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○ WINTER 2011

Public Legal Information Association of NL

www.publiclegalinfo.com

the

PLIAN

notebook

PROVIDING NEWFOUNDLANDERS & LABRADORIANS WITH PUBLIC LEGAL EDUCATION AND INFORMATION SERVICES WITH THE INTENT OF INCREASING ACCESS TO JUSTICE.

Family Violence: "Make it Stop!"

Family violence hurts everyone. Such violence can be physical, emotional, psychological or sexual in nature. Not all family violence is easy to spot. Hitting, kicking, punching and pushing may leave visible marks, but emotional abuse and neglect can be equally damaging and more difficult to detect.

While women and children have been traditionally thought of as the most vulnerable in situations of family violence, abuse can also happen between other family members like siblings, parents and in-laws.

Whatever the situation, no one has the right to hurt another person. If a family member is threatened or harmed by another member of their family, there is help available. PLIAN has developed a number of publications, posters and pamphlets to educate you about your legal rights and responsibilities.

If you find yourself in a domestic crisis where abuse is involved, the following are some legal options you should consider. You may want to consult with a lawyer to discuss possible civil action. This list is not exhaustive and if you pursue one option, you are still free to pursue the others. **You can:** (1) Call the Police to pursue criminal charges; (2) Apply for an Emergency Protection Order; or (3) Apply for a Peace Bond. In this article, we will discuss the process when a complaint is made to police. Emergency Protection Orders and Peace Bonds are discussed on page 2.

CRIMINAL CHARGES

The police investigate complaints of family violence. They will ask for a statement and the names of witnesses. If, on reasonable



grounds, the police believe a person has committed a crime, they may lay a charge. This is a decision that will be made by the police after consideration of the evidence.

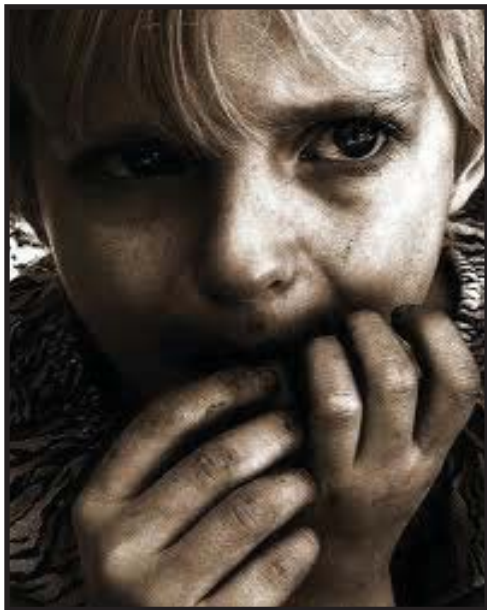
Once the police lay a charge, a lawyer called the Crown Attorney decides whether to proceed with the charge in court. The Crown Attorney will not simply withdraw charges at the request of the victim. There are many factors to consider when making the decision of whether charges will be dropped. That is not a decision the police or the victim makes.

If a charge proceeds to court, the person charged (the accused) will be asked to enter a plea to the charge (guilty or not guilty). If the accused pleads guilty, then he/she will be sentenced either on that same date or on a future date. If the accused says not guilty, then a trial will be scheduled for a future date.

Victim Services has a detailed booklet, "Introduction to Court," which contains helpful information on this topic. It is available on line at the Violence Prevention Initiative website (www.gov.nl.ca/vpi).

DISCLAIMER: The information provided in this publication is general in nature. It is not intended as legal advice. We strongly suggest you speak with a lawyer for specific legal advice.

Child Abuse & Neglect



Children in Newfoundland and Labrador have the right to be protected, safe and healthy.

Sadly, in some cases around our province, children are not receiving the basic care they need and are legally entitled to.

In Newfoundland and Labrador, the provincial law protecting children who are maltreated is called the *Child, Youth and Family Services Act* (the “CYFS Act”).

Child abuse includes physical, sexual or emotional harm, living with violence or being left without adequate supervision.

The CYFS Act gives social workers the ability to help protect children and youth under the age of 16 years of age.

The public has a duty to report what they think might be abuse or neglect of children.

