

Gathering Evidence of Abuse

If you have experienced domestic violence, it is important to document and gather information about your experiences in case you have to make a court application, such as an application for custody of your children. While this can be a very difficult process to go through, it can substantially increase your chances of success in court.

Situations where you may need to present evidence that you experienced domestic violence

- Applying to Legal Aid Alberta or a legal clinic for legal representation
- If you seek assistance from Resolution and Court Administration Services
- Applying for a protection order
- Making a family court application for custody, financial support, property division, or divorce
- If you decide to press criminal charges against your abusive spouse or partner
- If child welfare officials become involved in your situation

Tips to help you gather evidence of abuse

Keep a diary

Start documenting details of the domestic violence you are or have experienced. Be specific, include:

- date
- times
- location
- names and contact information of any witnesses
- what led up to the incident
- what happened afterward
- any physical injuries you suffered

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It is important to keep current contact information for witnesses, in case you need them to sign an affidavit or testify for you in court. Consider keeping a diary that includes all of this information. But be sure to keep any documentation in a safe place that cannot be accessed by your abusive spouse or partner.

Written notes will help you if you need to prepare an affidavit—a written statement of evidence—for a family court application. You may also be able to refer to your written notes if you have to testify in court.

Document your injuries

If you suffer any physical injuries as a result of domestic violence, take photographs or videos of any injuries, bruises, scratches, etc. If you go to the doctor, a medical clinic, or the hospital, ask for copies of medical records that document your injuries and any treatment you received. If you called 911, you can order transcripts and recordings of any calls you made.

Impact on children

Start documenting any impact the incidents of abuse are having on your children. Note any incidents of abuse where your children were present and their behaviour after witnessing the abuse. If your children's teachers or school counsellors can speak to the impact the abuse is having on your children, ask them for a written statement and if they would be willing to testify if you have to go to trial. If your children have made statements to child and family services staff, you may be able to obtain these statements and use them as evidence in court.

Gather evidence from third parties

Gather information from neutral third parties, like doctors and counsellors, which support 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 historical evidence of abuse

Try to gather together anything that shows the history of abuse in your relationship. For example, keep any e-mails, texts, voicemails, or letters from your abusive spouse or partner that could be used to support your experience.

If the police were ever called to your home, request copies of the police occurrence reports. Compile evidence of your abusive spouse or partner's previous criminal charges and convictions for domestic violence, assault, harassment, or any other abusive behaviour.

Organize evidence chronologically

As you gather your evidence, organize it chronologically to show the history of the abuse you have experienced. This will make it easier to present to a lawyer, if you seek legal advice, and to the court if you need to file an affidavit or testify.

Stay focused and be accurate

If you're putting together evidence for a court application, stay focused on the goal of your application (for example, securing sole custody, seeking exclusive possession of the family home, etc.). It is important not to over- or under-exaggerate your experiences—try to present evidence that accurately and credibly represents what you have experienced.

Seeking legal assistance to help you gather evidence

It is an excellent idea to seek assistance from a lawyer to help you gather evidence, write your affidavit, and prepare your court applications. A lawyer has the experience and expertise to know what evidence is relevant, what evidence will have the strongest persuasive value to the court, and what evidence can and cannot be admitted as part of your application.

You may not have to share all of the intimate, personal, and painful details of your experience with the court – a lawyer can advise you on what you should and should not include in your court applications. A lawyer can also help you request evidence from third parties like police, doctors, schools, and counsellors.

For more information on choosing a lawyer, including low-cost legal options, read our information sheet **Working with a Family Law Lawyer** by visiting www.cplea.ca/publications or www.willownet.ca.

Preparing for potential consequences of disclosing abuse

When you make the decision to introduce evidence of abuse to the court, you need to think about the potential consequences of disclosing this information. If you have any concerns about your safety being at risk, take steps before disclosing the information to ensure you and your family will remain safe.

Consider making a safety plan if you don't have one. More information about safety planning is available by visiting <http://www.humanservices.alberta.ca/abuse-bullying/15727.html>, calling the Family Violence Info Line at 310-1818, or contacting your local family violence information centre.

Prepare for your experiences to be challenged

Your abusive spouse or partner will have the opportunity to challenge your evidence and experience in court. Often, an abusive spouse or partner will deny or try to downplay his or her behaviour. This is why it is so important for you to have credible, reliable, and persuasive evidence of your experience to present to the court. An experienced lawyer can help ensure your evidence will stand up to your spouse or partner's efforts to discredit or minimize it.

At your court hearing, bring a trusted family member or friend with you for moral support. Try to remain calm and emotionally strong. If you hear things you do not agree with, do not interrupt, make faces, or roll your eyes. Try not to be confrontational or sarcastic. You or your lawyer may have a chance to talk to the judge again to challenge the evidence that you disagree with.

Help and Further Information

Legal Aid Alberta provides legal representation to individuals who are financially eligible and fall under their service umbrella. Call 1-866-845-3425 for more information.

Community and Student Legal Clinics may be able to give you advice on what evidence to include with your court applications. Visit http://www.pbla.ca/gethelp/item.5602-Help_for_Individuals for a complete list of locations and contact information.

Government of Alberta - Resolution and Court Administration Services may be able to help you access family court counsellors and other services to help you prepare family court applications. Call 1-855-738-4747 or visit www.rcas.alberta.ca.

Family Violence Info Line (open 24/7, available in 170 languages): Call 310-1818.

WillowNet: Abuse and the Law in Alberta provides plain language legal information including all of the information sheets in this series: www.willownet.ca.

LegalAve provides information about family law in Alberta: www.legalave.ca.

Luke's Place (<http://lukesplace.ca/resources>) is an Ontario-based service with an excellent collection of resources to help you understand the family court process if you've experienced domestic violence. Be aware that some of the information on the site is Ontario-specific.



Centre for Public Legal
Education Alberta
800, 10050 112 Street
Edmonton, Alberta T5K 2J1
Tel 780 451 8764
www.cplea.ca
www.willownet.ca

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