



Creating Healthy Personal Relationships

An Information Booklet for Aboriginal Women



Public Legal Education and Information Service of New Brunswick (PLEIS-NB) is a non-profit charitable organization. Our mission is to provide plain language law information to people in New Brunswick. PLEIS-NB receives funding and in-kind support from the Department of Justice Canada, the New Brunswick Law Foundation and the New Brunswick Office of the Attorney General.

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This booklet does not contain a complete statement of the law in this area and laws change from time to time. For legal advice you should consult a lawyer.





Recognizing an Unhealthy Relationship

Every couple has fights. Is this booklet meant for me?

Disagreements are a part of every relationship. However, they are never an excuse for violence and abuse. Healthy relationships are built on love, respect, caring and happiness. If your partner's behaviour is disrespectful and hurtful to you and your children, then you must decide how to set things right. That might mean counselling for you, your partner or both of you, dealing with addiction problems, calling the police, getting legal advice, or just going some place safe to think about what you want to do.

You and your partner may be able to get the help you need to make positive changes and create a healthy relationship that makes everyone in the family feel respected, happy and safe. Or, you may have to leave the relationship to find safety, happiness and peace. This booklet is for anyone who wants more information about dealing with abuse or violence in a personal relationship. It includes an overview of the legal rights of Aboriginal women on reserves. Although men can be victims of spousal violence too, it usually is women and children. The booklet discusses how the community, the courts, and the police can help. Everyone deserves to live without fear of violence.

How do I know if my relationship with my partner is not healthy?

There are many signs of a hurtful, unhealthy relationship. Ask yourself, does my partner:

- get very jealous when I am around other people?
- make fun of me in front of friends and family?
- destroy or threaten to destroy my things?
- ask me not to spend any time with my family or friends?
- put me down or blame me when things go wrong?
- call me names and threaten to hurt me?
- threaten to take the children from me?
- push me around or hit me?
- take away control of all of the money?

This Behaviour is Abuse.



Some people call this behaviour "family violence". Although not all forms of abuse are against the law... **all abuse is wrong!** If your partner is treating you in this way, you may be at risk of further harm.





Recognizing an Unhealthy Relationship

I feel I'm to blame. Maybe if I try harder to please my partner, things would be different.

You are not to blame for your partner's behaviour. Although many abused women blame themselves, you are not responsible for your partner's actions – only your partner is. No matter what you did to upset your partner, no one has the right to hit you or constantly put you down. If your partner acts like this, you may feel:

- Alone and isolated from family and friends
- Anxious because you have to do everything just right ... or else
- Depressed, unhappy, unwell and unable to get to sleep
- Afraid to say what you think because of your partner's reactions or anger
- Scared to break up or leave your partner
- Embarrassed to tell people how your partner treats you
- Sure that nobody will believe you if you tell
- That you are the only one who is treated like this.

What should I do if these things are happening to me?

Talk to somebody you trust. Find out about your options and make some plans for getting help and getting to safety if necessary. You should have a safety plan even if you stay. Know what you will do if your partner becomes violent. Be prepared to leave quickly. Make a list of things you should take. Have a small suitcase packed with a few clothes, medications, and important papers, like your bankbook, ID and so on. Make a safety plan for your workplace to tell the people who work with you how to deal with unwanted contact from your partner.

Consider making a safety plan with your children so they know who to call or where to go if your partner is hurting you. See "[**Safety Planning for Aboriginal Women**](#)" and "[**Someone is Hurting my Mom: My Safety Plan**](#)".

Did You Know?

Women Who Experience Abuse Are Not Alone.



Family Violence Survey: A Statistic Profile, 2014 found that Aboriginal people were more than **twice as likely** as non-Aboriginal people to report experiencing spousal violence in the previous five years.



Dealing With Intimate Partner Violence

If my partner is hurting me, should I call the police?

Yes. Call the local police authorities when:

- your partner threatens you;
- your partner beats you;
- your partner forces you to have sex.

You should call the police right away. The local number is on the first page of your phone book. **In an emergency, call 911.** If you cannot call when these things happen, it is okay to call after your partner has hurt you. The longer you wait to call the police the more difficult it is to investigate the crime.

How can the police help? The police can:

- take you to a **safe place**.
- **arrest your partner** and take him/her to the station for a short time, maybe overnight, or longer, if a judge agrees.
- **charge your partner** with a crime.
- tell you how to get a **peace bond** from a judge (a peace bond may take awhile to get, but it would order your partner to leave you alone).
- give you a card that tells you about the **services for victims of crime**.
- **take photographs of the injury** to you or your property
- make a **videotape of your statement** about the assault if you are scared family or friends will pressure you later to change your statement.
- apply on behalf of a spouse or common-law partner for an **Emergency Protection Order**.