WHAT HAPPENS AFTER A REPORT OF ABUSE IS MADE?

When a social worker receives information that a child is or may be in need of protective intervention, he/she must determine if there are reasonable grounds to believe that the child is in need of protective intervention.

Following that assessment, they may:

- determine that protective

intervention is not required;

- offer support services to the child and family;
- refer the child and family to other resources; or
- investigate further the child’s need for protective intervention.

If a child is removed from a home, there are generally two court hearings. The first is called a Presentation Hearing and the second is called a Protective Intervention Hearing.

Court hearings held under the CYFS Act are held in private, unless a judge orders otherwise.

For more details on child abuse and neglect, conditions for protective intervention and related court procedures, contact **Child, Youth and Family Services** in your region. They can provide you with a variety of resources and help answer questions. For more details, visit <http://www.gov.nl.ca/cyfs/index.html>.

EPOs & Peace Bonds: What’s the Difference?

EMERGENCY PROTECTION ORDER

As of July 1, 2006, the *Family Violence Protection Act* is law in Newfoundland and Labrador. This legislation provides another option to help adult victims of family violence and their children in emergency situations.

An application can be made to Provincial Court for an Emergency Protection Order (EPO). An EPO is a court order that can be normally granted within 24 hours in cases of family violence. The EPO is temporary and will not last for more than ninety days.

To get an EPO, you need to live or have lived in a conjugal (married-like) relationship or had a child with the person who is being violent. This applies to married, common law and same sex couples. An EPO can allow police to remove the person from the home, take away any firearms or weapons, give you temporary custody of the home and the children, and any other conditions the court thinks necessary.

Application forms are available at the Provincial Court, or can be found online at <http://www.court.nl.ca/provincial>. along with information on the EPO process. The phone number for the Provincial Court serving your region can be found in the blue pages of your local telephone book under the heading of “Courts.” For additional information on EPOs, visit the Violence Prevention Initiative online at www.gov.nl.ca/vpi.

PEACE BOND

A peace bond is a court order made under section 810 of the *Criminal Code* that places specific conditions on an individual’s behaviour. It will include various conditions that must be followed. These conditions may include: to keep the peace; not to communicate with you in any manner;

FAMILY VIOLENCE
GETTING HELP!

No one has the right to hurt another person. If anyone threatens or harms you or your children, there is help available. You can:

1. Call the Police/Pursue Criminal Charges
2. Go to a Shelter
3. Apply for a Peace Bond
4. Apply for an Emergency Protection Order (EPO)
5. Consult a Lawyer

or not to possess a firearm, among other conditions.

There are limitations on peace bonds which curb its ability to effectively address family violence, such as:

- Peace bonds are not monitored by the police.
- The police only become involved after a bond is broken.
- The process of getting a peace bond put in place can be lengthy.

Normally all peace bond applications are made to the Provincial Court (Criminal Division). If you make an application to the Court for a peace bond because of a family violence situation, the court may refer you to the police. Victim Services has a brochure entitled “Applying for Peace Bonds in NL,” which contains very detailed information on the process. The Provincial Court of Newfoundland and Labrador’s website also contains information on peace bonds: <http://www.court.nl.ca/provincial>.



Message from the Executive Director

Public Legal Information Association of NL (PLIAN) is a non-profit organization dedicated to educating Newfoundlanders and Labradorians about the law.

Here at PLIAN, we provide public legal education and information services with the intent of increasing access to justice.

February is Violence Prevention Month in Newfoundland and Labrador. In recognition of this, the Winter edition of PLIAN's quarterly newsletter focuses on family violence.

Unfortunately, family violence is a prevalent phenomenon in society, including here in Newfoundland and Labrador. Many individuals and families in our province are suffering as a result of family violence.

Abuse can affect people of various ages which we highlight in this edition by including information on intimate partner violence, child abuse and elder abuse. Many who suffer such abuse find it difficult to talk about and this often hinders their ability to access help and resources.

Join us in learning more about what options may be available to victims of family violence. We hope to shed some light and bring awareness to this very difficult and complex topic.

