evidence of that abuse as well. The evidence could be affidavits sworn by others who experienced abuse by the same person.

### **Organize evidence by date**

Organizing the evidence by date shows the history of abuse you have experienced. Organized evidence is easier to present to a lawyer for legal help or to the court if you must file an affidavit or testify.

### **Stay focused and be accurate**

If you are organizing evidence to go to court, focus on the goal of your court appearance. Are you applying for a parenting order or child support? Are you applying for a protection order or an order giving you exclusive possession of the family home? Only include the evidence that is relevant to what you are asking the court for. Be truthful – do not over or under exaggerate your experiences.

### **Get help from a lawyer**

You may not have to share every intimate, personal and painful detail with the court. A lawyer can help you organize and present your evidence. They can advise you on what evidence you should or should not give to the court. And a lawyer can help you request evidence from others, such as the police, doctors, schools and counsellors.



See CPLEA's **Working with a Lawyer** info sheet at [www.cplea.ca/courts](http://www.cplea.ca/courts)

## **Before You Share Your Evidence**

Before you disclose (share) your evidence in court, think about the consequences of doing so. Do you feel safe? Are you worried about the safety of you or your children? Do you have a safety plan?

**If you are worried about the safety of you or your children, call 911 immediately.**

Court records are usually public, meaning anyone can access them (usually by paying a fee). The court can prevent this by making an order sealing the court records. A lawyer can give you advice about if and how to make this request.



## About CPLA

The Centre for Public Legal Education Alberta is dedicated to making the law understandable for Albertans. We provide legal information on a wide variety of topics through our websites, print resources, workshops and more. For more information, visit our website: [www.cplea.ca](http://www.cplea.ca)

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Legal Resource Centre of Alberta Ltd., Edmonton, Alberta

Operating as: Centre for Public Legal Education Alberta

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We would like to thank the Alberta Law Foundation and the Department of Justice Canada for providing operational funding, which makes publications like this possible.

**Alberta LAW FOUNDATION**



Department of Justice  
Canada

Ministère de la Justice  
Canada

## Sharing Your Evidence in Court

Sometimes you might be appearing in court without notice to the other person, meaning they will not know you are in court. This is common in cases of domestic violence. The judge will review your evidence and make a decision. Eventually though, the person causing harm (respondent) will be notified of any order the court makes. And they will have an opportunity to share their side of the story with the court.

The respondent can challenge your evidence. They may try to deny or downplay their behaviour. It is important you have credible, reliable and persuasive evidence of your experience to present to the court. It is also important to not act out in court when the respondent is speaking. You may not agree with their evidence. But stay calm. Do not interrupt, make faces or roll your eyes. Make notes about the things you do not agree with so that you can respond if the judge allows you to. You can also bring a family member or friend with you for support.

## Resources

Find more information about domestic violence and the other info sheets in this series on **WillowNet** – a CPLA website about violence and abuse laws in Alberta. [www.willownet.ca](http://www.willownet.ca)

- **Family Violence Info Line: 310.1818**  
Get help anonymously. Available 24/7 in over 170 languages.
- **Victim Services Alberta: 780.427.3460 or [www.alberta.ca/victim-services-units.aspx](http://www.alberta.ca/victim-services-units.aspx)**  
Connect with local supports.
- **Court and Justice Services:**  
[www.alberta.ca/court-and-justice-services.aspx](http://www.alberta.ca/court-and-justice-services.aspx)  
Get help finding court forms or information on the court process.
- **Community Legal Clinics in Alberta:**  
[www.lawcentralalberta.ca/clinics](http://www.lawcentralalberta.ca/clinics)  
Get free legal advice if you earn a low income.
- **Legal Aid Alberta's Emergency Protection Order Program (EPOP): 1.780.422.9222 (Edmonton area) or 1.403.297.5260 (Calgary area) or [www.legalaid.ab.ca/services/family-violence-matters/](http://www.legalaid.ab.ca/services/family-violence-matters/)**  
Get free legal help applying for an EPO.



We want to know what you think!  
To take our one minute survey:

- capture this QR code with your phone camera, or
- go to [bit.ly/3g8tby9](https://bit.ly/3g8tby9)