Dealing With Intimate Partner Violence

Will I have to go to court and be a witness if the police charge my partner with an offence?

Probably. If you were the only witness, you may have to tell the court what happened. However, if your partner pleads guilty, you will not have to speak in court. (See the PLEIS-NB pamphlet entitled, “**Being a Witness**”).

Can I get a “no contact” order or a peace bond to prevent my partner from contacting me?

Yes, it is possible to obtain orders restricting contact under the *Criminal Code*. See “**Are you a Victim of Crime? You Can Ask for No Contact with the Offender**” and “**Peace Bonds and Restraining Orders**”. A spouse or common-law partner living on a reserve can **also** apply for an **Emergency Protection Order (EPO)** under the *Family Homes on Reserves and Matrimonial Interests or Rights Act*. You may also want to consider remedies available under the provincial *Intimate Partner Violence Intervention Act*.

What is an Emergency Protection Order (EPO)?

An EPO is an order made by a family court under the *Family Homes on Reserves and Matrimonial Interests or Rights Act* that grants one spouse exclusive occupation of the family home on reserve even if one of them does not have Indian status. The court order can last for up to 90 days.



If your partner is abusing you, the children or someone else in the home, you may make an application to the Court of Queen’s Bench, Family Division for an **Emergency Protection Order** that would let you stay in the home temporarily for up to 90 days.



My Status On-Reserve

Will I lose my Indian status if I leave?

No. If you have status under the *Indian Act* you cannot lose it, even if you leave the reserve.

Will I lose my rights to my home if I leave? Will I have to leave the Reserve?

No. Even if you leave the reserve you will not lose your rights to the home. The *Indian Act* says who has the right to live on reserve lands. However, different reserves have different property systems or rules about who has the right to live in a house on a reserve. You should ask your Band Council for advice.

If your First Nation Reserve does not have its own matrimonial real property laws you can make an application under section 20 of the *Family Homes on Reserves and Matrimonial Interests or Rights Act* for an **Exclusive Occupation Order**. This would require your partner to leave the family home for a specified period of time and give you exclusive occupation of the family home for that time, for example until the dependent children reach the age of majority.

A family court judge will consider a number of factors before granting the order. The First Nation will also get an opportunity to make representation to the courts on the social, cultural and legal context that pertains to the Application.

Where will I live if I have to leave my home?

If you are a Band member, your Band has an obligation to you and your children. If you are not allowed to stay in the family home, your Band must provide shelter for you and your children. Your need for a home should get top priority from the Band.

Did You Know?



The *Family Homes on Reserves and Matrimonial Interests or Rights Act* became law on December 16, 2014. It has changed who can be permitted to stay in the family home on reserve if a couple breaks up.





My Status On-Reserve

What if I am a non-status woman living on a reserve?

Previously, the Band was not responsible for people living on reserve without Indian status. But, the *Family Homes on Reserves and Matrimonial Interests or Rights Act* has changed who can be permitted to stay in the family home on reserve if a couple breaks up.

The law applies to both status Indians and non-status women and men who live on a reserve. Before the new law, when your relationship broke up or your partner died, you may not have been able to stay in the family home on reserve if you weren't a First Nation member. This meant that when a relationship ended, non-Aboriginal partners and their children might have to leave the family home if the father was the only partner who was a First Nation member.

The *Family Homes on Reserves Act* says that either person can make an application to the court for an **Exclusive Occupation Order**.

An exclusive occupation order can allow either partner to stay in the home for a pre-determined amount of time. The *Act* requires the court to consider the children's best interests when making a decision on who will get to stay in the family home.

The *Act* also says it is important for the court to consider the children's ability to keep their connection with the First Nation. For example, if staying in the family home is in your children's best interests and will keep them connected to the First Nation, the court may allow you to stay in the family home with the children until they are 19 years old.

Did You Know?

The Family Home on Reserves and Matrimonial Interests or Rights Act applies to both **status Indians** and **non-status** women and men who live on a reserve.





Marital Property Issues

Can I ask the Court to give me my share of the marital property?

If you or your partner are from the same First Nation where the home is located and a Certificate of Possession is only in one person's name, the court can be asked to add the other person's name. This would mean that the home can not be transferred without your permission. See section 31(1) of the *Family Homes on Reserves and Matrimonial Interests or Rights Act*.