Best regards,

K. O'Keefe

Kristen O'Keefe
Executive Director

OUR SERVICES, YOUR RESOURCE



PLIAN has created several publications that address Family Violence. Some of these resources are available in English, French, Inuttit, Innu-Aimun and Mi'kmaq.

FAMILY VIOLENCE: GETTING HELP!

INFORMATION FOR VICTIMS OF FAMILY VIOLENCE

FAMILY LAW GUIDE for Newfoundlanders & Labradorians

To view these online, visit www.publiclegalinfo.com or call toll-free (1-888-660-7788) for a mail-out copy.

ELDER ABUSE Some Staggering Statistics

Elder abuse is any abuse or neglect that occurs when the person who assumes responsibility for the care of, or has physical custody over, an elder person, or senior, jeopardizes the elder's health or well-being.

This includes physical abuse (such as hitting), psychological or emotional abuse (such as threatening the elder or not allowing them to practice their religion) and financial abuse (such as taking the elder's money).

Abusing a senior also includes neglecting them. This means that the caregiver refuses or fails to provide the elder with the necessary care. Neglect can be done on purpose, but sometimes the caregiver does not realize that they are neglecting the elder in their care.

According to *Family Violence in Canada: A Statistical Profile*, police-reported family violence against seniors has become more prevalent.

In 2007, for example, 1,938 incidents of family violence against seniors were reported to police, representing more than one-third of all violent incidents committed against older adults. Considering over half of incidents go unreported by seniors, elder abuse is a growing societal problem.

The report also noted that seniors aged 64 to 74 are the age group experiencing the most instances of family violence. This is most often found in cases where seniors reside in homes with their adult children.



Senior women had higher rates of violent victimization by a family member compared to senior men. After physical abuse and assault, the next most frequently reported violent offences against the elderly are emotional/verbal abuse, uttering threats and robbery.

Elder abuse should be immediately reported to authorities so that measures can be taken to stop the abuse or neglect and to help the affected senior.

Additional information is available for elders and their families by contacting the Seniors' Resource Centre of Newfoundland and Labrador. Call (709) 737-2333 locally, 1-800-563-5599 toll-free, or visit the Centre online at www.seniorsresource.ca.

“HERE & THERE”

Meet the PLIAN Team!

In this edition, we highlight our small but mighty team of employees.

Kristen O’Keefe has been PLIAN’s Executive Director and team leader since May 2006. Previous to that, she was employed as a civil servant. Kristen holds degrees from Dalhousie University, Mount Saint Vincent University and Memorial University.

Kelly Brockerville joined the PLIAN team in May of 2001, since that time she has worked her way up to Office Manager. She holds a Bachelor of Arts degree and a Certificate in Criminology from Memorial University. Kelly is also the proud mother of a little girl who keeps mommy and daddy extremely busy!

Sarah McHugh became involved with PLIAN in 2008 as a volunteer and has since worked as a Youth Justice Camp Coordinator and Project Coordinator. She is currently finishing her Bachelor of Arts degree at MUN this semester, to complement her Certificate in Criminology. Not surprisingly, in her spare time, Sarah can be found with her nose in a book.

Jennifer Barnable joined PLIAN in Fall 2010 as a Project Coordinator. With an education and employment background in public relations and project management, she has worked both locally and internationally. An active humanitarian and animal welfare advocate, Jennifer has recently returned from a three-week volunteer trip in Central America.

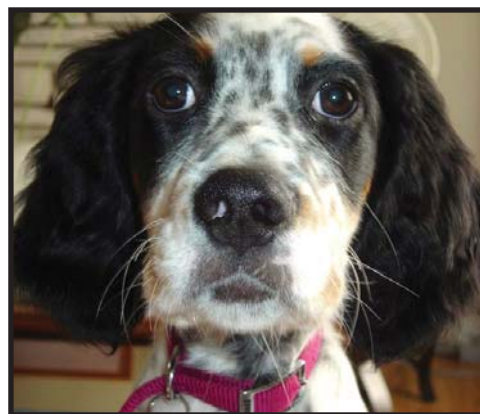
Stay tuned for next edition’s “Here & There” as we share more PLIAN staff and board news updates, special announcements and more!



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Easy

LEGAL BEAGLE Puzzlers from PLIAN



Hi folks!

