

It is up to the Justice of the Peace or the police to decide if the process for a Peace Bond will be started. If the Justice of the Peace decides to begin the process then you will have to swear a statement and, eventually, appear in Court to persuade a judge that a Peace Bond should be issued. Once one is issued, if the person named in the Peace Bond breaches the conditions, then they can be arrested and charged with a criminal offence.

A Restraining Order lasts for 3-6 months but it can be renewed at the Court of Queen's Bench. It may even be made permanent. Be sure you include the words 'police enforceable' in your Restraining Order. It is up to you to make sure that the person you are afraid of follows the restraining order. If they break it, they will be arrested by the police once they are called.

The main differences between a Peace Bond and a Restraining Order are the amount of time it takes to get one and what happens to the person who breaches it. A Restraining Order may be obtained much more quickly, however it costs more than a Peace Bond. At time of sentencing and as part of probation the court can issue a Peace Bond.

If a Restraining Order is breached, it is not a criminal offence but the person can be jailed. If a Peace Bond is breached, it is a criminal offence which results in both a penalty such as a fine or jail, and a criminal record.

**Assault**

**Cochrane and Area  
Victim Services Society**

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## ASSAULT

This pamphlet answers some questions commonly asked about assault. It is not a complete statement of the law regarding assault and laws change from time to time. If you need specific legal advice you should contact a lawyer.

### WHAT IS ASSAULT

Assault is the intentional use of force against someone without his or her consent.

Attempting to use force or threatening to use force are assaults too.

The Federal Criminal Court describes different kinds of assaults depending on how much force is used.

Assault can be anything from a punch in the face to touching someone on the shoulder, or when someone makes any gesture or action which makes another person reasonably feel that they are going to be assaulted. There does not need to be any touching for this type of assault.

Assault also occurs when someone is carrying or wearing a visible weapon stops another person, harasses them or begs something of them.

### TYPES OF ASSAULT

‘Simple Assault’: Basic assault, touching without consent, where no harm is caused, no weapon is used and it is not of a sexual nature.

‘Aggravated Assault’: Aggravated Assault is described as when an assault wounds, maims, disfigures or endangers the life of the complainant. Basically an assault becomes ‘aggravated’ when the harm inflicted goes beyond minor and becomes more serious.

‘Assault with a Weapon or Causing Bodily Harm’: If in committing an assault the defendant carries, uses or threatens to use a weapon, or if they cause harm to their victim, they are guilty of an assault with a weapon or causing bodily harm.

‘Sexual Assault’: Sexual Assault, sexual assault with a weapon and aggravated assault are like other forms of assault in that they consist of unwanted touching. These types of assault are different only in that a ‘sexual’ aspect is added on to the assault. The touching must violate the integrity of the victim.

### LEGAL OPTIONS AVAILABLE

*Pressing Charges:* If someone is assaulted the police will conduct an investigation to determine what happened before they lay charges. A victim will be asked to give the police a statement explaining to them what has happened. Usually, the police will lay a charge if they believe there is enough evidence. If the police do not lay a charge

and the victim wishes to pursue the matter they can contact the Provincial Court House and make an appointment with a Justice of the Peace to swear a private information. If the Justice of the Peace finds there is enough evidence to lay a charge, a charge will be laid and a court date set. An Appearance Notice will then be issued and given to the person accused of the assault.

*Restraining Order:* A Restraining Order is a Court Order that orders a person who assaulted someone, or who may assault someone else, to stay away. The request for a Restraining Order often accompanies a civil action, such as divorce. Calgary Legal Guidance can assist with a Restraining Order.

*Peace Bonds:* A Peace Bond is a Court Order which requires a person who has been threatened or assaulted someone else to keep the peace, be of good behaviour and comply with other conditions the Court believes are required for your safety for up to one year. The most common condition is that the accused stay away from the victim and not have any contact with them.

*To get a Peace Bond, you should:*

- Report the incident to the police and
- explain why you feel afraid.
- Get the file number from the police and then make an appointment with the Justice of the Peace at the Provincial Court House.