Even if both names are on the certificate of possession, if the couple cannot agree on the division of the home, Section 28 of the *Family Homes on Reserves Act* entitles both spouses, whether or not they are a member of the First Nation, an amount equal to half of the value of matrimonial interests or rights as defined in the Act.

For more information about matrimonial property on-reserve, be sure to check out the reports and publications by Indigenous and Northern Affairs on this topic. They are available on the website at www.ainc-inac.gc.ca/ or from the Centre of Excellence for Matrimonial Real Property on their web site, www.coemrp.ca.

Can I get a share of marital property other than the house?

Marital property legislation in New Brunswick is limited to legally married spouses. If you are legally married and you separate or divorce, a Court might order your former spouse to pay you compensation for your share of the marital property. Also, the divorce court can tell him to pay you money to make up for his right to stay in the home. But, it may be difficult for the Court to place a value on the house since it cannot be sold on the open market. And if the house is the only asset your partner has, the courts cannot force him to sell it. Non-status spouses would have a greater disadvantage compared to spouses with Indian status because they have less capability to execute judgments against a former spouse who is a member living on-reserve.

What if I was in a common-law relationship?

The *Indian Act* defines a common-law partner as a person who has lived in a conjugal relationship for at least one year. This would include same-sex partners. The rights and remedies set out in the provisional federal rules of the *Family Homes on Reserves and Matrimonial Interests or Rights Act* are available to both married and common-law spouses. However, common-law partners do not have the same legal position as "spouses" for all purposes of the *Indian Act*.



You and Your Children

Do I have the right to ask for custody of my children if I leave?

Yes. You do not lose your rights to your children when you leave an abusive situation. Both parents have equal rights to custody of their children. Try to take the children with you when you leave. If you do not take the children, it may be more difficult for you to go back and get them. In either case, you should apply for custody as soon as possible.

Should I stay for the sake of the children?

Many women stay in abusive relationships because they think it is best for their children to have two parents in the home. However, research shows that children who see or hear their mother being abused feel the effects. They are more likely to have emotional problems, anger or trouble in school. They may grow up to model the violent behaviour in their own adult relationships. Child protection laws in New Brunswick recognize that exposure to family violence may be a reason to remove children from the home if their own development and security is at risk.

What can I do if I am afraid my husband or partner will take the children away?

Once you have a custody order, it is easier for the police to help you if your husband or partner takes your children. If you think your husband or partner might want to take the children, and prevent you from seeing them, contact Child and Family Services on the reserve right away. They can give you information about getting an interim custody order. Or consider contacting Legal Aid (www.legalaid.nb.ca) and tell them your concerns. They may be able to help you apply to the court for an interim custody order.

My partner says I cannot take the children off-reserve. Is this true?

Unless your partner already has a custody order, both parents have equal rights to custody of the children. If you must leave the reserve to find someplace safe to live, you can take your children. However, you should apply for legal custody of your children as soon as possible. You should ask a lawyer to help you apply to the Court for custody.



Getting Help

Where can I go to get away when things are bad at home?

You should find a place where you and your children will feel safe like a family member's or a friend's house. Or ask your Band if they can put you up in a hotel until you get to safety.

You and your children can go to any of the transition houses in New Brunswick. There are thirteen around the province. All of them are open 24 hours. Look on the first page of your telephone directory for the number of the transition house in your area, as well as for other services for abused women. Your local policing authorities can help you locate the nearest transition home. One of the houses, called Gignoo Transition House, is **specifically** for Aboriginal women.

What is Gignoo Transition House?

Gignoo ("Our House") is the only Aboriginal women's transition house in New Brunswick. It is located in Fredericton, but serves Aboriginal women from all 15 First Nations reserves around New Brunswick. The staff at Gignoo are Mi'kmaq and Maliseet and they are trained to work with women and children who leaving violence. They will respect your confidentiality.

You can contact Gignoo by calling **458-1236** in the Fredericton area. If you live elsewhere, you can call the toll-free number: **1-800-565-6878**. Gignoo House staff could arrange with Child and Family Services for transportation from any of the New Brunswick First Nations reserves to Gignoo House at no charge to you.

Counsellors at Gignoo can help you find out about your options, make contacts with agencies that can help you, and give you support and information to deal with abuse. They can also offer help with victim services, parenting skills, and traditional healing, as well as many other services. If you have questions, or just want more information, feel free to contact Gignoo.



Gignoo Transition House

Tel. 506.458.1236

Toll-free: 1.800.565.6878

www.gignoohouse.ca



Will somebody help if I have to go to court?