It’s Molly the “Legal Beagle” back again.

This edition, I had a little help from my friend LUCY (left). Isn’t she a clever lookin’ little gal?

Lucy is one of the many family pets who live with PLIAN’s team members. Seems like those legal types sure love their animals!

Lucy’s family loves sudokus, so she figured it would be fun to mix it up a little this edition. It’s an “easy” level, so don’t stress.

Just fill in the grid so that every row, every column and every 3x3 box contains the numbers 1 through to 9. There’s only one solution to the puzzle. Answer key is at the bottom of page 6.

If you’d like to see your furry friend featured in the Legal Beagle, send Molly an e-mail at programs@publiclegalinfo.com. Chow!

SILENT WITNESS PROJECT: Remembering Victims of Femicide



Article contributed by Vyda Ng of Coalition Against Violence - Avalon East.

The Silent Witness Project is an initiative to remember women who have been killed in domestic homicides.

The project aims to bring attention to the nature and effects of domestic violence, and to promote action to end all forms of violence.

The Silent Witnesses are life-sized, red wooden silhouettes, each representing a woman who was killed by a partner, ex-partner, or intimate acquaintance. The silhouettes are called Silent Witnesses as the women they represent can no longer speak for themselves.

What is domestic violence? As quoted by Brian Vallee in his book *War On Women*, "Domestic violence is not about relationships ... It is about abusers and their use of violence... Abusers do not strike their partners because they are out of control. They strike their partners to maintain control over them; humiliate and debase them; isolate them; or punish them for asserting their independence."

As a result, fear is the biggest reason that ties a woman to an abusive relationship. The most dangerous time for a woman and her children is during separation. She is afraid that if she leaves, the abuser will hurt her and her children. A woman should seek a safe and secure place when leaving, one not known to her abuser.

Spousal homicides account for about one in five homicides in Canada. Most of the victims are women; almost 80 per cent of women in Newfoundland and Labrador who experience violence are most likely to be victimized by a spouse, ex-partner or ex-common-law spouse. Since 1988, more than 30 women have been killed by a male partner in domestic homicides in Newfoundland and Labrador.

Men's involvement is crucial in ending violence against women; it is often mistakenly seen as a woman's issue. The United Nations' "**Say No To Violence**" campaign states that "Violence against women and girls has far-reaching consequences, harming families and communities. Gender-based violence not only violates human rights, but also hampers productivity, reduces human capital and undermines economic growth."

Our province's **Respect Women campaign** encourages men to teach the boys in their lives to treat women with fairness, equality and respect. At the launch of the NL Silent Witness project in October 2009, the Honourable Kathy Dunderdale (now Premier) stated that violence is rooted in inequality and is one of the main causes of violence against women. She called upon all Newfoundlanders and Labradorians to take action to stop attitudes that treat women as less than equal and that allow domestic violence to continue.

In a bold and creative move to raise awareness and end domestic homicides, the New Brunswick Silent Witness Committee is working with the Atlantic Ballet Theatre of Canada on a ballet inspired by the Silent Witnesses and is a tribute to those victims of femicide. The ballet, "Ghosts of Violence," premieres at the National Arts Centre in Ottawa on February 15th, 2011.

To become involved in the project, to request a loved one be included as a Silent Witness, or for more information, please contact **Vyda Ng** at the Coalition Against Violence - Avalon East by telephoning (709) 757-0137 or by e-mailing cavae@coalitionagainstvience.ca.

SPOTLIGHT:

In this edition, we're pleased to highlight the following groups and organizations:

Victim Services

Victim Services is a dedicated justice service for victims, which began in 1992. There are 11 professionally-staffed regional offices throughout the province. The program is based on the principles that victims should be treated with courtesy, compassion and respect, that victims should suffer the minimum of necessary inconvenience from their involvement with the criminal justice system, and that victims should receive prompt and fair redress for the harm they have suffered. To find out more about their services, including a list of contact numbers, call **729-7970** or visit http://www.justice.gov.nl.ca/just/victim_services/contactus.html.

