

Going to the Police

Domestic abuse can be a criminal act. The *Criminal Code* applies across Canada. It describes criminal offences and their punishments.

The role of police is to protect the public and lay charges. They investigate crimes and consider many things when deciding whether to lay charges. However, the **Crown prosecutor** makes the final decision about prosecuting the accused, based partly on whether they believe a conviction is likely.

Making a Criminal Complaint

You can report a crime to police by:

- reaching out to a police and court support advocate, who can talk with you about your rights, and offer options or referrals
- calling 911, if you are in immediate danger or need immediate help
- calling the non-emergency police line in your area
- going to a police station
- for sexual violence, speaking with a Sexual Assault Response Team (SART) nurse/doctor at the hospital

Once you make a complaint, the police may investigate and gather evidence. They may interview you (the person experiencing abuse) and others who have evidence of the abuse, such as family, friends, caregivers or neighbours. They may also interview the person causing abuse.

The police can lay charges if they believe they have reasonable and probable grounds that the person causing abuse committed a crime.

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



A **Crown prosecutor** is a lawyer who works for the federal or provincial government and represents the public interest in criminal proceedings.



The police can connect victims of abuse to community supports, such as **Victims' Services**.



See CPLEA's **Reporting Sexual Violence to Police info sheet** for more information about the criminal process at: www.cplea.ca/sexual-violence/

While the resource is about sexual violence, the police process is the same for most criminal offences, including abuse.

Find a **Victim's Services Unit** near you by calling 2-1-1 or visit: bit.ly/2N77nbi

Sometimes the police will decide **not** to lay charges against the person causing harm. There are many reasons why, such as:

- The police do not have reasonable grounds based on the evidence to believe the person committed the crime.
- The police do not believe it is likely the evidence will lead to a conviction.
- The police have not properly investigated what happened.

If you are not happy with how the police respond, you can:

- Make a complaint against the police. Check with your local police on how to make a complaint.
- Request copies of police records relating to your complaint. You can submit your request in writing to the police under the *Freedom of Information and Protection of Privacy Act*. The police may charge you fees for this service. Contact the Office of the Information and Privacy Commissioner of Alberta for more information.
- Start a **private prosecution** at the courthouse against the person who caused you harm. You must follow a specific process. Contact your local courthouse or a police and court support advocate for information. The Crown prosecutor will take over the case and choose whether to prosecute the accused.

Victims' Services

Victims of crime can ask for help from local victims' services units (VSUs). VSUs can:

- give information about the process
- offer specialized help, including with housing, finances, and more
- listen to your story and provide emotional support
- help you communicate your needs and concerns to police or the Crown prosecutor

The Accused

If the person causing harm is charged with a crime, the police will either keep them in custody or let them go with a promise to appear.

If the accused is in custody, the court will hold a bail hearing to decide if they should stay in custody or be free until the charges are resolved in court.

The accused has rights too. Their rights include:

- the right to have a trial (have a judge or jury decide if they are guilty or not) within a reasonable time. An accused should be tried within 18 months of being charged unless there are good reasons for the delay.
- the right to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal
- the right not to be denied reasonable bail without just cause

The accused also has a right to defend themselves against the charges.

Peace Bonds

A peace bond (or recognizance) is an order made by a criminal court judge saying someone must “keep the peace”.

Peace bonds are used where a person seems likely to commit a criminal offence but there are no reasonable grounds to believe they already committed the offence.

Peace bonds may also be issued to resolve criminal charges. For example, if the person causing harm is charged with assault, the Crown prosecutor may agree to withdraw the charges if the person enters into a peace bond.

A peace bond can take a long time to get so it may not be a good option if you need help right away.

An Emergency Protection Order, King’s Bench Protection Order or Restraining Order may be better options. See the **Keeping the Abuser Away** info sheet for more information at www.willownet.ca.

Who can apply?

You may apply for a peace bond against someone you fear may:

- injure you, your partner or child, or your property, **or**
- distribute, publish, transmit, sell, make available or advertise an intimate image of you without your consent.

What can it say?

A peace bond can list conditions the person causing harm must follow, such as requiring them to:

- stay away from your home, place of employment or other place you or your partner or children regularly go
- stop contacting you and your partner and children
- not use drugs or alcohol
- regularly report to police or a probation officer
- not possess any firearms or weapons, and give up any firearms or weapons they have

How to apply?

You can apply at the criminal court division at any Provincial Court in Alberta. You can also talk to a police officer. You must tell the court or police officer why you are applying for a peace bond. If you speak to a police officer, they may start an investigation, which may lead to charges against the person causing harm.

The court or police officer will decide if your application for a peace bond should go ahead. They will give you a date for the court hearing. Hearings often take place two to three months after you make your application.

At the court hearing, you must convince the judge you have reasonable grounds for the peace bond. You must share why you fear the person will harm you, your partner or your children, or will damage your property. Or why you think the person will share an intimate image of you without your consent. You should have evidence, such as medical records, police reports, affidavits from witnesses, etc.

An **Affidavit** is a written statement of facts that you swear or affirm before a Commissioner for Oaths or Notary Public. It is evidence in court. The judge treats it the same way as if you were giving oral evidence. For more information, see the **Evidence in Court: Affidavits info sheet**, available at www.cplea.ca/courts.

The person causing harm (accused) must also attend the court hearing. They can share their story with the judge. Do not interrupt, make faces or roll your eyes. Try not to be confrontational or sarcastic. After the accused shares, the judge may let you respond to their claims and say what you disagree with. It is a good idea to bring a trusted family member or friend with you for support.

If the judge thinks there are reasonable grounds for your fears, they will order the accused to enter into a peace bond. The accused must agree to enter into the peace bond. If the accused refuses to enter into the peace bond, they can be sent to jail for up to one year.

How long does a peace bond last?

A peace bond can last for up to one year. It cannot be renewed but you can reapply for a new one. You will have to convince the judge that you still have reasonable grounds for your fears.

What happens if the person does not follow the peace bond?

Call the police. The police will then decide whether to arrest the person. If arrested, the person causing harm will be charged with breaching the peace bond. The accused can plead guilty or go to a trial. You may have to appear in court at the trial to give evidence of the breach. If the person causing harm is found guilty of breaching the peace bond, they will receive a criminal record and may go to jail.

Do not contact the person causing harm or allow them back into your home while the peace bond is in effect. The peace bond is hard to enforce if you initiate or allow contact from them. It may be more difficult to get a no contact order in the future.



About CPLEA

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

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**Alberta LAW
FOUNDATION**



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Resources

Find more information about domestic violence and the other info sheets in this series on **WillowNet** – a CPLEA website about violence and abuse laws in Alberta. 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**
Connect with local supports.
- **Court and Justice Services:**
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
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/**
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