Victim Services Coordinators can help victims involved in a criminal case. They can support you, answer your questions about going to court, and show you the courtroom before the trial. If you wish, they can even go with you to court for support. They can also tell you about how to access other services such as counselling and crime compensation. If your partner is convicted, they can tell you how to prepare a **Victim Impact Statement**. This is a voluntary written statement that tells the Court how the crime has affected you. You may read this statement aloud at the sentencing hearing if you wish. The Judge must consider your statement when sentencing the offender. The Crown prosecutor's office will prepare you to be a witness.

Can I make my husband or partner get counselling?

If your partner goes to court, the judge can order counselling. Ask the Crown prosecutor to tell the court that your partner needs counselling. Ask if your partner could get into an anger-management program. You can also say he/she needs counselling in your **Victim Impact Statement**. If the court convicts your partner, the sentence might include counselling either on- or off-reserve.

Can I get traditional help?

Yes. Your local Elder's group may refer you to Talking Circles, Sweats, Smudges and/or Fasts. Services such as your local alcohol and drug rehabilitation program can also refer you to traditional support services. If your community does not have a Healing Lodge, you may visit the one at the First Nation's community nearest to you. There may also be programs on-reserve or in the community that help children or youth, such as youth groups.

SUPPORT SERVICES

There are services that might be available both on and off the reserve:

- **Gignoo Transition House Inc.**
(crisis line: 1-800-565-6878)
- **Chimo Helpline**
(crisis line: 1-800-667-5005)
- **Kids Help Phone**
(crisis line: 1-800-668-6868)
- Child and Family Services
- Mental Health Services
- Social Development
- Alcohol and drug counselling
- Crisis Resource Centres
- Victim Services (may send you for counselling)

For more information about services for victims of crime, contact the court for the nearest Victim Services Office or the Crown prosecutor. See the **Directory of Services for Victims of Abuse Living in First Nations Communities** for more information on services available across the province.



Legal Matters

Who can help me with my legal (family law) matters?

- Your **Band Council** can refer you to their lawyer.
- If you have contacted **Child and Family Services**, your social worker may be able to help with some questions about the court proceedings.
- **New Brunswick Legal Aid Services Commission** (www.legalaid.nb.ca) may help with issues related to custody, access, support and emergency protection orders.
- **Public Legal Education and Information Service of New Brunswick** provides general law information about divorce, separation, peace bonds, family violence, and so on. You can contact PLEIS-NB to order pamphlets, or check out the publications available on the web site at www.legal-info-legale.nb.ca.
- **Family Law NB** (www.familylawnb.ca) is a website full of useful information about family law matters. You can review the factsheet “*Family Law Services in New Brunswick*” for more information on the services and resources available throughout the province.
- **Toll-free Family Law Information Line** for general information on family matters and procedures at **1-888-236-2444**.
- For help with parenting after the separation, there are courses off-reserve called **For the Sake of the Children**. These 6-hour courses are free and offer information on dealing with high conflict situations. The separating couples are never in the same class. Call **1-888-236-2444** or email FTSOTC@gnb.ca.
- If you are applying for social assistance off-reserve, your financial worker may be able to help with some of the court proceedings such as getting **child support**.



Useful Websites and Resources

- **National Aboriginal Circle Against Family Violence**

www.nacafv.ca

- **Native Women's Association**

www.nwac.ca

- **Directory of Services for Victims of Abuse (N.B.)**

www2.gnb.ca/content/gnb/en/departments/women/Violence_Prevention_and_Community_Partnerships.html

- **Violence Prevention (Government of New Brunswick)**

www2.gnb.ca/content/gnb/en/departments/women/Violence_Prevention_and_Community_Partnerships.html

- **Public Legal Education and Information Service of New Brunswick**

www.legal-info-legale.nb.ca/

- **The Centre of Excellence for Matrimonial Real Property**

www.coemrp.ca/

- **Gignoo Transition House**

www.gignoohouse.ca

- **Public Health Agency of Canada**

www.canada.ca/en/public-health/services/health-promotion/stop-family-violence.html

- **The Healing Journey: Family Violence Prevention in Aboriginal Communities**

- **Safety Planning for Aboriginal Women**

www.thehealingjourney.ca/siteadmin/assets/documents/safety-plan-women.pdf

- **Someone is Hurting my Mom: My Safety Plan**

www.legal-info-legale.nb.ca/en/uploads/file/pdfs/Healing_Journey_Child_Safety_Plan_EN.pdf

- **Teen Dating: Are You in a Healthy Relationship?**

www.thehealingjourney.ca/siteadmin/assets/documents/teen-dating.pdf

- **The Healing Journey: A Toolkit and Website**

www.thehealingjourney.ca/siteadmin/assets/documents/toolkit-website.pdf