Elder Abuse Committee of Newfoundland and Labrador



The EACNL provides information and support to individuals and organizations working to prevent elder abuse and/or provide services to those affected by this issue. The Committee has recently announced a two-year plan to develop into a provincial network. It intends to: (1) develop a network website including an updated directory of services and resources for victims of elder abuse, (2) distribute a quarterly newsletter to help interested parties share news on elder abuse initiatives in our province, and (3) deliver a provincial symposium on elder abuse to members of the network in 2011 in order to set the network's goals and confirm strategies to increase elder abuse awareness. For more information, contact Elizabeth Siegel at **737-2333** or **1-800-563-5599**.



Family Violence Intervention Court

This specialized criminal court uses a treatment-based approach, intended to address the complex issue of family violence. The Court is held in courtroom #8 at the Provincial Court in St. John's and sits at 2:00 p.m. every second Wednesday. The goal of the Family Violence Intervention Court is to prevent and reduce incidents of family violence through collaboration with key community partners. This collaborative process accelerates access to support services and intervention programs. The Court will focus on enhancing victim safety as well as emphasizing offender accountability and treatment. For more details about the services of this Court, call **729-0020** or visit <http://www.court.nl.ca/provincial/fvic/>.

Questions & Answers on Family Violence



Disclaimer: Please be advised that the information provided by PLIAN is general in nature and is not intended as legal advice. We strongly suggest you speak with a lawyer for specific legal advice.

Q. I have just been assaulted by my boyfriend and want to lay charges immediately. Who do I contact?

Contact your local police emergency number. Investigations begin when police either see a crime committed or are told a crime has taken place. Police investigations take different amounts of time depending on the type of case. You can contact the investigator

periodically for updates on the case's progress. The decision to lay a charge normally rests with the police. If, on reasonable grounds, the police believe a person has committed a crime, they may lay a charge. This is a decision which will be made by the police after consideration of the evidence. Once a charge is laid by police, it is the Crown Attorney's decision whether or not the charge will proceed to court.

Q. My ex common-law partner threatened to hurt me and has been charged. Why is he/she allowed to have a lawyer for free?

Your ex is likely being represented by a lawyer from the Legal Aid Commission. This Commission ensures that people who cannot afford a lawyer, will have a lawyer if they meet certain conditions. Your ex must have applied and been approved for legal aid based on criteria set by the Commission (including financial and other considerations).

Q. My 10-year-old son has to testify against my husband. Are there any special provisions for child witnesses?

The *Criminal Code* does allow for special consideration to be given to victims and witnesses under the age of eighteen years of age -- or any witness with a disability which makes it difficult for them to communicate (eg. the witness may be allowed to testify with a support person beside him/her; the witness might be allowed to testify behind a screen or outside of the courtroom via closed circuit television instead). These special testimonial aids must be allowed by the judge in cases involving this special group of victims and witnesses when they are asked for by the Crown or the witness, unless the judge believes it would interfere with the proper administration of justice. Victim Services has developed a children's program for child victims/witnesses and their families. Contact your local Victim Services office to inquire about the services offered for children.

Q. My ex-boyfriend has been found guilty of assaulting me and was sent to jail. The court case is now over. How will I know when he's going to be released?

Victim Liaison Officers who work within prisons can provide victims of crime with information about offender release dates. Contact your local Victim Services office to get more information about this program. Offices are located in St. John's, Carbonear, Clarendville, Gander, Grand Falls-Windsor, Marystown, Corner Brook, Stephenville, Port Saunders, Happy Valley-Goose Bay and Nain. If you are looking for your local contact number, it can be found in the provincial blue pages of your local telephone book under the heading of Victim Services.

Q. My husband doesn't have a lawyer and is representing himself in court. He says he plans to cross-examine my 16-year-old granddaughter, who is a witness to the assault on me. Can we do anything to stop this?

A lawyer can be appointed to conduct the cross-examination of vulnerable witnesses (such as your young granddaughter) when the accused is representing himself. Be sure to make this request to the Crown so that he/she can make the request to the judge in a timely manner. The witness can also make the request directly to the judge.



CONTACT US
Public Legal Information
Newfoundland & Labrador
1-888-660-7788 | (709) 722-2643
9 a.m.-12 p.m., Monday-Friday
info@publiclegalinfo.com

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